

PROJECT MANUAL

2024 STREET RESURFACING IMPROVEMENTS

Bellevue Drive South

Royal Oaks Place

Manor Drive

Harding Place (East)

Harding Place (West)

Drew Place

City of Belle Meade
4705 Harding Road
Nashville, Tennessee 37205

MAYOR: THE HONORABLE RUSTY MOORE
VICE-MAYOR: MS. HALEY DALE
CITY MANAGER: MS. JENNIFER WARD MOODY

BOARD OF COMMISSIONERS

MS. LOUISE BRYAN
MR. MARTY DICKENS
MR. NEAL CLAYTON

PROJECT ENGINEER:



Issue Date: April 25, 2024
Bid Date: May 10, 2024

SECTION 00 01 10 - TABLE OF CONTENTS

00 11 13	Notice to Bidders.....	1
00 11 16	Invitation to Bid	2
00 21 13	Instructions to Bidders	12
00 24 00	Scope of Work	3
00 41 00	Bid Form.....	3
	Drug-Free Workplace Affidavit Form.....	1
	Contractor Certification - Iran Divestment Act.....	4
00 52 00	Agreement.....	3
00 70 00	Standard General Conditions of the Construction Contract.....	42
00 73 00	Supplementary General Conditions	8
32 12 16	Asphalt Paving	8
32 13 13	Concrete Paving	9
32 17 23	Pavement Markings	3

END OF TABLE OF CONTENTS

SECTION 00 11 13 - NOTICE TO BIDDERS

Notice is hereby given that sealed bids for 2024 Street Resurfacing Improvements within the City of Belle Meade, Tennessee, will be received by the City of Belle Meade, Attn: Ms. Jennifer Ward Moody, City Manager, 4705 Harding Road, Nashville, TN 37205, at 9:00 a.m. CST on Friday, May 10, 2024.

Qualified bids will be opened publicly at that time. Bids received after the hour and date set for receiving bids will not be opened.

The Owner reserves the right to accept or reject any bid and to waive any irregularities in bidding. The Base Bid may be held for a period not-to-exceed sixty (60) days before awarding Contracts.

Work to be performed shall include all labor, materials, equipment, special tools, supervision and services required to complete the work in full and in complete accordance with the Contract Documents, as prepared by Barge Civil Associates, LLC.

END OF SECTION 00 11 13

SECTION 00 21 13 - INSTRUCTIONS TO BIDDERS

1. DEFINED TERMS

Terms used in these Instructions to Bidders that are defined in the Standard General Conditions of the Construction Contract, NSPE-ACEC Document 1910-8, (1996 edition), have the meanings assigned to them in the General Conditions. The term "Successful Bidder" means the lowest qualified, responsible Bidder to whom the Owner (on the basis of the Owner's evaluation as hereinafter provided) makes award.

2. COPIES OF BIDDING INSTRUMENTS

- 2.1. Complete sets of bidding instruments in the number and for the deposit sum, if any, stated in the Advertisement or Invitation may be obtained from the City of Belle Meade (unless another issuing office is designated in the Advertisement or Invitation to Bid) or from the City website, www.citybellemeade.org.
- 2.2. Complete sets of bidding instruments shall be used in preparing bids; neither the Owner nor the A/E assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding instruments.
- 2.3. The Owner and A/E, in making copies of the bidding instruments available on the above terms, do so only for the purpose of obtaining bids on the work and do not confer a license or grant for any other use.

3. QUALIFICATIONS OF BIDDERS

To demonstrate qualifications to perform the work, each Bidder must be prepared to submit, within five (5) days of a request from the Owner, written evidence of the kinds set forth herein and/or in the Supplementary Conditions, e.g., financial data, previous experience, certificates of insurance and evidence of authority to conduct business in the jurisdiction where the project is located.

4. EXAMINATION OF BIDDING INSTRUMENTS AND SITE

- 4.1. Before submitting a bid, each Bidder must: a) examine the bidding instruments thoroughly, b) visit the site to familiarize himself with local conditions that may in any manner affect the cost, progress, or performance of the work, c) familiarize himself with federal, state, and local laws, ordinances, rules and regulations that may in any manner affect the cost, progress, or performance of the work; and d) study and carefully correlate his observations with the bidding instruments.
- 4.2. On request, the Owner will provide each Bidder access to the site to conduct such investigations and asphalt coring as each Bidder deems necessary for submission of his bid. Contact Seth Sparkman at ssparkman@bcacivil.com.
- 4.3. The lands upon which the work is to be performed, rights-of-way for access thereto, and other lands designated for use by the Contractor in performing the work are identified in the General Conditions, Supplementary Conditions, or the drawings.
- 4.4. The submission of a bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this Article 4 and that the contract documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the work.

5. INTERPRETATIONS

All questions about the meaning or intent of the bidding instruments shall be submitted to the A/E in writing. Replies will be issued by addenda that are mailed or delivered to all parties recorded by the A/E as having received the bidding instruments. Questions received after May 3, 2024 will not be answered. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

6. NOT USED

7. CONTRACT TIME

The number of days within which the work is to be completed (the contract time) is stated on the bid form.

8. LIQUIDATED DAMAGES

The Contractor will be assessed \$500.00 per day of calendar days beyond the completion date established in the Contract.

9. SUBSTITUTE MATERIAL AND EQUIPMENT

If the Contract is awarded, this will be done on the basis of the materials and equipment described in the drawings or specified in the specifications without consideration of possible substitute or "or equal" items. Whenever it is included in the drawings or specified in the specifications that a substitute or "or equal" item of material or equipment may be furnished or used by the Contractor if acceptable to the A/E, application for such acceptance will not be considered by the A/E until after the effective date of the Agreement. The procedure for submittal of any such application by the Contractor and consideration by the A/E is set forth in Paragraphs 6.05 of the General Conditions, which may be supplemented in the Supplementary Conditions.

10. SUBCONTRACTORS, ETC.

10.1 If the Supplementary Conditions require the identity of certain Subcontractors or other persons and organizations to be submitted to the Owner in advance of the Notice of Award, the apparent successful Bidder, and any other Bidder so required, will within seven (7) days after the day of bid opening submit to the Owner a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the work and for whom such identification is required. If requested by the Owner, such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person, and organization. If, after due investigation, the Owner or A/E has reasonable objection to any proposed Subcontractor or other person or organization, either the Owner or A/E may, before giving the Notice of Award, request the apparent successful Bidder to submit an acceptable substitute. If the apparent successful Bidder declines to make any such substitution, the Contract shall not be awarded to that Bidder.

Any Subcontractor or other person or organization so listed and to whom the Owner or A/E does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to the Owner and A/E.

10.2 No Contractor shall be required to employ any Subcontractor or other person or organization against whom he has reasonable objection.

11. BID FORM

11.1 The Bid Form is attached herein and should be used for submitting a bid. A copy can be made; do not remove the bid form from the specifications.

11.2 Bid Forms must be completed in black ink. The bid price of each item on the form must be completed.

11.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer providing evidence of authority to sign), and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

11.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature. The official address of the partnership must be shown below the signature.

11.5 All names must be typed or printed below the signature.

11.6 The bid shall contain an acknowledgement of receipt of all addenda (the numbers of which shall be filled in on the Bid Form).

11.7 The address to which communications regarding the bid are to be directed must be shown.

11.8 **The Drug-Free Workplace Affidavit Form must be attached to the Bid Form.**

11.9 **The Contractor Certification TCA Title 12, Chapter 12 – Iran Divestment Act Form must be attached to the Bid Form.**

12. SUBMISSION OF BIDS

12.1 Bids shall be submitted at the time and place indicated in the Advertisement for Bids. Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in either in black ink or by typewriter.

12.2 Each bid must be submitted in a sealed envelope bearing on the outside the following:

Name of Project
Name of Bidder
Address
License Number
License Expiration Date
License Classification of the Bidder

13. MODIFICATION AND WITHDRAWAL OF BIDS

13.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a bid must be executed) and delivered to the place where bids are to be submitted at any time prior to the opening of bids.

- 13.2 If, within twenty-four (24) hours after bids are opened, any Bidder files a duly signed written notice with the Owner and promptly thereafter demonstrates to the reasonable satisfaction of the Owner that there was a material and substantial mistake in the preparation of his bid, that Bidder may withdraw his bid. Thereafter, that Bidder will be disqualified from further bidding on the work.

14. RECEIPT AND OPENING OF BIDS

- 14.1 The City of Belle Meade (referred to as Owner) and Barge Civil Associates, LLC. (referred to as A/E) invites bids on the form included herein, all blanks of which must be appropriately filled in. **Bids will be received by the Owner at 4705 Harding Road, Nashville, TN 37205, on or before 9:00 a.m. CST on Friday, May 10, 2024**, at which time they will be publicly opened and read aloud. The envelope containing the bid must be sealed, addressed to The City of Belle Meade with the name of the project, bidder's name, address, license number, license expiration date, and classification of the Bidder written on the outside.
- 14.3 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.

15. BIDS TO REMAIN OPEN

All bids shall remain open for sixty (60) days after the day of the bid opening. Mutually agreed upon extensions of time may be made if necessary.

16. AWARD OF CONTRACT

- 16.1 The Owner reserves the right to reject any and all bids, to waive any and all informalities, to negotiate contract terms with the successful Bidder, and to disregard all nonconforming, nonresponsive, or conditional bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 16.2 In evaluating bids, the Owner shall consider the qualifications of the Bidder, whether or not the bids comply with the prescribed requirements, and alternatives and unit prices if requested on the Bid Form. It is the Owner's intent to accept alternatives (if any are proposed) in the order in which they are listed on the Bid Form, although the Owner may accept them in any order or combination.
- 16.3 In evaluating bids, the Owner may also consider the qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment). Operating costs, maintenance considerations, performance data, and guarantees of materials and equipment may also be considered by the Owner.
- 16.4 The Owner may conduct such investigations as he deems necessary to help evaluate any bid and to establish the responsibility, qualifications, and financial ability of the Bidders, proposed Subcontractors, and other persons and organizations to do the work to the Owner's satisfaction in accordance with the contract documents and within the prescribed time.
- 16.5 The Owner reserves the right to reject the bid of any Bidder who does not pass any such evaluation to the Owner's satisfaction.

- 16.6 If the Contract is to be awarded, it will be awarded to the lowest bidder who, in the Owner's estimation, can perform the work in such a way that the award will be in the best interest of the project.
- 16.7 If the Contract is to be awarded, the Owner will give the successful Bidder a Notice of Award within sixty (60) days after the day of the bid opening.
17. PERFORMANCE AND OTHER BONDS – OWNER'S DISCRETION (INCLUDE COST IN BID FORM WHERE INDICATED)
18. INSURANCE

The Contractor shall procure and maintain for the duration of the contract, at his/her own expense, insurance policies and coverages as listed in Section 00 73 00 Supplementary General Conditions. The City of Belle Meade should be listed as additional insured and a Certificate of Insurance furnished to the City indicating such coverages. The Contractor is responsible for work-related injuries of the Contractor's employees and subcontractors. The Contractor must provide all equipment and supervision for this contract and assume responsibility for all uninsured subcontractors. The policies described herein shall be issued by insurance companies that are licensed to conduct business in the state of Tennessee. The Contractor must provide a thirty-day (30) prior notice of cancellation, non-renewal, or material change in coverage. The policies will be insured by insurance companies with a Best Rating of not less than B+.

18. SIGNING OF AGREEMENT

The Owner shall provide a Notice of Award to the successful Bidder. Shortly thereafter, the Owner shall provide the Contractor with two (2) copies of the Agreement and all other contract documents, containing signatures of the Mayor of Belle Meade. Within ten (10) days thereafter, the Contractor shall sign and deliver one (1) copy of the Agreement and all other contract documents to the City and retain one (1) copy for his files.

19. POWER OF ATTORNEY – NOT USED

20. 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 the 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.

21. PREFERENCE IN EMPLOYMENT

Preference in employment on the project will, insofar as practicable, be given to qualified local labor.

22. BASIS FOR DETERMINING RESPONSIBILITY OF LOW BIDDER

22.1 A responsible Bidder is one who has the ability to perform the Contract and meets certain minimum and/or special standards set forth in the Instructions to Bidders. Such factors as judgment, skill, and integrity will play an important part in the overall determination. Although additional criteria may be used, a responsible Bidder must at least:

22.1.1 Have adequate financial resources or the ability to secure such resources;

- 22.1.2 Have the necessary experience, organization, and technical qualifications and have or show proof that he can acquire the necessary equipment to perform the proposed Contract;
 - 22.1.3 Be able to comply will all required performance schedules or completion dates, taking into account all existing commitments;
 - 22.1.4 Have a satisfactory record of performance, integrity, judgment, and skills;
 - 22.1.5 Be otherwise qualified and eligible to receive an award under the applicable laws and regulations; and
 - 22.1.6 Maintain a permanent place of business.
- 22.2 A prospective Contractor must affirmatively demonstrate his responsibility and, when necessary, also demonstrate that of his proposed Subcontractors and suppliers. The prospective Contractor will be required to furnish the Owner or the A/E with information sufficient to show that he currently meets these minimum standards.
23. BASIS FOR DETERMINING RESPONSIVENESS OF LOW BIDDER
- 23.1 A responsive bid shall be a prerequisite to the award of a Contract. A nonresponsive bid (offer)--i.e., one not complying in all material or essential respects with the Instructions to Bidders--may not be considered for award (acceptance) and may be rejected by the Owner. This compliance relates to both method/timeliness of submission and the substance of any resulting Contract.
- 23.2 Bids may be rejected if the Bidder:
- 23.2.1 Fails to bid on a listed item or bids zero on a listed item;
 - 23.2.2 Fails to acknowledge an addendum;
 - 23.2.3 Fails to use required Bid Forms;
 - 23.2.4 Fails to sign the Bid Form properly;
 - 23.2.5 Fails to conform to such essential requirements of the Instructions to Bidders as specifications, delivery schedule, or permissible alternatives;
 - 23.2.6 Imposes conditions that in effect modify the requirements of the Instructions to Bidders or limit the Bidder's liability to the Owner so as to give him an advantage over other Bidders. Such conditions include:
 - 23.2.6.1 Attempts to the Bidder to protect himself against changes in conditions (e.g., increased costs) in a way that makes it impossible for the total price to the Owner to be determined for bid evaluation;
 - 23.2.6.2 Failure by the Bidder to state a price, stating in lieu thereof that the price shall be "price in effect at time of delivery";
 - 23.2.6.3 The Bidder's stating price with the qualification "price in affect at time of delivery";

All prospective Bidders are to be Licensed Contractors in the State of Tennessee in accordance with the Tennessee Contractors Licensing Act of 1976 [Acts 1976 (Adj. S), Ch. 822, 1; T.C.A., 62-601].

The following is *excerpted* from the law. The entire act can be viewed at www.law.justia.com/codes/Tennessee/2021/title-62/chapter-6/

**TENNESSEE CODE; TITLE 62 PROFESSIONS, BUSINESSES AND TRADES
CHAPTER 6--GENERAL CONTRACTORS**

62-6-101. Short Title. This chapter shall be known and may be cited as the Contractors Licensing Act of 1994 [Acts 1976 (Adj. S), Ch. 822, 1; TCA, 62-601 Acts 1994, ch. 986 ss 17.]

62-6-102. (as amended effective January 1, 2021) Definitions. For the purposes of this chapter:

As used in this chapter, unless the context otherwise requires:

- (1) "Board" means the state board for licensing contractors created pursuant to § 62-6-104;
- (2) "Commercial building contractors" are those contractors authorized to bid on and contract for every phase of the construction, direction, alteration, repair or demolition of any building or structure for use and occupancy by the general public;
- (3) "Contracting" means any person or entity that performs or causes to be performed any of the activities defined in subdivision (4)(A) or (7);
- (4) (A) (i) "Contractor" means any person or entity that undertakes to, attempts to or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement or any other construction undertaking for which the total cost is twenty-five thousand dollars (\$25,000) or more; provided, however, with respect to a licensed masonry contractor, such term means and includes the masonry portion of the construction project, the total cost of which exceeds one hundred thousand dollars (\$100,000), materials and labor;
 - (ii) "Contractor" includes, but is not limited to, a prime contractor, electrical contractor, electrical subcontractor, mechanical contractor, mechanical subcontractor, plumbing contractor and plumbing subcontractor, masonry contractor, and roofing subcontractor where the total cost of the roofing portion of the construction project is twenty-five thousand dollars (\$25,000) or more;
 - (iii) If the cost of a project exceeds twenty-five thousand dollars (\$25,000), "contractor" also includes a construction manager of any kind, including, but not limited to, a residential construction manager, construction consultant, architect or engineer who conducts or provides any activity or service described in this subdivision (4) other than normal architectural and engineering services;
- (B) As used in subdivision (4)(A)(iii), "normal architectural and engineering services" means:
 - (i) The preparation of bids, proposals, plans, specifications or other contract documents or the evaluation of contractors, subcontractors or suppliers;
 - (ii) The approval of shop drawings, submittals, substitutions, pay requests or other certifications required by contract documents;
 - (iii) Conducting representative reviews for progress and quality of construction on behalf of the owner;
 - (iv) Interpretations and clarifications of contract documents;
 - (v) Preparation and approval of changes in construction; and

(vi) Preparation of as-built drawings and operation and maintenance manuals;

(C) "Contractor" does not include an engineer licensed in accordance with chapter 2 of this title who is:

(i) Managing and supervising the removal, remediation or clean up of pollutants or wastes from the environment;

(ii) Serving as a corrective action contractor, as defined by the rules and regulations of the department of environment and conservation;

(iii) Conducting subsurface investigation or testing, or both, by drilling or boring to determine subsurface conditions;

(iv) Conducting geophysical or chemical testing of soil, rock, ground water or residues; or

(v) Installing of monitoring detection wells or piezometers for evaluating soil or ground water characteristics;

(D) "Contractor" does not include:

(i) Any undertaking, as described in former subdivision (3)(D)(i) [repealed] for the department of transportation; or

(ii) Subcontractors other than electrical subcontractors, licensed masonry contractors, and roofing subcontractors where the total cost of the roofing portion of the construction project is twenty-five thousand dollars (\$25,000) or more, mechanical subcontractors and plumbing subcontractors defined as a contractor pursuant to subdivision (4)(A);

(E) No contractor shall be authorized to perform contracting work as a licensed masonry contractor unless the contractor is licensed as a masonry contractor in accordance with this part.

(5) "Licensed masonry contractor" means a contractor who builds structures from individual units of brick, stone, or concrete and glass block laid in and bound together by mortar, where the total cost of the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000), materials and labor, and who is required to obtain a license as a licensed masonry contractor by the board;

(6) "Limited licensed electrician" means any person or entity that performs any electrical work that has a total cost of less than twenty-five thousand dollars (\$25,000) and that is required to be registered under § 68-102-150;

(7) "Prime contractor" is one who contracts directly with the owner; and

(8) "Residential contractor" means one whose services are limited to construction, remodeling, repair or improvement of one (1), two (2), three (3) or four (4) family unit residences not exceeding three (3) stories in height and accessory use structures in connection with the residences.

[Acts 1976, ch. 822, § 2; 1977, ch. 101, § 1; 1977, ch. 406, § 1; 1980, ch. 652, § 3; 1981, ch. 399, § 1; T.C.A., § 62-602; Acts 1982, ch. 737, § 1; 1985, ch. 245, § 1; 1988, ch. 589, § 1; 1989, ch. 336, § 1; 1991, ch. 173, §§ 1-3; 1991, ch. 217, § 1; 1992, ch. 1020, §§ 1-18; 1993, ch. 147, § 1; 1994, ch. 986, § 1; 1998, ch. 645, § 1; 1998, ch. 764, § 1; 1999, ch. 238, §§ 1, 2; 1999, ch. 245, § 1; 2000, ch. 625, § 1; 2002, ch. 772, § 1; 2003, ch. 409, §§ 1, 2; 2006, ch. 577, § 1; 2009, ch. 482, § 2; 2010, ch. 950, §§ 1-5.]

62.6-103. Contractor's License Required--Recovery of Expenses by Unlicensed Contractor.

(a) (1) Any person, firm or corporation engaged in contracting in this state shall be required to submit evidence of qualification to engage in contracting, and shall be licensed as provided in this part. It is unlawful for any person, firm or corporation to engage in or offer to engage in contracting in the state, unless the person, firm or corporation has been duly licensed under this part. Any person, firm or corporation engaged in contracting, including a person, firm or corporation that engages in the construction of residences or dwellings constructed on private property for the purpose of resale, lease, rent or any other similar purpose, shall be required to submit evidence of qualification to engage in contracting and shall be licensed. It is unlawful for any person, firm or corporation to engage in, or offer to engage in, contracting as described in this subdivision (a)(1) unless the person, firm or corporation has been duly licensed under this

part.

(2) (A) Notwithstanding subdivision (a)(1), any person, firm or church that owns property and constructs on the property single residences, farm buildings or other buildings for individual use, and not for resale, lease, rent or other similar purpose, is exempt from the requirements of this part.

(B) Except in counties with a population of not less than seven hundred seventy-seven thousand one hundred thirteen (777,113), according to the 1980 federal census or any subsequent federal census, a person or firm specified in subdivision (a)(2)(A) shall not make more than one (1) application for a permit to construct a single residence or shall not construct more than one (1) single residence within a period of two (2) years. There shall be a rebuttable presumption that the person or firm intends to construct for the purpose of resale, lease, rent or any other similar purpose if more than one (1) application is made for a permit to construct a single residence or if more than one (1) single residence is constructed within a period of two (2) years. This subdivision (a)(2)(B) shall not be construed to alter the definition of "contractor" as defined in § 62-6-102.

(3) Notwithstanding subdivisions (a)(1) and (2), the license requirements and restrictions contained in this subsection (a) shall not apply to single residences constructed by:

(A) Nonprofit charitable or religious corporations, associations and organizations that are exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code of 1986, (26 U.S.C. § 501(c)(3)); or

(B) Students enrolled in educational institutions who construct the residences under the direct supervision of faculty as part of the curriculum of the institution.

(4) The exemption provisions of subdivisions (a)(2) and (3) concerning licensure shall apply to limited licensed electricians.

(5) Notwithstanding subdivision (a)(1), any single residence homeowner is exempt from the limited licensed electrician requirements of this part for purposes of performing electrical work on the homeowner's own residence.

(b) Any contractor required to be licensed under this part who is in violation of this part or the rules and regulations promulgated by the board shall not be permitted to recover any damages in any court other than actual documented expenses that can be shown by clear and convincing proof.

[Acts 1976, ch. 822, § 3; 1977, ch. 9, § 1; 1979, ch. 59, § 7; 1980, ch. 652, § 5; T.C.A., § 62-603; Acts 1986, ch. 913, § 1; 1989, ch. 487, § 1; 1990, ch. 763, §§ 1, 2; 1993, ch. 192, § 1; 1994, ch. 986, § 1; 1999, ch. 238, § 8; 2000, ch. 876, § 1; 2009, ch. 482, § 1.]

62-6-115. Corporations and Partnerships.

Corporations and partnerships may engage in the business of contracting; provided, that at least one (1) of the major stockholders or partners or full-time employee with a written power of attorney to bind the corporation or partnership has sufficient knowledge of the construction business in which such persons are licensed to perform. If the person who took the examination for the partnership or corporation leaves the firm for any reason, the partnership or corporation must designate an individual to take the examination within three (3) months. [Acts 1976, ch. 822, § 16; T.C.A., § 62-616; Acts 1989, ch. 487, § 12; 1993, ch. 214, § 1; 1994, ch. 986, § 10.]

62-6-119. Bid Documents – Required Disclosures by Bidders (As amended July 1, 2010)

(a) Any person or entity preparing plans, specifications or any other documentation for inclusion in an invitation to bid or comparable bid document including any electronic bidding documents, shall reference this chapter in such documentation and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of compliance with the applicable provisions of this chapter before such bid may be considered.

(b) The person or entity involved in the preparation of the invitation to bid or comparable bid documents, including any electronic bid documents, shall direct that the following information be written upon the bid envelope or provided within the electronic bid document:

(1.) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the prime contract;

(2.) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the masonry contract where the total cost of the materials and labor for the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000);

(3.) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the electrical, plumbing, heating, ventilation, or air conditioning contracts except when such contractor's portion of the construction project is less than twenty-five thousand dollars (\$25,000);

(4.) For each vertical closed loop geothermal heating and cooling project, the company name, department of environment and conservation license number, classification (G, L or G,L) and the expiration date, except when the geothermal portion of the construction project is in an amount less than twenty-five thousand dollars (\$25,000); .

(5.) Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor, the electrical, plumbing, heating, ventilation or air conditioning or the geothermal heating and cooling must be so designated; and

(6.) Only one (1) contractor in each of the classifications listed above shall be written on the bid envelope or provided within the electronic bid document.

(c) Failure of any bidder to furnish the required information shall void such bid and such bid shall not be considered. Upon opening of the bid envelope or initial opening of an electronic bid, the names of all contractors listed shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the required information, and any discrepancies found in the spelling of names of bidders, transposition of license numbers, or other similar typographical errors or omissions may be corrected within forty-eight (48) hours after the bid opening excluding weekends and state-recognized holidays.

(d) No invitation to bid may require that any subcontractor be identified, listed or designated until the final bid submission by the prime contractor, or that any prime contractor accept the bid of any subcontractor until the final bid submission by the prime contractor. This subsection (d) shall apply only to design/bid/build procurements where cost is the primary criterion for the contract award.

(e) Any person or entity, public and private, awarding a bid to a contractor who is not licensed in accordance with this chapter shall be subject to the penalty provided in § 62-6-120(b).

(f) Notwithstanding the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) for willful violation of this section.

[Acts 1976, ch. 822, § 20; T.C.A., § 62-620; Acts 1986, ch. 718, § 2; 1989, ch. 591, § 111; 1990, ch. 868, §§ 1, 2; 1991, ch. 247, § 1; 1994, ch. 986, § 13; 1995, ch. 341, § 1; 1997, ch. 153, § 1; 2001, ch. 222, § 3; 2008, ch. 792, §§ 1, 2; 2010, ch. 768, §§ 1, 2; 2010, ch. 801, § 1.]

62-6-120. Penalties for Violations.

(a) (1) Any person, firm or corporation that engages or offers to engage in contracting without a license as required by § 62-6-103 or who violates the terms and conditions of any license or renewal granted by the board pursuant to this part commits a Class A misdemeanor. The penalties imposed by this subdivision (a)(1) shall not apply to a person who engages a contractor without a license for the purpose of

constructing a residence for the use of that person.

(2) Any person, firm or corporation that engages or offers to engage in contracting without a license as required by § 62-6-103 may, in the discretion of the board, be deemed ineligible to receive a license until six (6) months after the date the person, firm or corporation engaged or offered to engage in contracting. Additionally, no such person, firm or corporation shall be awarded any contract for the project upon which it engaged in contracting without a license or permitted to participate in any rebidding of the project.

(b) Any person, firm or corporation that accepts a bid in excess of twenty-five thousand dollars (\$25,000) from a contractor who is not licensed, with appropriate classifications and sufficient monetary limitations, or in the case of a limited licensed electrician where the amount is less than twenty-five thousand dollars (\$25,000), in accordance with this part, commits a Class A misdemeanor.

(c) (1) No official of the state other than of the department of transportation shall issue a permit or contract work order to any applicant for a permit or work order to engage in contracting, unless the applicant holds a license as a contractor with appropriate classifications and sufficient monetary limitations, in accordance with this part.

(2) Any official violating this subsection (c) commits a Class A misdemeanor.

(d) Notwithstanding the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) per offense against any person or firm that violates the terms and conditions of an existing license to engage in contracting or against any person or firm that engages in unlicensed contracting.

(e) (1) (A) The director of the board, acting on behalf of the board, is authorized to issue citations against persons:

(i.) The director of the board, acting on behalf of the board, is authorized to issue citations against persons acting in the capacity of or engaging in the business of a contractor without a license in violation of § 62-6-103.

(ii.) Exceeding the monetary limitation on the person's contractor's license; or

(iii.) Acting in the capacity of or engaging in the business of a contractor in a classification in which the person is not licensed by the board, notwithstanding the person's licensure to perform such services in another classification.

(B) Each citation shall be in writing and shall describe with particularity the basis of the citation.

(C) Each citation shall contain an order to cease all violations of this part and an assessment of a civil penalty in an amount no less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000).

(2) The board shall promulgate rules and regulations to specify those conditions necessary to the issuance of a citation and the range of penalties for violations of this part.

(3) The sanctions authorized pursuant to this subsection (e) shall be in addition to any other remedies, civil and criminal, available to any person harmed by a violation of this part.

(4) Service of a citation issued pursuant to this subsection (e) may be made by certified mail at the last known business address or residence address of the person cited.

(5) A citation issued pursuant to this subsection (e) shall be issued by the director within one (1) year after the act or omission that is the basis for the citation.

(6) Any person served with a citation pursuant to this subsection (e) may appeal to the director by written notice postmarked within fifteen (15) working days after service of the citation with respect to violations alleged, scope of the order or amount of civil penalty assessed.

(7) If a person cited timely notifies the director that the person intends to contest the citation, the director shall afford an opportunity for a contested case hearing pursuant to the Uniform Administrative

Procedures Act, compiled in title 4, chapter 5, part 3.

(8) After all administrative appeals have been exhausted, the director may apply to the appropriate court for a judgment in an amount of the civil penalty, plus applicable court costs, and for an order to cease activities in violation of § 62-6-103. The motion for the order, which shall include a certified copy of the final order of the hearing officer or administrative judge, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(9) (A) Notwithstanding any other law to the contrary, the director may waive part of the civil penalty if the person against whom the civil penalty is assessed satisfactorily completes all the requirements for, and is issued, a license as a general contractor.

(B) Any outstanding injury to the public shall be settled satisfactorily before a license as a general contractor is issued.

(f) Any individual or entity that fails to pay a civil penalty assessed by the board pursuant to the terms of a final order entered by the board after a contested case hearing against the individual or entity pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, may be referred to a collection agency.

(g) Failure to pay any civil penalty assessed by the board shall subject the individual or entity to suspension or revocation of a license issued pursuant to this part.

[Acts 1976, ch. 822, § 21; 1981, ch. 399, § 2; 1981, ch. 497, § 2; T.C.A., § 62-621; Acts 1984, ch. 888, § 4; 1986, ch. 718, § 3; 1989, ch. 487, § 15; 1989, ch. 591, § 111; 1991, ch. 247, §§ 2, 3; 1994, ch. 986, § 14; 1999, ch. 238, § 6; 2007, ch. 460, § 6; T.C.A., § 62-6-118(e); T.C.A., §§ 62-6-201 — 62-6-207.]

62-6-121. Enforcement.

The board shall inquire into the identity of any person, firm or corporation operating under the general classifications of this part and shall prosecute any person, firm or corporation violating this part.

[Acts 1976, ch. 822, § 22; 1978, ch. 906, § 22; T.C.A., § 62-622.]

62-6-122. Injunction.

(a) In order to secure the effective enforcement of this part, jurisdiction is conferred on the chancery courts of this state to grant injunctive relief against:

(1) Any person, firm or corporation undertaking to engage in the contracting business in violation of the terms of this part; or

(2) Any person, firm, corporation or official of this state or any political subdivision of this state who accepts a bid in violation of § 62-6-120(b) or (c).

(b) The injunction suit shall be filed in the name of the state of Tennessee on relation of the board for licensing contractors, or any member of the board, without bond being required for prosecution of the suit or for the issuance of injunction.

(c) Any expenses incurred, such as depositions, travel expenses or attorney fees, required for the prosecution of the suit, shall be paid in the same manner as other expenses incurred by the board.

[Acts 1976, ch. 822, § 23; T.C.A., § 62-623; Acts 1989, ch. 25, § 1.]

END OF SECTION 00 21 13

SECTION 00 24 00 - SCOPE OF WORK

PART 1 - GENERAL

1.01 ITEMS INCLUDED

- A. The work covered by these specifications consists of furnishing all materials, labor, supervision, equipment, including, but not limited to: traffic control during construction, asphalt milling, hand-removal of existing asphalt around concrete driveway aprons, subgrade proofrolling, subgrade undercut and repair, leveling adjustment of existing utility valve boxes or castings, installing new asphalt paving, and thermoplastic pavement marking and project site clean-up for various locations within the City of Belle Meade.
- B. Timing of Work
 - 1. **It is the City of Belle Meade's intent to fully execute this project from commencement to close-out by June 30, 2024.**
- C. All work accomplished by the Contractor shall be coordinated with the A/E prior to the commencement of work. This project consists of the following:
 - 1. Traffic Control/Maintaining Traffic Flow/Detour. Signage is the sole responsibility of the Contractor. At all times during those construction activities involving heavy equipment are occurring, the Contractor shall make provisions, at his expense, for a Belle Meade Police Officer to be present any time construction is occurring.
 - 2. The Contractor shall establish limits of paving marked on the ground for the Owner/AE to inspect, and neatly saw-cut around existing concrete or paver driveways, and across intersections. Any damage to driveways, mailboxes or other private property, or City property beyond the limits of construction shown on the plans, shall be repaired at the sole expense of the Contractor.
 - 3. Contractor to mill existing asphalt topping to a depth of 1-1/4". Critical areas, such as adjacent to driveways, valve boxes, etc. are to have existing asphalt removed so as not to damage private property. **All construction vehicles are prohibited from using any driveways for turning around.**
 - 4. After milling, the Contractor, in the presence of the Owner and A/E, shall proof roll with a loaded tandem axle dump truck, any areas that appear unstable. The Owner/AE will determine limits of undercut of unsuitable subgrade. Subgrade repairs will be made using B Modified Binder Mix. Payment will be on a volumetric basis based on measurements taken by the Owner/AE and agreed to by the Contractor in the field.
 - 5. **The Contractor shall remove all valve boxes, castings, etc., prior to milling and reset to proposed finish grade prior to installation of new asphalt surface.**
 - 6. The Contractor shall repave streets in accordance to limits shown on the plans.

PART 2 - APPLICABLE SPECIFICATIONS

- 2.01 The publications listed below form a part of these specifications to the extent referenced. The publications are referred to in the text by basic designation only.

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

2.02 ASTM C 478 Precast Concrete

2.03 ASTM D 698 Standard Proctor

PART 3 - CONTRACTOR QUALITY CONTROL

3.01 The Contractor shall establish a QC System to perform sufficient review, inspection and tests of all items of work to insure conformance to applicable specifications and drawings with respect to materials, workmanship, construction, finish, functional performance and identification for work accomplished on and off site by his organization, suppliers, subcontractors, technical laboratories, and consultants. The work activities of his QC organization include safety, submittal management, testing and inspection, and all other functions related to achievement of quality construction.

PART 4 - CONTRACTOR MAINTENANCE

4.01 At the end of each working day, the Contractor shall police the work area and the area immediately surrounding the work area of all work-related debris. The Contractor shall comply with all applicable safety requirements and shall conduct his operations in a manner to insure an accident-free environment. Stocked materials shall not be within 25 feet of an active building. Use of existing sanitary facilities by the Contractor's employees will require the Contractor to furnish janitorial services to such areas at the end of each working day. The Contractor will also be responsible for final sites clean up.

PART 5 - WARRANTY

5.01 WARRANTY OF CONSTRUCTION

A. In addition to any other warranties set out elsewhere in this contract, the Contractor warrants that the work performed under this contract conforms to the contract requirements and is free of any defect of equipment, material or design furnished, or workmanship performed by the Contractor or any of his subcontractors or suppliers at any tier. Such warranty shall continue for a period of one year from the date of final acceptance of the work. The Contractor shall provide A/E an executed warranty in writing, to this effect. Under this warranty, the Contractor shall remedy at his own expense any such failure to conform or any such defect. In addition, the contractor shall remedy at his own expense any damage to the Owner's controlled real or personal property, when that damage is the result of the equipment, material, workmanship or design. The Contractor's warranty with the respect to work repaired or replaced will run for two years from the date of such repair or replacement.

PART 6 - STANDARD OPERATIONAL PROCEDURES

6.01 SMOKING

- A. Smoking will be permitted only in designated locations. No matches or lighters will be permitted in restricted locations.

6.02 SAFETY GLASSES

- A. Safety glasses will be required in all work locations. Safety glasses must meet the requirements of ANSI Z87.1.

6.03 VEHICLES

- A. Vehicles must be provided seat belts and seat belts must be worn when operating or riding in any vehicle on the job site.

6.04 SAFETY MEETINGS

- A. The Contractor will be required to conduct weekly safety meetings with their workforce.

6.05 HARD HATS

- A. Hard hats will be required by all personnel in all work locations. Hard hats must meet the requirements of ANSI Z89.1

6.06 TRANSPORTATION AND TRAFFIC CONTROL

- A. Motor vehicles operated by the Contractor shall travel only in designated areas and adhere to posted speed limits.
- B. Flame arrestors are required on exhaust piped of all mobile equipment.

6.07 ELECTRICAL SERVICES

- A. If electrical services are required, the Contractor shall obtain approval of the City or the A/E. There may be a minimum charge for electrical services.
- B. If electrical services lines need to be de-energized, this will be done by the A/E. A 24 hour notice is required for this work.

PART 7 - CLEAN-UP

- 7.01 The area shall be kept clean at all times. The Contractor shall stockpile all scrap material to prevent hazardous conditions. The scrap material shall be disposed of on the installation as directed by the Engineer or removed from the installation by the Contractor.

NOTE: THE CONTRACTOR SHALL ABIDE BY ALL APPLICABLE OSHA REGULATIONS FOR THE WORK CONCERNED.

END OF SECTION 00 24 00

00 41 00 – BID FORM

PROJECT: 2024 Street Resurfacing Improvements
Belle Meade, Tennessee

SUBMIT BIDS TO: The City of Belle Meade, Attn: Ms. Jennifer Ward Moody, City Manager
4705 Harding Road, Nashville, TN 37205

SUBMIT BY: 9:00 a.m. CST on Friday, May 10, 2023.

State Contractor License No. _____.

1.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

D. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.

E. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by ENGINEER is acceptable to Bidder.

F. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

2.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s). Unit pricing will be used for determining additions/deletions to the Lump Sum Bid.

Bidder: _____ (type/hand write name of company)

BID FORM 2024 STREET RESURFACING IMPROVEMENTS		
<i>DESCRIPTION</i>	<i>UNIT</i>	<i>UNIT PRICE</i>
Cold milling 1-1/4" depth	SY	
Asphalt pavement (TDOT 411 Grading E, PG 64-22 (standard mix)) 1-1/2" depth	SY	
*Asphalt pavement (TDOT 411 Grading E, PG 70-22 (polymer modified mix)) 1-1/2" depth	SY	
Thermoplastic pavement marking	LF	
* Erosion control silt fencing	LF	
* Undercut of roadway subgrade (including removal of unsuitable materials, haul off, and filling with B Modified Binder)	CY	
* Removal of existing STOP Bar	EA	
* Installation of new STOP Bar (assume 12-foot length)	EA	

*NOTE: Line items with an asterisk are to be applied at the discretion of the Owner. Actual utilization of these line items and quantities are to be determined.

The Bidders agree to perform all the work described in the contract documents for 2024 Street Resurfacing Improvements, and all permits and inspection fees, and other work covered by plans prepared by Barge Civil Associates, LLC., necessary and incidental to the project for and at the lump sum price of:

TOTAL LUMP SUM PRICE \$ _____

(Words)

In the event the Owner must revise the scope of work due to budgetary purposes, prices to complete work for each individual roadway are described below. Prices listed below are included within the TOTAL LUMP SUM PRICE shown above and are not in addition to the TOTAL LUMP SUM PRICE.

INDIVIDUAL STREET RESURFACING PRICE BREAKDOWN

- 1) Bellevue Drive South TOTAL PRICE \$ _____
- 2) Royal Oaks Place TOTAL PRICE \$ _____
- 3) Manor Drive TOTAL PRICE \$ _____
- 4) Harding Place (East) TOTAL PRICE \$ _____
- 5) Harding Place (West) TOTAL PRICE \$ _____
- 6.) Drew Place TOTAL PRICE \$ _____

Bidder: _____ (type/hand write name of company)

3.01 Bidder agrees that bidder will complete the work by June 30, 2024.

3.02 Bidder understands liquidated damages of \$500.00 per calendar day of delay will be assessed until the project is deemed substantial complete.

3.03 PERFORMANCE AND PAYMENT BONDS

In addition to the Lump Sum Price, the Bidder submits a price of \$_____ to the Owner for obtaining performance and payment bonds for this project. The Bidder agrees to and understands that the Owner, at time of contract award, may choose to require these bonds at contract signing.

Submitted by:

Name (typed or printed): _____

By: _____

(Individual's signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

Email: _____

Please provide two references with contact information:

1. Business Name: _____

Contact Name: _____

Address: _____

Phone No.: _____ Fax No.: _____

Email: _____

2. Business Name: _____

Contact Name: _____

Address: _____

Phone No.: _____ Fax No.: _____

Email: _____

END OF SECTION 00 41 00

Bidder: _____ (type/hand write name of company)

DRUG-FREE WORKPLACE AFFIDAVIT

STATE OF Tennessee

COUNTY OF Davidson

THE UNDERSIGNED PRINCIPAL OFFICER OF

_____ (The "Company"), being duly authorized to execute this affidavit on its behalf makes oath as follows:

1. The Company is an employer of no less than five (5) employees receiving pay and is submitting a bid to the City of Belle Meade for a contract to provide construction services.
2. The Company has a drug-free workplace program in full compliance with Title 50, Chapter 9, of the Tennessee Code Annotated, in effect at the time of the submission of such bid.
3. This affidavit is submitted in compliance with T.C.A. 50-9-113.

Further affiant saith not.

Principal Officer: _____

Title: _____

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 the statements contained in the forgoing affidavit are true of his own knowledge.

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

Notary Public: _____

My Commission Expires: _____



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 determined to be non-responsive bidders/offers pursuant to the New York State Iran Divestment Act of 2012."

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.

List Date: December 4, 2023

Source: <https://www.ogs.ny.gov/iran-divestment-act-2012>

1. Ak Makina, Ltd.
2. Amona
3. Bank Markazi Iran (Central Bank of Iran)
4. Bank Mellat
5. Bank Melli Iran
6. Bank Saderat Iran
7. Bank Sepah
8. Bank Tejarat
9. China Precision Machinery Import- Export Corporation (CPMIEC)
10. ChinaOil (China National United Oil Corporation)
11. China National Offshore Oil Corporation (CNOOC)
12. China National Petroleum Corporation (CNPC)
13. Indian Oil Corporation
14. Kingdream PLC
15. Naftiran Intertrade Co. (NICO)
16. National Iranian Tanker Co. (NITC)
17. Oil and Natural Gas Corporation (ONGC)
18. Oil India, Ltd.
19. Persia International Bank
20. Petroleos de Venezuela (PDVSA Petróleo, SA)
21. PetroChina Co., Ltd.
22. Petronet LNG, Ltd.
23. Sameh Afzar Tajak Co. (SATCO)
24. Shandong FIN CNC Machine Co., Ltd.
25. Sinohydro Co., Ltd.
26. Sinopec Corp. (China Petroleum & Chemical Corporation)
27. SKS Ventures
28. SK Energy Co., Ltd.
29. Som Petrol AS
30. Unipec (China International United Petroleum & Chemicals Co., Ltd.)
31. Zhuhai Zhenrong Co.



CONTRACTOR CERTIFICATION
TCA Title 12, Chapter 12 – IRAN DIVESTMENT ACT

Date: _____

Contractor Name _____

Address _____

City, State _____

Contract Name/description: **2024 STREET RESURFACING IMPROVEMENTS**

The City of Belle Meade has executed and hands you herewith an executed counterpart of its contract with you for the performance of the above work. In your performance on this contract, we call to your attention the provisions of Tennessee Code Annotated Title 12, Chapter 12, Iran Divestment Act, which requires that any bidder submitting a bid or proposal, or who contracts with the state or political subdivision of the state, including a contract renewal or assumption, shall certify the following statement as true under the penalties of perjury: "By 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 TCA Section 12-12-106" (copy attached).

In your performance of this contract, we shall expect full compliance with the requirements of this statute and request your confirmation of this fact upon the line provided below.

THE CITY OF BELLE MEADE

By: _____
Mayor

Date: _____

_____ (Contractor) certifies that it understands the requirements of the above-referenced statute and agrees that it will comply fully with the same in the performance of the above contract.

By: _____
(Contractor's Representative)

Date: _____

Print name of Representative

SECTION 00 52 00 - AGREEMENT

THIS AGREEMENT, made this the _____ day of _____, 20____,
by and between The City of Belle Meade hereinafter called "Owner," and

doing business as (an individual) or (a partnership) or (a corporation) in the City 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 2024 Street Resurfacing Improvements hereinafter called the "Project," for the lump sum of _____ Dollars (\$ _____) and all extra work in connection therewith under the terms as stated in the General and Supplementary Conditions of the Contract and at his own proper 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 at the price(s) stated in the Contractor's Bid Form and also in accordance with the General and Supplementary Conditions of the Contract; the plans (which include all maps, plats, blueprints, and other drawings and printed or written explanatory matter thereof); and the specifications and contract documents therefore, all as prepared by Barge Civil Associates, LLC., herein entitled the "A/E," all of which are made a part hereof and collectively evidence and constitute the Contract.

Indemnity Requirement - The Contractor further agrees to protect, defend, and save the City of Belle Meade, its elected and appointed officials, agents, employees and volunteers while working in the scope of their duties as such, harmless from and against any and all claims, demands, and causes of action of any kind or character, including the cost of their defense, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death or damage to property arising out of services performance or omissions of services in any way resulting from the act or omissions of the Contractor and/or its agents, employees, subcontractors, representatives or the City of Belle Meade under this agreement.

Compliance with Laws – The Contractor must comply with all applicable federal, state, and local laws including the prevailing wage laws.

Insurance Requirements – The Contractor shall procure and maintain for the duration of the contract, at his/her own expense, insurance policies and coverages as listed in Section 00 73 00 Supplementary General Conditions. The City of Belle Meade should be listed as additional insured and a Certificate of Insurance furnished to the City indicating such coverages. The Contractor is responsible for work-related injuries of the Contractor's employees and subcontractors. The Contractor

must provide all equipment and supervision for this contract and assume responsibility for all uninsured subcontractors. The policies described herein shall be issued by insurance companies that are licensed to conduct business in the state of Tennessee. The Contractor must provide a thirty-day (30) prior notice of cancellation, non-renewal, or material change in coverage.

The Contractor hereby agrees to commence work under this Contract on or before a date to be specified in a written "Notice to Proceed" from the Owner and to complete the Project fully by June 30, 2024.

The parties recognize that time is of the essence of the Contract, and that the Owner will suffer financial loss if the Project is not fully complete within the period of time specified, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. In recognition of the financial loss incurred by the Owner, the Contractor will be assessed \$500.00 per day of calendar delay beyond the completion date of **June 30, 2024**. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the Owner if the Project is not complete on time.

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 and Supplementary Conditions of the Contract.

IN WITNESS WHEREOF, the parties to these presents have executed this Contract in three (3) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

(SEAL)

CONTRACTOR

Name of Business

By: _____
Signature

Attest:

Typed Name and Title:

(Witness)

Address

Telephone No.

Contractor's License No.

(SEAL, if applicable)

CITY OF BELLE MEADE

By: _____
Signature

Attest:

Printed Name and Title:

4705 Harding Road, Nashville TN 37205
Address

(Witness)

(615) 297-6041
Telephone No.

END OF SECTION 00 52 00

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and



AMERICAN CONSULTING
ENGINEERS COUNCIL

Issued and Published Jointly By



**National Society of
Professional Engineers**
Professional Engineers in Private Practice



AMERICAN SOCIETY OF
CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General



Contractors of America

Construction Specifications Institute



These General Conditions have been prepared for use with the Owner-Contractor Agreements (No. 1910-8-A-1 or 1910-8-A-2) (1996 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC User's Guide (No. 1910-50). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition).

Copyright ©1996

National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers
345 East 47th Street, New York, NY 10017

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 - DEFINITIONS AND TERMINOLOGY	00700 - 6
1.01 <i>Defined Terms</i>	00700 - 6
1.02 <i>Terminology</i>	00700 - 8
ARTICLE 2 - PRELIMINARY MATTERS	00700 - 9
2.01 <i>Delivery of Bonds</i>	00700 - 9
2.02 <i>Copies of Documents</i>	00700 - 9
2.03 <i>Commencement of Contract Times; Notice to Proceed</i>	00700 - 9
2.04 <i>Starting the Work</i>	00700 - 9
2.05 <i>Before Starting Construction</i>	00700 - 9
2.06 <i>Preconstruction Conference</i>	00700 - 10
2.07 <i>Initial Acceptance of Schedules</i>	00700 - 10
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE	00700 - 10
3.01 <i>Intent</i>	00700 - 10
3.02 <i>Reference Standards</i>	00700 - 10
3.03 <i>Reporting and Resolving Discrepancies</i>	00700 - 11
3.04 <i>Amending and Supplementing Contract Documents</i>	00700 - 11
3.05 <i>Reuse of Documents</i>	00700 - 11
ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS	00700 - 11
4.01 <i>Availability of Lands</i>	00700 - 11
4.02 <i>Subsurface and Physical Conditions</i>	00700 - 12
4.03 <i>Differing Subsurface or Physical Conditions</i>	00700 - 12
4.04 <i>Underground Facilities</i>	00700 - 13
4.05 <i>Reference Points</i>	00700 - 13
4.06 <i>Hazardous Environmental Condition at Site</i>	00700 - 14
ARTICLE 5 - BONDS AND INSURANCE	00700 - 15
5.01 <i>Performance, Payment, and Other Bonds</i>	00700 - 15
5.02 <i>Licensed Sureties and Insurers</i>	00700 - 15
5.03 <i>Certificates of Insurance</i>	00700 - 15
5.04 <i>CONTRACTOR's Liability Insurance</i>	00700 - 15
5.05 <i>OWNER's Liability Insurance</i>	00700 - 16
5.06 <i>Property Insurance</i>	00700 - 16
5.07 <i>Waiver of Rights</i>	00700 - 17
5.08 <i>Receipt and Application of Insurance Proceeds</i>	00700 - 18
5.09 <i>Acceptance of Bonds and Insurance; Option to Replace</i>	00700 - 18
5.10 <i>Partial Utilization, Acknowledgment of Property Insurer</i>	00700 - 18
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES	00700 - 18
6.01 <i>Supervision and Superintendence</i>	00700 - 18
6.02 <i>Labor; Working Hours</i>	00700 - 19
6.03 <i>Services, Materials, and Equipment</i>	00700 - 19
6.04 <i>Progress Schedule</i>	00700 - 19
6.05 <i>Substitutes and "Or-Equals"</i>	00700 - 19
6.06 <i>Concerning Subcontractors, Suppliers, and Others</i>	00700 - 20
6.07 <i>Patent Fees and Royalties</i>	00700 - 21
6.08 <i>Permits</i>	00700 - 21
6.09 <i>Laws and Regulations</i>	00700 - 22
6.10 <i>Taxes</i>	00700 - 22
6.11 <i>Use of Site and Other Areas</i>	00700 - 22
6.12 <i>Record Documents</i>	00700 - 22
6.13 <i>Safety and Protection</i>	00700 - 23
6.14 <i>Safety Representative</i>	00700 - 23
6.15 <i>Hazard Communication Programs</i>	00700 - 23

6.16	<i>Emergencies</i>	00700 - 23
6.17	<i>Shop Drawings and Samples</i>	00700 - 23
6.18	<i>Continuing the Work</i>	00700 - 24
6.19	<i>CONTRACTOR's General Warranty and Guarantee</i>	00700 - 25
6.20	<i>Indemnification</i>	00700 - 25
ARTICLE 7 - OTHER WORK		00700 - 26
7.01	<i>Related Work at Site</i>	00700 - 26
7.02	<i>Coordination</i>	00700 - 26
ARTICLE 8 - OWNER'S RESPONSIBILITIES		00700 - 26
8.01	<i>Communications to Contractor</i>	00700 - 26
8.02	<i>Replacement of ENGINEER</i>	00700 - 26
8.03	<i>Furnish Data</i>	00700 - 26
8.04	<i>Pay Promptly When Due</i>	00700 - 26
8.05	<i>Lands and Easements; Reports and Tests</i>	00700 - 26
8.06	<i>Insurance</i>	00700 - 27
8.07	<i>Change Orders</i>	00700 - 27
8.08	<i>Inspections, Tests, and Approvals</i>	00700 - 27
8.09	<i>Limitations on OWNER's Responsibilities</i>	00700 - 27
8.10	<i>Undisclosed Hazardous Environmental Condition</i>	00700 - 27
8.11	<i>Evidence of Financial Arrangements</i>	00700 - 27
ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION		00700 - 27
9.01	<i>OWNER'S Representative</i>	00700 - 27
9.02	<i>Visits to Site</i>	00700 - 27
9.03	<i>Project Representative</i>	00700 - 28
9.04	<i>Clarifications and Interpretations</i>	00700 - 28
9.05	<i>Authorized Variations in Work</i>	00700 - 28
9.06	<i>Rejecting Defective Work</i>	00700 - 28
9.07	<i>Shop Drawings, Change Orders and Payments</i>	00700 - 28
9.08	<i>Determinations for Unit Price Work</i>	00700 - 28
9.09	<i>Decisions on Requirements of Contract Documents and Acceptability of Work</i>	00700 - 28
9.10	<i>Limitations on ENGINEER's Authority and Responsibilities</i>	00700 - 28
ARTICLE 10 - CHANGES IN THE WORK; CLAIMS		00700 - 29
10.01	<i>Authorized Changes in the Work</i>	00700 - 29
10.02	<i>Unauthorized Changes in the Work</i>	00700 - 29
10.03	<i>Execution of Change Orders</i>	00700 - 29
10.04	<i>Notification to Surety</i>	00700 - 29
10.05	<i>Claims and Disputes</i>	00700 - 30
ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK		00700 - 30
11.01	<i>Cost of the Work</i>	00700 - 30
11.02	<i>Cash Allowances</i>	00700 - 32
11.03	<i>Unit Price Work</i>	00700 - 32
ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES		00700 - 33
12.01	<i>Change of Contract Price</i>	00700 - 33
12.02	<i>Change of Contract Times</i>	00700 - 33
12.03	<i>Delays Beyond CONTRACTOR's Control</i>	00700 - 33
12.04	<i>Delays Within CONTRACTOR's Control</i>	00700 - 34
12.05	<i>Delays Beyond OWNER's and CONTRACTOR's Control</i>	00700 - 34
12.06	<i>Delay Damages</i>	00700 - 34
ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK		00700 - 34
13.01	<i>Notice of Defects</i>	00700 - 34
13.02	<i>Access to Work</i>	00700 - 34
13.03	<i>Tests and Inspections</i>	00700 - 34
13.04	<i>Uncovering Work</i>	00700 - 35
13.05	<i>OWNER May Stop the Work</i>	00700 - 35
13.06	<i>Correction or Removal of Defective Work</i>	00700 - 35

13.07	<i>Correction Period</i>	00700 - 35
13.08	<i>Acceptance of Defective Work</i>	00700 - 36
13.09	<i>OWNER May Correct Defective Work</i>	00700 - 36
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION		00700 - 36
14.01	<i>Schedule of Values</i>	00700 - 36
14.02	<i>Progress Payments</i>	00700 - 37
14.03	<i>CONTRACTOR's Warranty of Title</i>	00700 - 38
14.04	<i>Substantial Completion</i>	00700 - 38
14.05	<i>Partial Utilization</i>	00700 - 39
14.06	<i>Final Inspection</i>	00700 - 39
14.07	<i>Final Payment</i>	00700 - 39
14.08	<i>Final Completion Delayed</i>	00700 - 40
14.09	<i>Waiver of Claims</i>	00700 - 40
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION		00700 - 40
15.01	<i>OWNER May Suspend Work</i>	00700 - 40
15.02	<i>OWNER May Terminate for Cause</i>	00700 - 40
15.03	<i>OWNER May Terminate For Convenience</i>	00700 - 41
15.04	<i>CONTRACTOR May Stop Work or Terminate</i>	00700 - 41
ARTICLE 16 - DISPUTE RESOLUTION		00700 - 41
16.01	<i>Methods and Procedures</i>	00700 - 41
ARTICLE 17 - MISCELLANEOUS		00700 - 42
17.01	<i>Giving Notice</i>	00700 - 42
17.02	<i>Computation of Times</i>	00700 - 42
17.03	<i>Cumulative Remedies</i>	00700 - 42
17.04	<i>Survival of Obligations</i>	00700 - 42
17.05	<i>Controlling Law</i>	00700 - 42



GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

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.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

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

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.

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

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Performance and payment bonds and other instruments of security.

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.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include 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 clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *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 11.03 in the case of Unit Price Work).

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

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *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.

19. *ENGINEER*--The individual or entity named as such in the Agreement.

20. *ENGINEER's Consultant*--An individual or entity 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.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *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.

25. *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.

26. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

27. *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.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *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.

32. *PCBs*--Polychlorinated biphenyls.

33. *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 Waste and crude oils.

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

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

36. *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.

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

38. *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.

39. *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.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

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

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

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

45. *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.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases,

steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

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

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement 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 subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered 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.

50. *Written Amendment*--A written statement modifying 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.

1.02 Terminology

A. Intent of Certain Terms or Adjectives

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination 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 performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective*

1. The word "defective," 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 14.04 or 14.05).

D. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of CONTRACTOR, "provide" is implied.

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 *Copies of Documents*

A. OWNER shall furnish to CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. 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 30 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.

2.04 *Starting the Work*

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *CONTRACTOR's Review of Contract Documents:* Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein 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.

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified

in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

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

3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

C. *Evidence of Insurance:* 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 Article 5.

2.06 *Preconstruction Conference*

A. Within 20 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 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. 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 2.05.B. 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 acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.

2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. 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 labor, documentation, services, 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 provided whether or not specifically called for at no additional cost to OWNER.

C. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in Article 9.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws, and Regulations*

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the 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.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or 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 any such provision or instruction 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 performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

1. 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 Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; 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.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, 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:

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

b. the provisions of any 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).

3.04 Amending and Supplementing Contract Documents

A. 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: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 Reuse of Documents

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity 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, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaptation by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

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

4.01 Availability of Lands

A. OWNER shall furnish the Site. OWNER shall notify CONTRACTOR of any encumbrances or restrictions not of general application but specifically related to use of the Site with which CONTRACTOR must comply in performing the Work. OWNER will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If CONTRACTOR and OWNER are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in OWNER's furnishing the Site, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

B. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a current 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 or construction lien against such lands in accordance with applicable Laws and Regulations.

C. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* 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:

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

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 the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, 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.

C. *Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and

b. 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 9.08 and 11.03.

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

a. 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

b. 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

c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or 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) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *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, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

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

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy 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 6.16.A), 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 or location of the Underground Facility. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility.

2. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy 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 on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, OWNER or CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

4.05 *Reference Points*

A. 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 property

monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument 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 or property monuments by professionally qualified personnel.

4.06 Hazardous Environmental Condition at Site

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* 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:

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
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition 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. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous

Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly 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 condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR 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 on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such 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 the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. 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, partners, employees, agents, other consultants, and subcontractors 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) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing

in this paragraph 4.06.E shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors 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) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. 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 Contract Documents.

B. 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 Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared 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 5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. 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.

5.03 *Certificates of Insurance*

A. 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. 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.

5.04 *CONTRACTOR's Liability Insurance*

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

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;

4. claims for damages insured by reasonably available 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. 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 therefrom; and

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.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least 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;

3. include completed operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, 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 5.03 will so provide);

6. 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 13.07; and

7. 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).

5.05 *OWNER's Liability Insurance*

A. In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.04, 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.

5.06 *Property Insurance*

A. 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:

1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;

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 materials and equipment in transit, and shall insure against at least the following perils or causes of loss: 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 or causes of loss as may be specifically required by the Supplementary Conditions;

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);

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;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. 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 individuals 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.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 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 5.07.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.06 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, Subcontractors, 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.

E. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraph 5.06, 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.

5.07 Waiver of Rights

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss 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, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss 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 individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) 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.

B. OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for:

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

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.05, after Substantial Completion

pursuant to paragraph 14.04, or after final payment pursuant to paragraph 14.07.

C. Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in paragraph 5.07.B 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 CONTRACTOR, Subcontractors, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by paragraph 5.06 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 5.08.B. 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.

B. 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 15 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.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either 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 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. 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.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.06 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 canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. 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 OWNER or ENGINEER 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.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto 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 given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 Labor; Working Hours

A. 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.

B. 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 stated 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 (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 Services, Materials, and Equipment

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, 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 performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, 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 source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 Progress Schedule

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing 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.

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

6.05 Substitutes and "Or-Equals"

A. 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, appearance, 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 submitted to ENGINEER for review under the circumstances described below.

1. "Or-Equal" Items: 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 approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. Substitute Items

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under

paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. 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 therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item 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 use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item 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 item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. 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 approved by 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 6.05.A.2.

C. Engineer's Evaluation: ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.05.A and 6.05.B. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized until ENGINEER's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." ENGINEER will advise CONTRACTOR in writing of any negative determination.

D. Special Guarantee: OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.

E. ENGINEER's Cost Reimbursement: ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B 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 approves 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.

F. CONTRACTOR's Expense: CONTRACTOR shall provide all data in support of any proposed substitute or "or-equal" at CONTRACTOR's expense.

6.06 Concerning Subcontractors, Suppliers, and Others

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or

entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER'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 individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work 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 individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, 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 individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. 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.

G. 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 5.06, 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 individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss 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.

6.07 *Patent Fees and Royalties*

A. 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, partners, employees or 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) arising out of or relating to 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.

6.08 *Permits*

A. 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

entitles to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER'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 individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work 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 individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, 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 individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. 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.

G. 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 5.06, 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 individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss 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.

6.07 *Patent Fees and Royalties*

A. 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, partners, employees or 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) arising out of or relating to 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.

6.08 *Permits*

A. 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.

6.09 *Laws and Regulations*

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the 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.

B. 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 (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) arising out of or relating to such Work; 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 of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not

unreasonably encumber the Site and other areas 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.

2. 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.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, 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) arising out of or relating to 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.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* 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.

6.12 *Record Documents*

A. 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 in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart 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.

6.13 *Safety and Protection*

A. CONTRACTOR shall be solely 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:

1. all persons on the Site or who may be affected by the Work;

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

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.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property 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 other 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 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform 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 individual or entity 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 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. 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.

6.15 *Hazard Communication Programs*

A. 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.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR 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 or are required as a result thereof. 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.

6.17 *Shop Drawings and Samples*

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. 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 services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable 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 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, 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.

D. *Submittal Procedures*

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

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

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

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. 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.

2. Each submittal shall 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.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing 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.

E. *ENGINEER's Review*

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. 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.

2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a 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.

3. 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 each submittal as required by paragraph 6.17.D.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 6.17.D.1.

F. *Resubmittal Procedures*

1. 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.

6.18 *Continuing the Work*

A. 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 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 CONTRACTOR's General Warranty and Guarantee

A. 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:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or
2. normal wear and tear under normal usage.

B. 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:

1. observations by ENGINEER;
2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;
4. use or occupancy of the Work or any part thereof by OWNER;
5. any acceptance by OWNER or any failure to do so;
6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;
7. any inspection, test, or approval by others; or
8. any correction of defective Work by OWNER.

6.20 Indemnification

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors 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) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. 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 therefrom; and
2. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform 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 an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20.A 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 individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to CONTRACTOR prior to starting any such other work; and

2. if OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in paragraph 10.05.

B. 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 other 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 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 properly connect or otherwise make its several parts come together and properly 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.

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

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

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

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

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

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of ENGINEER*

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

8.03 *Furnish Data*

A. OWNER shall promptly furnish the data required of OWNER under the Contract Documents.

8.04 *Pay Promptly When Due*

A. OWNER shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations

and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 Insurance

A. OWNER's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 Change Orders

A. OWNER is obligated to execute Change Orders as indicated in paragraph 10.03.

8.08 Inspections, Tests, and Approvals

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.09 Limitations on OWNER's Responsibilities

A. 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 performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.10 Undisclosed Hazardous Environmental Condition

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.11 Evidence of Financial Arrangements

A. 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

9.01 OWNER'S Representative

A. 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 will not be changed without written consent of OWNER and ENGINEER.

9.02 Visits to Site

A. 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, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous inspections on the Site 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 observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's 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 performance of the Work.

9.03 Project Representative

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive 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 9.10 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 individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *Authorized Variations in Work*

A. 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 and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 *Rejecting Defective Work*

A. 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 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 *Shop Drawings, Change Orders and Payments*

A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.

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

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

9.08 *Determinations for Unit Price Work*

A. 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 (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

9.09 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. 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, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, 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 this paragraph 9.09 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 14.07) 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.

9.10 *Limitations on ENGINEER's Authority and Responsibilities*

A. 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 in contract, tort, or otherwise owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. 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 performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

C. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A 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.

E. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. 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 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).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change

Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. 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, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

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

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; 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 6.18.A.

10.04 *Notification to Surety*

A. 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. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, 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 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), 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.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* 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. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts 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 11.01.B.

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 outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

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.

3. Payments made by CONTRACTOR to Subcontractors for Work performed 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 acceptable. 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 this paragraph 11.01.

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.

5. Supplemental costs including the following:

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

b. 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.

c. 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, assembly, dismantling, and removal thereof. All such costs shall be 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.

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

e. 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.

f. 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 of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with paragraph 5.06.D), provided such losses and damages 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.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. 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.

i. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

j. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be

considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

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.

4. 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.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 *Cash Allowances*

A. 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 performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

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

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allow-

ances 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.

B. 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.

11.03 *Unit Price Work*

A. 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 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 subject to the provisions of paragraph 9.08.

B. 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.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

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

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

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 PRICE;
CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. 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 submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. 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:

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 paragraph 11.03); or

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 12.01.C.2); or

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 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. *CONTRACTOR's Fee:* The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;

b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no

fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. 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 therefor as provided in paragraph 12.02.A. 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.

12.04 Delays Within CONTRACTOR's Control

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 Delays Beyond OWNER's and CONTRACTOR's Control

A. 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.

12.06 Delay Damages

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or 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:

1. delays caused by or within the control of CONTRACTOR; or
2. delays beyond the control of both OWNER and CONTRACTOR 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.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

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

13.01 Notice of Defects

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given

to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 Access to Work

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and 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.

13.03 Tests and Inspections

A. 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.

B. 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:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;
2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and
3. as otherwise specifically provided in the Contract Documents.

C. 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.

D. CONTRACTOR shall 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 acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. 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.

F. Uncovering Work as provided in paragraph 13.03.E 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.

13.04 *Uncovering Work*

A. 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.

B. 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 (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) arising out of or relating to 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. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. 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. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to 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, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay 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) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 *Correction Period*

A. 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, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. 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 repaired or may have the rejected Work removed and replaced, and 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) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. 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.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, 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.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay 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) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. 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, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. 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 13.06.A, or 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.

B. 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.

C. 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) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 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. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. 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.

D. 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 under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A 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.

14.02 Progress Payments

A. Applications for Payments

1. At least 20 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 or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. Review of Applications

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site 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:

a. the Work has progressed to the point indicated;

b. 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 9.08, and to any other qualifications stated in the recommendation); and

c. 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.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections 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.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. 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 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests,

revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Written Amendment or Change Orders;

c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or

d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. *Reduction in Payment*

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

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

b. 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;

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

d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.

2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld.

OWNER shall 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.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 *CONTRACTOR's Warranty of Title*

A. 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.

14.04 *Substantial Completion*

A. 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. Promptly 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 therefor. 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 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 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 responsibility.

ties pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, 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.

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

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which 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 conditions.

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 therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 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.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will promptly 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.

14.07 *Final Payment*

A. *Application for Payment*

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. 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 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in paragraph 14.07.A.2 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.

B. *Review of Application and Acceptance*

1. 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 for Payment 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 14.09. Otherwise, ENGINEER will return the Application for Payment 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 for Payment.

C. *Payment Becomes Due*

1. Thirty days after the presentation to OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR.

14.08 *Final Completion Delayed*

A. 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 5.01, 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.

14.09 *Waiver of Claims*

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

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 14.06, 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

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *OWNER May Suspend Work*

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive 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 a Claim therefor as provided in paragraph 10.05.

15.02 *OWNER May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure 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 2.07 as adjusted from time to time pursuant to paragraph 6.04);

2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;

3. CONTRACTOR's disregard of the authority of ENGINEER; or

4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, 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 (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) sustained by OWNER arising out of or relating to 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. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. 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 moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 OWNER May Terminate For Convenience

A. Upon seven days 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 Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

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;

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;

3. for 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) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

B. 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.

15.04 CONTRACTOR May Stop Work or Terminate

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 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 or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 Methods and Procedures

A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, 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

17.01 *Giving Notice*

A. 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.

17.02 *Computation of Times*

A. 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.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto 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.

17.04 *Survival of Obligations*

A. All representations, 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 or termination or completion of the Agreement.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

SECTION 00 73 00 - SUPPLEMENTARY GENERAL CONDITIONS

PART 1 – GENERAL

1.01 DEFINITIONS

- A. Owner's Representatives – the authorized representative of the Owner who may be assigned to the site or any part thereof.
- B. Wherever in this contract the word Engineer is used, it shall be understood as referring to the owner representative acting personally or through any assistance to duly authorize for the Owner.

1.02 PROJECT DESCRIPTION

- A. Construction shall generally consist of the following:
 - 1. The work covered by these specifications consists of furnishing all materials, labor, supervision, equipment, including, but not limited to: traffic control during construction, asphalt milling, hand-removal of existing asphalt around concrete driveway aprons, subgrade proofrolling, subgrade undercut and repair, adjustment of existing utility valve boxes or castings, installing new asphalt paving, thermoplastic pavement marking and project site clean-up for various locations within the City of Belle Meade.
- B. The work shall consist of furnishing all materials, supplies, and equipment; performing all labor and services incidental to, or necessary for, the complete construction of the project in accordance with the plans and specifications; and the maintenance of each completed portion of the work until final acceptance of the entire project by the Owner.

1.03 PROJECT CONSTRUCTION

- A. The project will be constructed under a lump sum contract.

1.04 CONTRACTOR'S OR SUBCONTRACTOR'S BONDS AND INSURANCE

- A. Section 5.01 and 5.02 of the Standard General Conditions of the Construction Contract (relating to Performance and Payment Bonds) will be at the discretion of the Owner. **Contractor is asked to provide a cost of pulling a performance and payment bond for this project to the Owner for the Owner to decide if bonds will be required.**
- B. The Contractor shall not commence work under this contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been obtained and approved.
- C. The limits of liability for the insurance required by Article 5 of the Standard General Conditions of the Construction Contract shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers Compensation, and related coverages:
 - a. State: Statutory
 - b. Applicable Federal: Statutory
 - c. Employers Liability
 - Ea. Accident \$500,000
 - Disease – Policy Limit \$500,000
 - Disease – Ea. Employee \$500,000
 2. CONTRACTOR'S General Liability which shall include completed operations and product liability coverages and eliminates the exclusion with respect to property under the care, custody and control of the CONTRACTOR:
 - a. General Aggregate \$1,000,000
 - b. Products – Completed Operations Agg. \$1,000,000
 - c. Personal and Advertising Injury \$1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
 - e. Fire Damage (any one fire) \$500,000
 - f. Medical Expense (any one expense) \$5,000
 - g. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable
 - h. Excess or Umbrella Liability
 - General Aggregate \$2,000,000
 - Each Occurrence \$2,000,000
 3. Automobile Liability
 - a. Bodily Injury
 - Each Person \$1,000,000
 - Each Accident \$1,000,000
 - b. Property Damage
 - Each Accident \$1,000,000
 - c. Combined Single Limit of \$1,000,000
 4. The Contractual Liability shall provide coverage for not less than the following amounts:
 - a. Bodily Injury
 - Each Accident \$1,000,000
 - Annual Aggregate \$1,000,000
 - b. Property Damage:
 - Each Accident \$1,000,000
 - Annual Aggregate \$1,000,000
 5. The following shall be included as additional insured parties on CONTRACTOR'S liability policies:
 - a. City of Belle Meade, Nashville, Tennessee– OWNER
 - b. Barge Civil Associates, LLC. – ENGINEER
- D. Owner's Liability Insurance
1. Delete Subparagraph 5.05A and substitute the following: "The Contractor shall purchase and maintain insurance covering the Owner's contingent liability for claims which may arise from operations under the Contract."

E. Property Insurance

1. In the first sentence of Subparagraph 5.06A, delete the word "Owner" and insert the words "The Contractor". Add the following to the end of 5.06A. "The form of policy for this coverage shall be Completed Value. If the Owner is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall bear all reasonable costs properly attributable thereto."
2. Delete 5.06B in its entirety.

1.05 CONTRACT PLANS

- A. The work shall be performed in accordance with the specifications and contract plans, which are incorporated herein, the limits shown on the plans as being included in the unit price contract or contracts.

1.06 UTILITY SERVICE

- A. The Contractor shall provide and maintain at his own expense any water, electric, or other utility service used in the construction of the work.

1.07 COORDINATION WITH OTHER CONTRACTORS

- A. It shall be the responsibility of the Contractor to coordinate other contractors working in the area and any construction activities whereby access must be provided across the sewer line.
1. Should CONTRACTOR cause damage to the work or property of any separate contractor at the Site, or should any claim arise out of the CONTRACTOR's performance of the Work at the Site be made by any separate contractor against CONTRACTOR, OWNER, ENGINEER, ENGINEER's Consultants, or the construction coordinator, CONTRACTOR shall promptly attempt to settle with such separate contractor by agreement, or to otherwise resolve the dispute by arbitration or at law.
 2. CONTRACTOR shall to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless OWNER, ENGINEER, or ENGINEER's consultants, and the officers, directors, partners, employees, agents and other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages (including, but not limited to, fees, and charges of engineers, architects, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly or consequently out of any action, legal or equitable, brought by a separate contractor against OWNER, ENGINEER, ENGINEER's Consultants, or the extent said claim is based on or arises out of the CONTRACTOR's performance of the Work. Should a separate contractor cause damage to the Work or property of CONTRACTOR or should the performance of work by any contractor at the Site give rise to any other Claim, CONTRACTOR shall not institute any action, legal or equitable, against OWNER, ENGINEER, or ENGINEER's Consultants, or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on it to recover damages from OWNER, ENGINEER or ENGINEER's Consultants on account of any such damage or Claim.
 3. If CONTRACTOR is delayed at any time in performing or furnishing Work by any act or neglect of a separate contractor, and OWNER and CONTRACTOR are unable to agree to the extent of any adjustment in Contract Times attributable thereto,

CONTRACTOR, may make a Claim for an extension of times in accordance with Article 12. An extension of the Contract Times shall be CONTRACTOR's exclusive remedy with respect to OWNER, ENGINEER, or ENGINEER's Consultants, for any delay, disruption, interference, or hindrance caused by any separate contractor. This paragraph does not prevent recovery from OWNER, ENGINEER, or ENGINEER's Consultant, for activities that are their respective responsibilities.

1.08 DISPUTE RESOLUTION

- A. In the event a dispute arises between OWNER and CONTRACTOR relating to any obligation undertaken in this agreement, they agree to utilize the following procedure to resolve any such dispute.
- B. OWNER and CONTRACTOR will attempt to resolve all disputes by first engaging in good faith negotiations between them as soon as possible after the dispute arises.

1.09 MEDIATION

- A. If negotiations are not successful, OWNER and CONTRACTOR will submit their dispute to a mutually acceptable mediator for non-binding mediation.

1.010 ARBITRATION

- A. If mediation is not successful and if the amount in dispute is less than \$100,000, OWNER and CONTRACTOR agree to resolve their dispute by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect, subject to the following restrictions and additions.
- B. OWNER and CONTRACTOR will each appoint one arbitrator, and the two arbitrators chosen will select a third arbitrator. In the alternative, OWNER and CONTRACTOR may agree to use an arbitration panel provided by the American Arbitration Association (AAA).
- C. As a part of the preparation for the arbitration hearing, both the OWNER and CONTRACTOR shall have the right to engage in discovery to the extent that each may submit to the other up to 30 interrogatories and up to 15 requests for production of documents. In addition, each may take up to five depositions, but no deposition shall last for longer than one normal business day (eight hours). All discovery shall be conducted in accordance with the Federal Rules of Civil Procedure then in effect. Discovery disputes shall be submitted to the arbitration panel.

1.011 LEGAL PROCESS

- A. If mediation is not successful and if the amount in dispute is \$100,000 or more, OWNER and CONTRACTOR will seek a resolution of their dispute through the normal legal process in a court of competent jurisdiction in Nashville/Davidson County, Tennessee.
- B. If a dispute is resolved through legal process, the prevailing party shall be entitled to recover from the other all court costs.

1.012 THIRD PARTY

- A. If the complete resolution of a dispute requires the joinder of a third party that does not agree to follow the procedure set out in subsection 10, such dispute shall not be resolved between OWNER and CONTRACTOR in accordance with said paragraph. However, this subsection 14, shall have no application unless formal written notice of objection is given by the party wishing to utilize this subsection to avoid the procedure set forth in subsection 10 within 30 days of formal notice of the dispute invoking subsection 10.

1.013 RESIDENT ENGINEER'S OFFICE

- A. No office will be required to be provided by the Contractor for a resident engineer.

1.014 CONTRACTOR'S PROJECT MANAGER

- A. The project manager will be required to deal with all property owner concerns and will be responsible for defining a schedule for public meetings associated with the project, subject to Owner and Engineer approval.

1.015 PROJECT IDENTIFICATION SIGN

- A. No project signage will be needed.

1.016 AUTHORITY OF INSPECTORS

- A. The inspectors employed by and working under the direction of the Engineer or the Owner shall have full authority to reject any defective material or workmanship. Inspectors will not be authorized to revoke, alter, enlarge, or relax the provisions of the plans and specifications, or to issue any instructions contrary thereto.

1.017 USE OF A PORTION OF THE WORK

- A. Whenever in the opinion of the Engineer any portion of the work is in suitable condition, it may be put into use upon written order of the Engineer. Such usage shall not be held to be in any way an acceptance of the work or any part thereof as a waiver of any of the provisions of these specifications or contract. Pending final completion and acceptance of the work, all necessary repairs and renewals of any section of the work so put into use which are due to defective material or workmanship, or to natural causes other than ordinary wear and tear, or to the operation of the Contractor shall be performed by and at the expense of the Contractor.

1.018 PRE-CONSTRUCTION MEETING

- A. As soon as the project is awarded, a pre-construction meeting will be held by the Engineer with representatives of the Owner and the Contractor (and subcontractors at the discretion of the Contractor). At this time, the Contractor shall submit to the Engineer for approval a schedule of the sequence of construction activities and the expected dates of commencement and completion for each major item of work.

1.019 BIDDING INSTRUCTIONS

- A. The Contractor shall be responsible for providing suitable borrow material for securing fill and topsoil materials for completion of the project. No extra payment shall be made based on location of any borrow area utilized.
- B. Any and all forms of rock excavation, including but not limited to mass rock, trench rock, cored rock, etc., shall be performed by the Contractor at no extra cost to the Owner. All excavation is unclassified.
- C. Any undercutting of unsuitable material required under roadbeds, parking lots, and/or structures shall be removed and replaced with suitable material at the unit price provided. No extra payment shall be received by Contractor for replacing undercut material with suitable fill material.

1.020 FIELD ENGINEERING AND QUALITY ASSURANCE

- A. It shall be the responsibility of the Contractor to provide a Quality Assurance Contractor (QAC) for quality assurance including materials testing and quality assurance. Quality assurance is defined as the sampling and testing required by the technical specifications to meet the minimum requirements of the Owner. The Contractor is required to maintain quality control of the project. Quality control is defined as the Contractor's program for meeting all of the criteria listed within this document for all facets of the construction. Quality control remains the responsibility of the Contractor.

1.021 WASTE MATERIAL DISPOSAL

- A. Waste material, including milled asphalt, undercut road base, trees, stumps, logs, brush, roots, grass, vegetation, humus, rubbish, demolition materials, over-excavated rock from structures or trenches, and other objectionable matter, shall be removed from the site and disposed of off-site in a manner not to damage the Owner or other persons. Disposal should be in accordance with all applicable governing regulations and requirements.
- B. Contractor to obtain, at his expense, any permits required for the disposal of waste material.
- C. No extra payment shall be received for disposal of waste material.

1.022 SEEDING

- A. The Contractor shall be responsible for replacement of any turf or ground cover damaged as a result of the construction. All areas of vegetation which are scarified or disturbed by any mechanism during the construction activities will require grassing and planting to provide vegetative cover. Any area that fails to develop a successful stand following seeding will be re-seeded at the Contractor's expense for a period of one year after placement.

1.023 TRENCH SETTLEMENT & EROSION MAINTENANCE REQUIREMENT

- A. Contractor shall be responsible for one year after acceptance of the project by the Owner to maintain all areas that were disturbed during the construction operations, specifically but not limited to, maintaining areas along all trench excavations that experience settlement throughout the project and the one year maintenance period. This warranty shall also cover all repair of any soil erosion that may occur due to storm water during the project and the one year maintenance period.
- B. Contractor shall respond within 15 days to Owner's or Engineer's request to rectify any settled or eroded area or be subject to Owner calling for Contractor's performance bond (if applicable) to cover the costs associated with Owner's Representative repairing the identified maintenance issue.
- C. Contractor should account for having to import additional topsoil for settlement and erosion repair as well as re-sow seed that has washed out with the eroded areas after final acceptance of the job and during the one year maintenance period. Provisions should be made to incorporate the cost associated with this warranty into the bid as this cost is not a separate pay item.

PART 2 – PRODUCTS

NOT APPLICABLE

PART 3 – EXECUTION

NOT APPLICABLE

END OF SECTION 00 73 00

SECTION 32 12 16 - ASPHALT PAVING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section. Refer to Metropolitan Public Works and TDOT standards for any work being completed in a right-of-way.

1.2 SUMMARY

- A. Section Includes:
 - 1. Cold milling of existing asphalt pavement.
 - 2. Hot-mix asphalt patching.
 - 3. Hot-mix asphalt paving.
 - 4. Hot-mix asphalt overlay.
 - 5. Asphalt traffic-calming devices.
 - 6. Asphalt surface treatments.

1.3 PREINSTALLATION MEETINGS

- A. Pre-installation Conference: Conduct conference at Project site.
 - 1. Review methods and procedures related to hot-mix asphalt paving including, but not limited to, the following:
 - a. Review proposed sources of paving materials, including capabilities and location of plant that will manufacture hot-mix asphalt.
 - b. Review requirements for protecting paving work, including restriction of traffic during installation period and for remainder of construction period.

1.4 ACTION SUBMITTALS

- A. Product Data: For each type of product.
 - 1. Include technical data and tested physical and performance properties.
 - 2. Job-Mix Designs: Certification, by authorities having jurisdiction, of approval of each job mix proposed for the Work.
- B. Samples for Verification: For the following product, in manufacturer's standard sizes unless otherwise indicated:
 - 1. Paving Fabric: 12 by 12 inches minimum.

1.5 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For manufacturer and testing agency.

- B. Material Certificates: For each paving material. Include statement that mixes containing recycled materials will perform equal to mixes produced from all new materials.
- C. Material Test Reports: For each paving material, by a qualified testing agency.
- D. Field quality-control reports.

1.6 QUALITY ASSURANCE

- A. Manufacturer Qualifications: A paving-mix manufacturer registered with and approved by authorities having jurisdiction or the DOT of state in which Project is located.
- B. Testing Agency Qualifications: Qualified according to ASTM D 3666 for testing indicated.
- C. Regulatory Requirements: Comply with materials, workmanship, and other applicable requirements of the Tennessee Department of Transportation (TDOT) for asphalt paving work.
 - 1. Measurement and payment provisions and safety program submittals included in standard specifications do not apply to this Section.

1.7 FIELD CONDITIONS

- A. Environmental Limitations: Do not apply asphalt materials if subgrade is wet or excessively damp, if rain is imminent or expected before time required for adequate cure, or if the following conditions are not met:
 - 1. Prime Coat: Minimum surface temperature of 60 degrees F.
 - 2. Tack Coat: Minimum surface temperature of 60 degrees F.
 - 3. Slurry Coat: Comply with weather limitations in ASTM D 3910.
 - 4. Asphalt Base Course: Minimum surface temperature of 40 degrees F and rising at time of placement.
 - 5. Asphalt Surface Course: Minimum surface temperature of 60 degrees F at time of placement.

PART 2 - PRODUCTS

2.1 AGGREGATES

- A. General: Use materials and gradations that have performed satisfactorily in previous installations.
- B. Coarse Aggregate: ASTM D 692/D 692M, sound; angular crushed stone, crushed gravel, or cured, crushed blast-furnace slag.
- C. Fine Aggregate: ASTM D 1073, sharp-edged natural sand or sand prepared from stone, gravel, cured blast-furnace slag, or combinations thereof.
- D. Mineral Filler: ASTM D 242, rock or slag dust, hydraulic cement, or other inert material.

2.2 ASPHALT MATERIALS

- A. Asphalt Cement: In accordance with TDOT 904.01.
- B. Prime Coat: anionic emulsified asphalt, or cationic emulsified asphalt, slow setting, diluted in water, of suitable grade and consistency for application and complying with standards specified in TDOT 904.03.
- C. Tack Coat: anionic emulsified asphalt, or cationic emulsified asphalt, slow setting, diluted in water, of suitable grade and consistency for application and complying with standards specified in TDOT 904.03.
- D. Fog Seal: anionic emulsified asphalt, or cationic emulsified asphalt, slow setting, factory diluted in water, of suitable grade and consistency for application and complying with standards specified in TDOT 904.03.
- E. Water: Potable.
- F. Undersealing Asphalt: ASTM D 3141/D 3141M; pumping consistency.

2.3 MIXES

- A. Recycled Content of Hot-Mix Asphalt: In accordance with TDOT 411.03.
- B. Hot-Mix Asphalt: In accordance with TDOT Sections 307 and 411 and complying with the following requirements:
 - 1. Provide mixes with a history of satisfactory performance in geographical area where Project is located.
 - 2. Binder Course: TDOT 307 Grading BM2.
 - 3. Surface Course: TDOT 411 Grading E.
- C. Emulsified-Asphalt Slurry: In accordance with TDOT 414.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify that subgrade is dry and in suitable condition to begin paving.
- B. Proof-roll subgrade below pavements.

3.2 COLD MILLING

- A. Clean existing pavement surface of loose and deleterious material immediately before cold milling. Remove existing asphalt pavement by cold milling to grades and cross sections indicated.
 - 1. Mill to a depth of 1-1/4 inches.
 - 2. Mill to a uniform finished surface free of excessive gouges, grooves, and ridges.
 - 3. Control rate of milling to prevent tearing of existing asphalt course.

4. Repair or replace curbs, manholes, and other construction damaged during cold milling.
5. Excavate and trim unbound-aggregate base course, if encountered, and keep material separate from milled hot-mix asphalt.
6. Patch surface depressions deeper than 1 inch after milling, before wearing course is laid.
7. Properly dispose of milled asphalt material off-site unless otherwise directed.
8. Keep milled pavement surface free of loose material and dust.
9. Do not allow milled materials to accumulate on-site.

3.3 PATCHING

- A. Asphalt Pavement: Saw cut perimeter of patch and excavate existing pavement section to sound base. Excavate rectangular or trapezoidal patches, extending 12 inches into perimeter of adjacent sound pavement, unless otherwise indicated. Cut excavation faces vertically. Remove excavated material. Recompact existing unbound-aggregate base course to form new subgrade.
- B. Portland Cement Concrete Pavement: Break cracked slabs and roll as required to reseal concrete pieces firmly.
 1. Pump hot undersealing asphalt under rocking slab until slab is stabilized or, if necessary, crack slab into pieces and roll to reseal pieces firmly.
 2. Remove disintegrated or badly cracked pavement. Excavate rectangular or trapezoidal patches, extending into perimeter of adjacent sound pavement, unless otherwise indicated. Cut excavation faces vertically. Recompact existing unbound-aggregate base course to form new subgrade.
- C. Tack Coat: Before placing patch material, apply tack coat uniformly to vertical asphalt surfaces abutting the patch. Apply at a rate of 0.05 to 0.15 gal./sq. yd.
 1. Allow tack coat to cure undisturbed before applying hot-mix asphalt paving.
 2. Avoid smearing or staining adjoining surfaces, appurtenances, and surroundings. Remove spillages and clean affected surfaces.
- D. Placing Patch Material: Partially fill excavated pavements with hot-mix asphalt base mix and, while still hot, compact. Cover asphalt base course with compacted, hot-mix surface layer finished flush with adjacent surfaces.

3.4 REPAIRS

- A. Leveling Course: Install and compact leveling course consisting of hot-mix asphalt surface course to level sags and fill depressions deeper than 1 inch in existing pavements.
 1. Install leveling wedges in compacted lifts not exceeding 3 inches thick.

3.5 SURFACE PREPARATION

- A. General: Immediately before placing asphalt materials, remove loose and deleterious material from substrate surfaces. Ensure that prepared subgrade is ready to receive paving.

- B. Herbicide Treatment: Apply herbicide according to manufacturer's recommended rates and written application instructions. Apply to dry, prepared subgrade or surface of compacted-aggregate base before applying paving materials.
 - 1. Mix herbicide with prime coat if formulated by manufacturer for that purpose.
- C. Prime Coat: Apply uniformly over surface of compacted unbound-aggregate base course at a rate of 0.10 to 0.30 gal./sq. yd. Apply enough material to penetrate and seal, but not flood, surface. Allow prime coat to cure.
 - 1. If prime coat is not entirely absorbed within 24 hours after application, spread sand over surface to blot excess asphalt. Use enough sand to prevent pickup under traffic. Remove loose sand by sweeping before pavement is placed and after volatiles have evaporated.
 - 2. Protect primed substrate from damage until ready to receive paving.
- D. Tack Coat: Apply uniformly to surfaces of existing pavement at a rate of 0.05 to 0.15 gal./sq. yd. .
 - 1. Allow tack coat to cure undisturbed before applying hot-mix asphalt paving.
 - 2. Avoid smearing or staining adjoining surfaces, appurtenances, and surroundings. Remove spillages and clean affected surfaces.

3.6 PLACING HOT-MIX ASPHALT

- A. Machine place hot-mix asphalt on prepared surface, spread uniformly, and strike off. Place asphalt mix by hand in areas inaccessible to equipment in a manner that prevents segregation of mix. Place each course to required grade, cross section, and thickness when compacted.
 - 1. Place hot-mix asphalt base course in number of lifts and thicknesses indicated.
 - 2. Place hot-mix asphalt surface course in single lift.
 - 3. Spread mix at a minimum temperature of 250 deg F
 - 4. Begin applying mix along centerline of crown for crowned sections and on high side of one-way slopes unless otherwise indicated.
 - 5. Regulate paver machine speed to obtain smooth, continuous surface free of pulls and tears in asphalt-paving mat.
- B. Place paving in consecutive strips not less than 10 feet wide unless infill edge strips of a lesser width are required.
 - 1. After first strip has been placed and rolled, place succeeding strips and extend rolling to overlap previous strips. Overlap mix placement about 1 to 1-1/2 inches from strip to strip to ensure proper compaction of mix along longitudinal joints.
 - 2. Complete a section of asphalt base course before placing asphalt surface course.
- C. Promptly correct surface irregularities in paving course behind paver. Use suitable hand tools to remove excess material forming high spots. Fill depressions with hot-mix asphalt to prevent segregation of mix; use suitable hand tools to smooth surface.

3.7 JOINTS

- A. Construct joints to ensure a continuous bond between adjoining paving sections. Construct joints free of depressions, with same texture and smoothness as other sections of hot-mix asphalt course.
 - 1. Clean contact surfaces and apply tack coat to joints.
 - 2. Offset longitudinal joints, in successive courses, a minimum of 6 inches
 - 3. Offset transverse joints, in successive courses, a minimum of 24 inches
 - 4. Compact joints as soon as hot-mix asphalt will bear roller weight without excessive displacement.
 - 5. Compact asphalt at joints to a density within 2 percent of specified course density.

3.8 COMPACTION

- A. General: Begin compaction as soon as placed hot-mix paving will bear roller weight without excessive displacement. Compact hot-mix paving with hot, hand tampers or with vibratory-plate compactors in areas inaccessible to rollers.
 - 1. Complete compaction before mix temperature cools to 185 deg F.
- B. Breakdown Rolling: Complete breakdown or initial rolling immediately after rolling joints and outside edge. Examine surface immediately after breakdown rolling for indicated crown, grade, and smoothness. Correct laydown and rolling operations to comply with requirements.
- C. Intermediate Rolling: Begin intermediate rolling immediately after breakdown rolling while hot-mix asphalt is still hot enough to achieve specified density. Continue rolling until hot-mix asphalt course has been uniformly compacted to the following density:
 - 1. Average Density: 92 percent of reference maximum theoretical density according to AASHTO T-166.
- D. Finish Rolling: Finish roll paved surfaces to remove roller marks while hot-mix asphalt is still warm.
- E. Edge Shaping: While surface is being compacted and finished, trim edges of pavement to proper alignment. Bevel edges while asphalt is still hot; compact thoroughly.
- F. Repairs: Remove paved areas that are defective or contaminated with foreign materials and replace with fresh, hot-mix asphalt. Compact by rolling to specified density and surface smoothness.
- G. Protection: After final rolling, do not permit vehicular traffic on pavement until it has cooled and hardened.
- H. Erect barricades to protect paving from traffic until mixture has cooled enough not to become marked.

3.9 ASPHALT CURBS

- A. Construct hot-mix asphalt curbs over compacted pavement surfaces. Apply a light tack coat unless pavement surface is still tacky and free from dust. Spread mix at a minimum temperature of 250 degrees F.

1. Asphalt Mix: Same as pavement surface course mix.

B. Place hot mix asphalt to curb cross-section indicated or, if not indicated, to local standard shapes, by machine or by hand in wood or metal forms. Tam hand-placed materials and screed to smooth finish. Remove forms after hot-mix asphalt has cooled.

3.10 ASPHALT TRAFFIC-CALMING DEVICES

A. Construct hot-mix asphalt speed bumps, humps, and tables over compacted pavement surfaces. Apply a tack coat unless pavement surface is still tacky and free from dust. Spread mix at a minimum temperature of 250 degrees F.

1. Tack Coat Application: Apply uniformly to surfaces of existing pavement at a rate of 0.05 to 0.15 gal./sq. yd.

2. Asphalt Mix: Same as pavement surface-course mix.

3. Before installation, mill pavement that will be in contact with bottom of traffic-calming device. Mill to a depth of 1 inch from top of pavement to a clean, rough profile.

B. Place and compact hot-mix asphalt to cross section indicated, by machine or by hand in wood or metal forms. Tamp hand-placed materials and screed to smooth finish. Remove forms after hot-mix asphalt has cooled.

3.11 INSTALLATION TOLERANCES

A. Pavement Thickness: Compact each course to produce the thickness indicated within the following tolerances:

1. Base Course: Plus or minus 1/2 inch .

2. Surface Course: Plus 1/4 inch , no minus.

B. Pavement Surface Smoothness: Compact each course to produce a surface smoothness within the following tolerances as determined by using a 10-foot straightedge applied transversely or longitudinally to paved areas:

1. Base Course: 1/4 inch.

2. Surface Course: 1/8 inch.

3. Crowned Surfaces: Test with crowned template centered and at right angle to crown. Maximum allowable variance from template is 1/4 inch.

C. Asphalt Traffic-Calming Devices: Compact and form asphalt to produce the contour indicated and within a tolerance of plus or minus 1/8 inch of height indicated above pavement surface.

3.12 FIELD QUALITY CONTROL

A. Testing Agency: Owner may engage a qualified testing agency to perform tests and inspections, if necessary.

B. Thickness: In-place compacted thickness of hot-mix asphalt courses will be determined according to ASTM D 3549.

- C. Surface Smoothness: Finished surface of each hot-mix asphalt course will be tested for compliance with smoothness tolerances.
- D. Asphalt Traffic-Calming Devices: Finished height of traffic-calming devices above pavement will be measured for compliance with tolerances.
- E. In-Place Density: Testing agency will take samples of uncompacted paving mixtures and compacted pavement according to ASTM D 979 or AASHTO T 168.
 - 1. Reference maximum theoretical density will be determined by averaging results from four samples of hot-mix asphalt-paving mixture delivered daily to site, prepared according to ASTM D 2041, and compacted according to job-mix specifications.
 - 2. In-place density of compacted pavement will be determined by testing core samples according to ASTM D 1188 or ASTM D 2726.
 - a. Field density of in-place compacted pavement may also be determined by nuclear method according to ASTM D 2950 and correlated with ASTM D 1188 or ASTM D 2726.
- F. Remove and replace or install additional hot-mix asphalt where test results or measurements indicate that it does not comply with specified requirements.

END OF SECTION 32 12 16

SECTION 32 13 13 - CONCRETE PAVING

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.

1.02 SUMMARY

- A. Section Includes:

1. Driveways.
2. Roadways.
3. Parking lots.
4. Curbs and gutters.
5. Sidewalks.

- B. References:

1. Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction, March 1, 2006. Measurement and payment provisions and safety program submittals included in standard specifications do not apply to this Section.

1.03 ACTION SUBMITTALS

- A. Product Data: For each type of product indicated.

- B. Other Action Submittals:

1. Design Mixtures: For each concrete paving mixture. Include alternate design mixtures when characteristics of materials, Project conditions, weather, test results, or other circumstances warrant adjustments.

1.04 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For qualified, ready-mix concrete manufacturer.

- B. Material Certificates: For the following, from manufacturer:

1. Cementitious materials.
2. Steel reinforcement and reinforcement accessories.
3. Fiber reinforcement.
4. Admixtures.
5. Curing compounds.
6. Applied finish materials.
7. Bonding agent or epoxy adhesive.
8. Joint fillers.

C. Material Test Reports: For each of the following:

1. Aggregates. Include service-record data indicating absence of deleterious expansion of concrete due to alkali-aggregate reactivity.

D. Field quality-control reports.

1.05 QUALITY ASSURANCE

A. Ready-Mix-Concrete Manufacturer Qualifications: A firm experienced in manufacturing ready-mixed concrete products and that complies with ASTM C 94/C 94M requirements for production facilities and equipment.

1. Manufacturer certified according to NRMCA's "Certification of Ready Mixed Concrete Production Facilities" (Quality Control Manual - Section 3, "Plant Certification Checklist").

B. ACI Publications: Comply with ACI 301 unless otherwise indicated.

1.06 PROJECT CONDITIONS

A. Traffic Control: Maintain access for vehicular and pedestrian traffic as required for other construction activities.

B. Pavement-Marking Paint: See Section 32 17 23 "Pavement Markings" for requirements.

PART 2 - PRODUCTS

2.01 FORMS

A. Form Materials: Plywood, metal, metal-framed plywood, or other approved panel-type materials to provide full-depth, continuous, straight, and smooth exposed surfaces.

1. Use flexible or uniformly curved forms for curves with a radius of 100 feet or less.

B. Form-Release Agent: Commercially formulated form-release agent that will not bond with, stain, or adversely affect concrete surfaces and that will not impair subsequent treatments of concrete surfaces.

2.02 STEEL REINFORCEMENT

A. Reinforcing Steel and Dowel Bars shall comply with requirements as specified in TDOT Section 907.

2.03 CONCRETE MATERIALS

A. Cementitious Material: Portland Cement shall comply with requirements as specified in TDOT Section 901.

B. Normal-Weight Aggregates: Aggregates shall comply with requirements as specified in TDOT Section 903.

- C. Exposed Aggregate: Selected, hard, and durable; washed; free of materials with deleterious reactivity to cement or that cause staining; from a single source, with gap-graded coarse aggregate as follows:
 - 1. Aggregate Sizes: 1/2 to 3/4 inch nominal.
- D. Water: Potable and complying with ASTM C 94/C 94M.
- E. Air-Entraining Admixture: Admixtures shall comply with requirements as specified in TDOT Section 918.
- F. Chemical Admixtures: Admixtures shall comply with requirements as specified in TDOT Section 918.
- G. Color Pigment: ASTM C 979, synthetic mineral-oxide pigments or colored water-reducing admixtures; color stable, free of carbon black, nonfading, and resistant to lime and other alkalis.

2.04 FIBER REINFORCEMENT

- A. Synthetic Fiber: Monofilament or fibrillated polypropylene fibers engineered and designed for use in concrete paving, complying with ASTM C 1116/C 1116M, Type III, 1/2 to 1-1/2 inches long.

2.05 CURING MATERIALS

- A. Curing Materials shall comply with requirements as specified in TDOT Section 913.

2.06 CONCRETE MIXTURES

- A. Prepare design mixtures, proportioned according to ACI 301, for each type and strength of normal-weight concrete, and as determined by either laboratory trial mixtures or field experience.
 - 1. Use a qualified independent testing agency for preparing and reporting proposed concrete design mixtures for the trial batch method.
 - 2. When automatic machine placement is used, determine design mixtures and obtain laboratory test results that meet or exceed requirements.
- B. Proportion mixtures to provide normal-weight concrete with the following properties:
 - 1. Compressive Strength (28 Days): 3000 psi.
 - 2. Maximum Water-Cement Ratio at Point of Placement: 0.45.
 - 3. Slump Limit: 3 inches, plus or minus 1 inch for non-slip form mixes, and 0 to 3 inches for slip form mixes.
- C. Add air-entraining admixture at manufacturer's prescribed rate to result in normal-weight concrete at point of placement having an air content as follows:
 - 1. Air Content: 6% design, 4 - 8 % production.
- D. Chemical Admixtures: Use admixtures according to manufacturer's written instructions.

- E. Cementitious Materials: Limit percentage, by weight, of cementitious materials other than Portland cement in concrete as follows:
 - 1. Fly Ash or Pozzolan: 20 percent.
 - 2. Ground Granulated Blast-Furnace Slag: 35 percent.
- F. Synthetic Fiber: Uniformly disperse in concrete mixture at manufacturer's recommended rate, but not less than 1.5 lb/cu. yd.
- G. Color Pigment: Add color pigment to concrete mixture according to manufacturer's written instructions and to result in hardened concrete color consistent with approved mockup.

2.07 CONCRETE MIXING

- A. Ready-Mixed Concrete: Measure, batch, and mix concrete materials and concrete according to ASTM C 94/C 94M. Furnish batch certificates for each batch discharged and used in the Work.
 - 1. When air temperature is between 85 and 90 degrees F, reduce mixing and delivery time from 1-1/2 hours to 75 minutes; when air temperature is above 90 degrees F, reduce mixing and delivery time to 60 minutes.
- B. Project-Site Mixing: Measure, batch, and mix concrete materials and concrete according to ASTM C 94/C 94M. Mix concrete materials in appropriate drum-type batch machine mixer.
 - 1. For concrete batches of 1 cu. yd. or smaller, continue mixing at least 1-1/2 minutes, but not more than 5 minutes after ingredients are in mixer, before any part of batch is released.
 - 2. For concrete batches larger than 1 cu. yd., increase mixing time by 15 seconds for each additional 1 cu. yd. .
 - 3. Provide batch ticket for each batch discharged and used in the Work, indicating Project identification name and number, date, mixture type, mixing time, quantity, and amount of water added.

PART 3 - EXECUTION

3.01 EXAMINATION

- A. Examine exposed subgrades and subbase surfaces for compliance with requirements for dimensional, grading, and elevation tolerances.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.

3.02 PREPARATION

- A. Remove loose material from compacted subbase surface immediately before placing concrete.

3.03 EDGE FORMS AND SCREED CONSTRUCTION

- A. Set, brace, and secure edge forms, bulkheads, and intermediate screed guides to required lines, grades, and elevations. Install forms to allow continuous progress of work and so forms can remain in place at least 24 hours after concrete placement.
- B. Clean forms after each use and coat with form-release agent to ensure separation from concrete without damage.

3.04 STEEL REINFORCEMENT

- A. General: Comply with CRSI's "Manual of Standard Practice" for fabricating, placing, and supporting reinforcement.
- B. Clean reinforcement of loose rust and mill scale, earth, ice, or other bond-reducing materials.
- C. Arrange, space, and securely tie bars and bar supports to hold reinforcement in position during concrete placement. Maintain minimum cover to reinforcement.
- D. Install welded wire reinforcement in lengths as long as practicable. Lap adjoining pieces at least one full mesh, and lace splices with wire. Offset laps of adjoining widths to prevent continuous laps in either direction.
- E. Install fabricated bar mats in lengths as long as practicable. Handle units to keep them flat and free of distortions. Straighten bends, kinks, and other irregularities, or replace units as required before placement. Set mats for a minimum 2-inch overlap of adjacent mats.

3.05 JOINTS

- A. General: Form construction, isolation, and contraction joints and tool edges true to line, with faces perpendicular to surface plane of concrete. Construct transverse joints at right angles to centerline unless otherwise indicated.
 - 1. When joining existing paving, place transverse joints to align with previously placed joints unless otherwise indicated.
- B. Construction Joints: Set construction joints at side and end terminations of paving and at locations where paving operations are stopped for more than one-half hour unless paving terminates at isolation joints.
 - 1. Continue steel reinforcement across construction joints unless otherwise indicated. Do not continue reinforcement through sides of paving strips unless otherwise indicated.
 - 2. Provide tie bars at sides of paving strips where indicated.
 - 3. Butt Joints: Use bonding agent at joint locations where fresh concrete is placed against hardened or partially hardened concrete surfaces.
 - 4. Keyed Joints: Provide preformed keyway-section forms or bulkhead forms with keys unless otherwise indicated. Embed keys at least 1-1/2 inches into concrete.
 - 5. Doweled Joints: Install dowel bars and support assemblies at joints where indicated. Lubricate or coat with asphalt one-half of dowel length to prevent concrete bonding to one side of joint.

- C. Isolation Joints: Form isolation joints of preformed joint-filler strips abutting concrete curbs, catch basins, manholes, inlets, structures, other fixed objects, and where indicated.
1. Locate expansion joints at intervals of 50 feet unless otherwise indicated.
 2. Extend joint fillers full width and depth of joint.
 3. Terminate joint filler not less than 1/2 inch or more than 1 inch below finished surface if joint sealant is indicated.
 4. Place top of joint filler flush with finished concrete surface if joint sealant is not indicated.
 5. Furnish joint fillers in one-piece lengths. Where more than one length is required, lace or clip joint-filler sections together.
 6. During concrete placement, protect top edge of joint filler with metal, plastic, or other temporary preformed cap. Remove protective cap after concrete has been placed on both sides of joint.
- D. Contraction Joints: Form weakened-plane contraction joints, sectioning concrete into areas as indicated. Construct contraction joints for a depth equal to at least one-fourth of the concrete thickness, as follows, to match jointing of existing adjacent concrete paving:
1. Grooved Joints: Form contraction joints after initial floating by grooving and finishing each edge of joint with grooving tool to a 1/4-inch radius. Repeat grooving of contraction joints after applying surface finishes. Eliminate grooving-tool marks on concrete surfaces.
 - a. Tolerance: Ensure that grooved joints are within 3 inches either way from centers of dowels.
 2. Sawed Joints: Form contraction joints with power saws equipped with shatterproof abrasive or diamond-rimmed blades. Cut 1/8-inch-wide joints into concrete when cutting action will not tear, abrade, or otherwise damage surface and before developing random contraction cracks.
 - a. Tolerance: Ensure that sawed joints are within 3 inches either way from centers of dowels.
 3. Doweled Contraction Joints: Install dowel bars and support assemblies at joints where indicated. Lubricate or coat with asphalt one-half of dowel length to prevent concrete bonding to one side of joint.
- E. Edging: After initial floating, tool edges of paving, gutters, curbs, and joints in concrete with an edging tool as shown on the drawings or to a 3/8-inch radius if not indicated on the drawings. Repeat tooling of edges after applying surface finishes. Eliminate edging-tool marks on concrete surfaces.

3.06 CONCRETE PLACEMENT

- A. Before placing concrete, inspect and complete formwork installation, steel reinforcement, and items to be embedded or cast-in.
- B. Remove snow, ice, or frost from subbase surface and steel reinforcement before placing concrete. Do not place concrete on frozen surfaces.

- C. Moisten subbase to provide a uniform dampened condition at time concrete is placed. Do not place concrete around manholes or other structures until they are at required finish elevation and alignment.
- D. Comply with ACI 301 requirements for measuring, mixing, transporting, and placing concrete.
- E. Do not add water to concrete during delivery or at Project site. Do not add water to fresh concrete after testing.
- F. Deposit and spread concrete in a continuous operation between transverse joints. Do not push or drag concrete into place or use vibrators to move concrete into place.
- G. Consolidate concrete according to ACI 301 by mechanical vibrating equipment supplemented by hand spading, rodding, or tamping.
 - 1. Consolidate concrete along face of forms and adjacent to transverse joints with an internal vibrator. Keep vibrator away from joint assemblies, reinforcement, or side forms. Use only square-faced shovels for hand spreading and consolidation. Consolidate with care to prevent dislocating reinforcement, dowels and joint devices.
- H. Screed paving surface with a straightedge and strike off.
- I. Commence initial floating using bull floats or darbies to impart an open-textured and uniform surface plane before excess moisture or bleed water appears on the surface. Do not further disturb concrete surfaces before beginning finishing operations or spreading surface treatments.
- J. Curbs and Gutters: Use design mixture for automatic machine placement. Produce curbs and gutters to required cross section, lines, grades, finish, and jointing.
- K. Slip-Form Paving: Use design mixture for automatic machine placement. Produce paving to required thickness, lines, grades, finish, and jointing.
 - 1. Compact subbase and prepare subgrade of sufficient width to prevent displacement of slip-form paving machine during operations.
- L. Cold-Weather Placement: Protect concrete work from physical damage or reduced strength that could be caused by frost, freezing, or low temperatures. Comply with ACI 306.1 and the following:
 - 1. When air temperature has fallen to or is expected to fall below 40 degrees F , uniformly heat water and aggregates before mixing to obtain a concrete mixture temperature of not less than 50 degrees F and not more than 80 degrees F at point of placement.
 - 2. Do not use frozen materials or materials containing ice or snow.
 - 3. Do not use calcium chloride, salt, or other materials containing antifreeze agents or chemical accelerators unless otherwise specified and approved in design mixtures.
- M. Hot-Weather Placement: Comply with ACI 301 and as follows when hot-weather conditions exist:
 - 1. Cool ingredients before mixing to maintain concrete temperature below 90 deg F at time of placement. Chilled mixing water or chopped ice may be used to control temperature,

provided water equivalent of ice is calculated in total amount of mixing water. Using liquid nitrogen to cool concrete is Contractor's option.

2. Cover steel reinforcement with water-soaked burlap so steel temperature will not exceed ambient air temperature immediately before embedding in concrete.
3. Fog-spray forms, steel reinforcement, and subgrade just before placing concrete. Keep subgrade moisture uniform without standing water, soft spots, or dry areas.

3.07 FLOAT FINISHING

- A. General: Do not add water to concrete surfaces during finishing operations.
- B. Float Finish: Begin the second floating operation when bleed-water sheen has disappeared and concrete surface has stiffened sufficiently to permit operations. Float surface with power-driven floats or by hand floating if area is small or inaccessible to power units. Finish surfaces to true planes. Cut down high spots and fill low spots. Refloat surface immediately to uniform granular texture.
 1. Burlap Finish: Drag a seamless strip of damp burlap across float-finished concrete, perpendicular to line of traffic, to provide a uniform, gritty texture.
 2. Medium-to-Fine-Textured Broom Finish: Draw a soft-bristle broom across float-finished concrete surface perpendicular to line of traffic to provide a uniform, fine-line texture.
 3. Medium-to-Coarse-Textured Broom Finish: Provide a coarse finish by striating float-finished concrete surface 1/16 to 1/8 inch deep with a stiff-bristled broom, perpendicular to line of traffic.

3.08 SPECIAL FINISHES

- A. Monolithic Exposed-Aggregate Finish: Expose coarse aggregate in paving surface as follows:
 1. Immediately after float finishing, spray-apply chemical surface retarder to paving according to manufacturer's written instructions.
 2. Cover paving surface with plastic sheeting, sealing laps with tape, and remove when ready to continue finishing operations.
 3. Without dislodging aggregate, remove mortar concealing the aggregate by lightly brushing surface with a stiff, nylon-bristle broom. Do not expose more than one-third of the average diameter of the aggregate and not more than one-half of the diameter of the smallest aggregate.
 4. Fine-spray surface with water and brush. Repeat cycle of water flushing and brushing until cement film is removed from aggregate surfaces to depth required.

3.09 CONCRETE PROTECTION AND CURING

- A. General: Protect freshly placed concrete from premature drying and excessive cold or hot temperatures.
- B. Comply with ACI 306.1 for cold-weather protection.
- C. Evaporation Retarder: Apply evaporation retarder to concrete surfaces if hot, dry, or windy conditions cause moisture loss approaching 0.2 lb/sq. ft. x h before and during finishing operations. Apply according to manufacturer's written instructions after placing, screeding, and bull floating or darbying concrete but before float finishing.

- D. Begin curing after finishing concrete but not before free water has disappeared from concrete surface.
- E. Curing Methods: Cure concrete by moisture curing, moisture-retaining-cover curing, curing compound, or a combination of these as follows:
 - 1. Moisture Curing: Keep surfaces continuously moist for not less than seven days with the following materials:
 - a. Water.
 - b. Continuous water-fog spray.
 - c. Absorptive cover, water saturated and kept continuously wet. Cover concrete surfaces and edges with 12-inch lap over adjacent absorptive covers.
 - 2. Moisture-Retaining-Cover Curing: Cover concrete surfaces with moisture-retaining cover, placed in widest practicable width, with sides and ends lapped at least 12 inches and sealed by waterproof tape or adhesive. Immediately repair any holes or tears occurring during installation or curing period using cover material and waterproof tape.
 - 3. Curing Compound: Apply uniformly in continuous operation by power spray or roller according to manufacturer's written instructions. Recoat areas that have been subjected to heavy rainfall within three hours after initial application. Maintain continuity of coating, and repair damage during curing period.

3.010 PAVING TOLERANCES

- A. Comply with tolerances in ACI 117 and as follows:
 - 1. Elevation: 3/4 inch.
 - 2. Thickness: Plus 3/8 inch, minus 1/4 inch.
 - 3. Surface: Gap below 10-foot- long, unleveled straightedge not to exceed 1/2 inch.
 - 4. Alignment of Tie-Bar End Relative to Line Perpendicular to Paving Edge: 1/2 inch per 12 inches of tie bar.
 - 5. Lateral Alignment and Spacing of Dowels: 1 inch.
 - 6. Vertical Alignment of Dowels: 1/4 inch.
 - 7. Alignment of Dowel-Bar End Relative to Line Perpendicular to Paving Edge: 1/4 inch per 12 inches of dowel.
 - 8. Joint Spacing: 3 inches.
 - 9. Contraction Joint Depth: Plus 1/4 inch, no minus.
 - 10. Joint Width: Plus 1/8 inch, no minus.

3.011 FIELD QUALITY CONTROL

- A. Testing Agency: Owner may engage a qualified testing agency to perform tests and inspections, if necessary.
- B. Testing Services: Testing of composite samples of fresh concrete obtained according to ASTM C 172 shall be performed according to the following requirements:

END OF SECTION 32 13 13

SECTION 32 17 23 - PAVEMENT MARKINGS

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.

1.02 SUMMARY

- A. Section includes painted markings and thermoplastic markings applied to asphalt and/or concrete pavement.

1.03 PREINSTALLATION MEETINGS

- A. Preinstallation Conference: Conduct conference at Project site.
 - 1. Review methods and procedures related to marking pavement including, but not limited to, the following:
 - a. Pavement aging period before application of pavement markings.
 - b. Review requirements for protecting pavement markings, including restriction of traffic during installation period.

1.04 ACTION SUBMITTALS

- A. Product Data: For each type of product.
 - 1. Include technical data and tested physical and performance properties.

1.05 QUALITY ASSURANCE

- A. Regulatory Requirements: Comply with materials, workmanship, and other applicable requirements of the Tennessee Department of Transportation for pavement-marking work.
 - 1. Measurement and payment provisions and safety program submittals included in standard specifications do not apply to this Section.

1.06 FIELD CONDITIONS

- A. Environmental Limitations: Proceed with pavement marking only on clean, dry surfaces and at a minimum ambient or surface temperature of 40 deg F for alkyd materials, 55 deg F for water-based materials, and not exceeding 95 deg F.

PART 2 - PRODUCTS

2.01 PAVEMENT-MARKING PAINT

- A. Pavement-Marking Paint: Pavement marking paint materials shall comply with TDOT Standard Specification Section 910.02.

1. Color: White and Yellow as indicated.

B. Glass Beads: AASHTO M 247, Type 1

1. Roundness: Minimum 75 percent true spheres by weight.

2.02 PLASTIC PAVEMENT MARKINGS

A. Preformed plastic pavement marking, yellow and white colors, shall be prefabricated plastic with reflective glass spheres, and shall conform to TDOT Specification Section 918.08.

B. Thermoplastic pavement marking, yellow and white colors, shall be an alkyd/maleic based thermoplastic material with reflective glass beads, and shall conform to AASHTO M249 and TDOT Specification 918.23.

PART 3 - EXECUTION

3.01 EXAMINATION

A. Verify that pavement is dry and in suitable condition to begin pavement marking according to manufacturer's written instructions.

3.02 PAVEMENT MARKING PAINT

A. Do not apply pavement-marking paint until layout, colors, and placement have been verified.

B. Allow paving to age for a minimum of 7 days before starting pavement marking.

C. Sweep and clean surface to eliminate loose material and dust.

D. Apply paint with mechanical equipment to produce pavement markings, of dimensions indicated, with uniform, straight edges. Apply at manufacturer's recommended rates to provide a minimum wet film thickness of 15 mils.

1. Apply graphic symbols and lettering with paint-resistant, die-cut stencils, firmly secured to pavement. Mask an extended area beyond edges of each stencil to prevent paint application beyond the stencil. Apply paint so that it cannot run beneath the stencil.

3.03 PLASTIC PAVEMENT MARKINGS

A. Apply to clean dry pavement surfaces.

B. Provide guidelines and templates to control pain application. Take special precautions when marking letters and handicapped symbols. Sharply outline edges of markings.

C. Thermoplastic pavement marking shall be applied by the screed extrusion method, wherein one side of the shaping die is the pavement, and the other three sides are contained by, or are part of, suitable equipment for heating and controlling material flow.

D. Thermoplastic pavement markings shall be applied to pavement when the pavement temperature is a minimum 50 degrees F and rising before application begins.

- E. Before thermoplastic pavement markings are to be applied to Portland cement concrete pavement, the Contractor shall apply a binder sealer material as recommended by the thermoplastic manufacturer.
- F. Thermoplastic pavement markings shall be installed with a 0.090-inch minimum average film thickness.
- G. Preformed plastic pavement markings shall be installed according to vendor's specifications.

3.04 PROTECTING AND CLEANING

- A. Protect pavement markings from damage and wear during remainder of construction period.
- B. Clean spillage and soiling from adjacent construction using cleaning agents and procedures recommended by manufacturer of affected construction.

END OF SECTION 32 17 23

