

ROADWAY RESURFACING OF VARIOUS STREETS

SPECIFICATIONS and CONTRACT DOCUMENTS

Prepared by:

The City of Brunswick
AUGUST 2018



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**ROADWAY RESURFACING
OF
VARIOUS STREETS**

BRUNSWICK, GEORGIA

AUGUST 2018

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City of Brunswick, Georgia
Advertisement for Bids

Sealed bid proposals for the **ROADWAY RESURFACING OF VARIOUS STREETS** within the City of Brunswick will be received in the Engineering Office, 601 Gloucester Street, Brunswick, Georgia, Attention City Engineer, until 2:00 P.M., legal prevailing time on Thursday, September 6, 2018, at that time to be publicly opened and read aloud. No Bid may be withdrawn after closing for a period of 30 calendar days.

A mandatory pre-bid meeting will be held in the conference room at City Hall, 601 Gloucester Street, Brunswick, Georgia, on Wednesday, August 29, 2018. All bidders are required to attend this meeting.

This project consists of furnishing all labor, materials and equipment necessary for **ROADWAY RESURFACING OF VARIOUS STREETS**, including cleanup and any incidental work thereto to complete the project. All work is to meet specifications and/or standards of the City of Brunswick and to include any addendums thereof and Georgia Department of Transportation Specifications.

Project will include:

- 1.5" overlay of 9mm superpave – approx. 12,150 tons – along various streets in Brunswick
- Mill Existing Asphalt Surface – approx. 25,700 sq. yds – along various streets
- Storm Drain Pipe Repair
- Thermoplastic pavement marking

Plans, specifications and Contract Documents are on file and may be obtained from the Purchasing Office, City of Brunswick, P.O. Box 550, Brunswick, Georgia, 31521. Contact Aaron Dunham at (912) 267-5538.

All bidders must be licensed to conduct business of this nature in the State of Georgia. Bidders must be fully insured so as to save the City of Brunswick harmless as a result of any action or accident related to this project. A Bid Bond of 10% of the amount of the bid must accompany the bid. The successful bidder will be required to furnish a Performance Bond and Payment Bond, each in the amount of 100% of the total Contract amount.

During the course of construction, the contractor shall have a superintendent on the site at all times during performances of the work. Monthly progress pay requests will be submitted on the last working day of each month to the City Engineer for payment. The City will honor same within 10 days after receipt.

The City of Brunswick, owner, reserves the right to reject any and all bids, negotiate, waive informalities and/or make the award in the best interest of the City of Brunswick.

City of Brunswick
Cornell L. Harvey, Mayor

SECTION 00200

INSTRUCTIONS TO BIDDERS

1. Defined Terms: Terms used in these Instructions to Bidders which are defined in the General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to the City of Brunswick, as distinct from a sub-bidder, who submits a Bid to a Bidder. The term "Successful Proposer" means the lowest, qualified, responsible and responsive Bidders to whom City of Brunswick (on the basis of City of Brunswick's evaluation as hereinafter provided) makes an award. The term "Bid Documents" includes the Advertisement for Bids, Instructions to Bidders, the Bid and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids.) (See Page V-2)
2. Copies of Bid Documents:
 - 2.1 Complete sets of the Bid Documents in the number and for the sum, if any, stated in the Advertisement for Bids may be obtained from the City of Brunswick.
 - 2.2 Complete sets of Bid Documents must be used in preparing Bids; neither City of Brunswick nor Engineer (or architect) assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.
 - 2.3 City of Brunswick and Engineer (or architect) in making copies of Bid Documents 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 days of City of Brunswick's request; written evidence, such as financial data, previous experience, present commitments and other such data as may be called for in the Supplementary Conditions. Each Bid must contain evidence of Proposer's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract.
4. Examination of Contract Documents and Site:
 - 4.1 It is the responsibility of each Bidders before submitting a Bid , to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Proposer's observations with the Contract Documents, and (3) notify Engineer of all conflicts, errors or discrepancies in the Contract Documents.

- 4.2 Reference is made to the Supplementary Conditions for identification of:
- 4.2.1 Those reports of explorations and tests of subsurface conditions at the site which have been utilized by Engineer in preparation of the Contract Documents. Bidders may rely upon the accuracy of the technical data contained in such reports but not upon non-technical data, interpretations or opinions contained therein or for the completeness thereof for the purposes of Bid or construction.
 - 4.2.2 Those drawings of physical conditions in or relating to existing surface and subsurface conditions, (except Underground Facilities), which are at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents. Bidders may rely upon the accuracy of the technical data contained in such drawings but not upon the completeness thereof for the purposes of Bid or construction.
- Copies of such reports and drawings will be made available by City of Brunswick to any Bidders on request. Those reports and drawings are not part of the Contract Documents, but the technical data contained therein upon which Bidders is entitled to rely as provided in Paragraphs 4.2.1 and 4.2.2 are incorporated therein by reference. Such technical data has been identified and established in the Supplementary Conditions.
- 4.3 Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to City of Brunswick and Engineer by Owners of such Underground Facilities or others, and City of Brunswick does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
 - 4.4 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Paragraphs 4.2 and 4.3 of the General Conditions.
 - 4.5 Before submitting a Bid , each Bidders will, at Proposer's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidders deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
 - 4.6 On request in advance, City of Brunswick will provide each Bidders access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidders shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

- 4.7 The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by City of Brunswick unless otherwise provided in the Contract Documents.
- 4.8 The submission of a Bid will constitute an incontrovertible representation by Bidders that Bidders has complied with every requirement of this paragraph 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
5. Interpretations and Addenda:
- 5.1 All questions about the meaning or intent of the Contract Documents are to be directed to the City Engineer. Interpretations or clarifications considered necessary by City Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by City Engineer as having received the Bid Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.2 Addenda may also be issued to modify the Bid Documents as deemed advisable by City of Brunswick or Engineer.
6. Bid Security:
- 6.1 Each Bid must be accompanied by Bid security made payable to City of Brunswick in an amount of ten percent of the Proposer's maximum Bid price and in the form of a certified or bank check or a Bid Bond issued by a surety meeting the requirements of Paragraph 5.1 of the General Conditions.
- 6.2 The Bid security of the Successful Bidders will be retained until such Bidders has executed the Agreement and furnished the required contract security, whereupon the Bid security will be returned. If the Successful Bidders fails to execute and deliver the Agreement and furnish the required contract security within fifteen days after the Notice of Award, City of Brunswick may annul the Notice of Award and the Bid security of those Bidders will be forfeited. The Bid security of other Bidders whom City of Brunswick believes to have a reasonable chance of receiving the award may be retained by City of Brunswick until the earlier of the seventh day after the Effective Date of the Agreement or the sixty-first day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are

not competitive will be returned within seven days after the Bid opening.

7. Contract Time: The numbers of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the Contract Time) are set forth in the Bid Form and the Agreement.
8. Liquidated Damages: If the Contractor shall fail to complete satisfactorily all the work within the contract time, or extended contract time if authorized by change orders, then the Contractor will pay to the City of Brunswick the amount of liquidated damages specified in the Contract Documents for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.

The Contractor shall not be charged with liquidated damages or any excess cost when the delay in satisfactory completion of all the work is due solely to the following and the Contractor has promptly given written notice of such delay to the City of Brunswick or Engineer within 10 days of the commencement thereof:

- a. To any preference, priority or allocation order duly issued by the City of Brunswick, or
 - b. To unforeseeable causes beyond the control and without any fault or negligence of the Contractor, or a subcontractor, including but not restricted to, acts of God, acts of the public enemy, acts of the City of Brunswick, fires, floods, epidemics, quarantine restrictions and abnormal and unforeseeable weather, or
 - c. To any delays of subcontractors occasioned solely by any of the causes specified in paragraphs (a) and (b) other than delays due to fault or negligence of the Contractor or another subcontractor.
9. Substitute or "Or Equivalent" Items: The materials and equipment described in the Bid Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. No substitution will be considered unless written request for approval has been submitted by the Bidders and has been received by Engineer at least fifteen days prior to the date for receipt of Bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or Work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Proposer. The Engineer's decision of approval or disapproval of a proposed substitution shall be final. If Engineer approves any proposed substitution, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner. This paragraph will only apply to major materials and equipment listed in the Bid.
 10. Subcontractors, Suppliers and Others:
 - 10.1 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, and other persons and organizations (including those who are to furnish

the principal items of material and equipment) to be submitted to City of Brunswick in advance of the specified date prior to the Effective Date of the Agreement, the apparent Successful Proposer, and any other Bidders so requested, shall within seven days after the Bid opening submit to City of Brunswick a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by City of Brunswick. If City of Brunswick or Engineer after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, either may before the Notice of Award is given request the apparent Successful Bidders to submit an acceptable substitute without an increase in Bid price.

If apparent Successful Bidders declines to make any such substitution, City of Brunswick may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Proposer. Any Subcontractor, Supplier, other person or organization listed and to whom City of Brunswick or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to City of Brunswick and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.8.2 of the General Conditions.

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

11. Bid:

11.1 The Bid is included with the Bid Documents; additional copies may be obtained from Engineer.

11.2 All blanks in the Bid must be completed in ink or by typewriter.

11.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by 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 must 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 and 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 must be filled in on the Bid).

11.7 The address and telephone number for communications regarding the Bid must be shown.

12. Submission of Bids:

12.1 Bids shall be submitted at the time and place indicated in the Advertisement for Bids and shall be enclosed in an opaque sealed envelope, marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) and name and address of the Bidders and accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

12.2 Prospective Bidders are furnished one bound copy of the Bid Documents. The Bid is to be completed and submitted with Bid Security.

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 hours after Bids are opened, any Bidders files a duly signed, written notice with City of Brunswick and promptly thereafter demonstrates to the reasonable satisfaction of City of Brunswick that there was a material and substantial mistake in the preparation of its Bid , that Bidders may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further Bid on the Work to be provided under the Contract Documents.

14. Opening of Bids: Bids will be opened and (unless obviously non-responsive) read aloud publicly. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids.

15. Bids to Remain Subject to Acceptance: All Bids will remain subject to acceptance for sixty days after the day of the Bid opening, but City of Brunswick may, in its sole discretion, release any Bid and return the Bid security prior to that date.

16. Award of Contract:

16.1 City of Brunswick reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Proposer, and the right to disregard all nonconforming, non-responsive, unbalanced or conditional Bids. Also, City of Brunswick reserves the right to reject the Bid of any Bidders if City of Brunswick believes that it would not be in the best interest of the Project to make an award to that Proposer, whether because the Bid is not responsive or the Bidders is

unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City of Brunswick. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. 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, City of Brunswick will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 16.3 City of Brunswick may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. City of Brunswick also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 16.4 City of Brunswick may conduct such investigations as City of Brunswick deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to City of Brunswick's satisfaction within the prescribed time.
- 16.5 If the Contract is to be awarded, it will be awarded to the lowest Bidders whose evaluation by City of Brunswick indicates to City of Brunswick that the award will be in the best interest of the Project.
- 16.6 If the Contract is to be awarded, City of Brunswick will give the Successful Bidders a Notice of Award within sixty days after the day of the Bid opening.
17. Contract Security: Paragraph 5.1 of the General Conditions and the Supplementary Conditions set forth City of Brunswick's requirements as to Performance and Payment Bonds. When the Successful Bidders delivers the executed Agreement to City of Brunswick, it must be accompanied by the required Performance and Payment Bonds.
18. Signing of Agreement: When City of Brunswick gives a Notice of Award to the Successful Proposer, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within ten days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to City of Brunswick with the required Bonds. Within ten days thereafter City of Brunswick shall deliver one fully signed counterpart to Contractor.
19. Laws and Regulations: The Contractor shall keep himself fully informed of all laws, ordinances and regulations of State, City and County in any manner affecting those engaged

or employed in the Work, or the materials used in the Work, or in any way affecting the conduct of the Work, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in this contract, or in the drawings or specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, he shall forthwith report the same in writing to the City of Brunswick. He shall at all times, himself, observe and comply with all such existing and future laws, ordinances and regulations and shall protect and indemnify the City of Brunswick and its agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree whether by himself or by his employees.

END OF SECTION

Street	Begin (From)	End (To)	Approx. Length	Scope of Work	Striping	# of Stop Bars
Shrine	Parkwood	Starling / Lakeside	1650	Resurfacing	CL, EL	4
Wisteria	Wildwood	Boxwood	425	Resurfacing	N	2
Roxboro	Parkwood	Wildwood	615	Resurfacing	CL	2
Dogwood	Boxwood	Redwood	960	Resurfacing	N	2
Wren	Kemble	end (cul-de-sac)	360	Resurfacing	N	1
Maple	Hopkins	Parkwood	1085	Resurfacing	N	3
Kemble	Starling	Fourth Street	1100	Resurfacing	CL	3
Oriole	Altama	Hampton	1810	Resurfacing	N	6
Rosewood	Boxwood	Redwood	960	Resurfacing	N	2
Mimosa	Hopkins	Parkwood	1100	Resurfacing	N	4
Kelwin	Starling	Oriole	530	Resurfacing	N	2
Park	Parkwood	Starling	600	Resurfacing	N	2
R Street	MLK	Altama	563	Resurfacing	N	1
P Street	Norwich	Reynolds	900	Resurfacing	N	2
Lee	Second Street	Fourth Street	1010	Resurfacing	N	2

T Street	Norwich	Altama	2260	Resurfacing	CL	4
O Street	Norwich	Albany	630	Resurfacing	N	2
Gordon	O Street	R Street	1480	Resurfacing	CL	1
O Street	Albany	MLK	471	Resurfacing	N	4
Reynolds	P Street	First Street	2516	Mill Existing, Resurfacing	CL	2
Union	S Street	First Street	1000	Resurfacing	N	4
Wolfe	L Street	N Street	1000	Resurfacing	N	4
Ellis	Q Street	R Street	510	Resurfacing	N	2
Union	R Street	S Street	500	Resurfacing	N	2
O Street	Newcastle	Norwich	1210	Resurfacing	N	6
Gordon	L Street	O Street	1530	Resurfacing	N	2
M Street	Stonewall	Bartow	1100	Resurfacing	N	8
Johnston	M Street	R Street	2350	Resurfacing	N	8
O Street	MLK	Johnston	1104	Resurfacing	N	6
Ellis	G Street	I Street	1020	Resurfacing	N	2
I Street	Ellis	Norwich	390	Resurfacing	N	1

Wolfe	F Street	H Street	1007	Resurfacing	N	4
Johnston	G Street	I Street	1020	Resurfacing	N	2
Gordon	K Street	L Street	490	Resurfacing	N	2
Wilson	Atlanta	G Street	385	Resurfacing	N	2
Tillman	Atlanta	G Street	680	Resurfacing	CL	2

Roadway Resurfacing of Various Streets

August 2018

1. All items incidental to the work including, but not limited to, mobilization, traffic control, and erosion and sedimentation control, shall be included in Line Item #1
2. LIN #3 – Pipe Repair shall include all items incidental to the cost of pipe repair including, but not limited to, removal of existing pavement, excavation, furnish and placement of geotextile underlayment, compacted fill, graded aggregate base and asphalt binder course. Cost for asphalt surface course in the repair areas will be included in Asphalt Resurfacing (LIN #4).
3. Geotextile underlayment used in storm pipe repairs shall meet or exceed the minimum average roll values, with elongation at failure determined with the ASTM D4632 test method, of:

<u>Property</u>	<u>ASTM Test Method</u>	<u>Elongation <50%</u>	<u>Elongation > 50%</u>
Grab Strength	D4632	315 lb	200 lb
Sewn Seam Strength	D4632	270 lb	180 lb
Tear Resistance	D4533	110 lb	80 lb
Puncture Strength	D6241	620 lb	433 lb
UV Stability	D4355	50% strength retained after 500 hrs	

The geotextile shall have an AOS < 0.3mm and permittivity $\geq 0.1 \text{ sec}^{-1}$.

4. Geotextile material shall be placed in direction of roadway travel with a minimum 36-inch overlap of sections.
5. No road closures or lane closures will be allowed on Lanier Boulevard during dates/times school is in session. Work along Lanier Boulevard, including storm pipe repairs, mill existing asphalt, and resurfacing must be accomplished after school hours, during weekends, or during Glynn County school holidays.
6. All material recovered from milling existing asphalt shall be delivered to the City of Brunswick Public Works facility at 204 Old Jesup Road.

C:\2018\18-5039 COB ON-CALL PROFESSIONAL SERVICES\DWG\GEOTEXTILE UNDERLAYMENT PLACEMENT DETAIL.DWG 7/19/2018 5:37 PM



**GEOTEXTILE UNDERLAYMENT
 PLACEMENT DETAIL AT PIPE
 CROSSINGS**

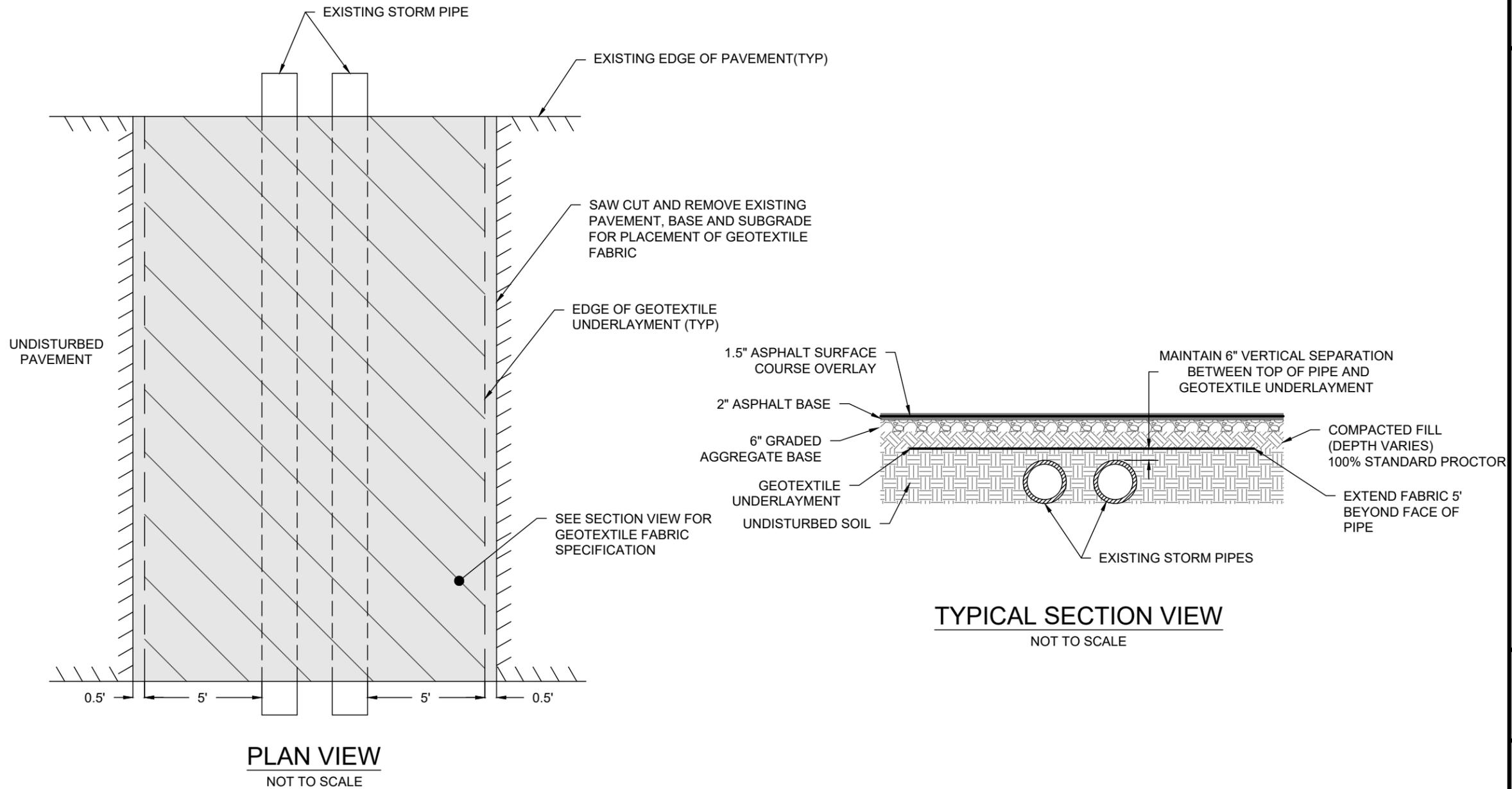
City of Brunswick
 Glynn County, GA

ROAD WAY RESURFACING
 PROJECT

18-5039 7/19/2018

DRAWN: KLO CHKD: JGA

SCALE: NTS SHT. 1 of 1



00400 - BID FORM

Roadway Resurfacing - Various Streets

Item #	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
1	Mobilization, Traffic Control, Erosion & Sedimentation Control, & other incidental items	ls	1		
2	Mill Existing Asphalt Concrete - 1.5" as required including Hauling to City of Brunswick Public Works	sq. yd.	25,710		
3	Pipe Repair including removal of existing asphalt, excavation, installation of geotechnical fabric, and reconstruction of roadway	each	4		
4	9.5 mm Superpave Recycled Asphalt Concrete - 1.5" Resurfacing	ton	12,150		
5	Solid Traffic Stripe - 5" Yellow - Thermoplastic	lf	21,710		
6	Solid Traffic Stripe - 5" White - Thermoplastic	lf	18,760		
7	Pavement Marking - Stop Bars Thermoplastic - 24"	ea	144		
8	Sanitary / Storm Manhole Riser Rings	ea	104		
9	Water Valve Riser Rings	ea	96		
				TOTAL	

SECTION 00450

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____
_____ as Principal, and _____ as Surety, are hereby
held and firmly bound unto the City of Brunswick, Georgia as Owners in the penal sum of
_____ for the payment of which, well and truly to be made, we hereby
jointly and severally bind ourselves, and our heirs, executors, administrators, successors and
assigns.

Signed, this ____ day of _____, 2018.

The condition of the above obligation is such that whereas the Principal has submitted to the
City of Brunswick, Georgia a certain bid, attached hereto and hereby made a part hereof to enter
into contract in writing, for the ROADWAY RESURFACING OF VARIOUS STREETS

NOW THEREFORE,

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

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

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

_____(L.S.)
PRINCIPAL

SURETY

BY

END OF SECTION

SECTION 00500

AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2018, by and between the City of Brunswick, Georgia, hereinafter called "OWNER" and _____ doing business as a _____ in the State of Georgia, hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the ROADWAY RESURFACING OF VARIOUS STREETS and all other incidental work required by the Contract Documents for a complete project hereinafter called the "WORK". The "WORK" shall also include General and Special Conditions and the price included in the items in the CONTRACT and no separate payment will be made for same.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the cleaning, edging, construction and completion of the WORK.
3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS on the date indicated in the NOTICE TO PROCEED and will complete the project in **120 calendar days** unless the contract time is extended as provided in the General Conditions. A liquidated damage penalty will be assessed at a unit rate of \$750 per day for each day the work exceeds the allotted time unless a written extension request and justification for delays are submitted to the City and approved in writing by the City a minimum of (30) days prior to the contract deadline.

4. The CONTRACTOR agrees to perform all of the Work described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ _____, or as shown in the Proposal schedule.

5. The term "CONTRACT DOCUMENTS" means and includes the following:

- 00100 Advertisement for Bids
- 00200 Instructions to Bidders
- 00300 Scope of Work
- 00310 Scope of Work – Notes
- 00320 Geotextile Underlayment Placement Detail
- 00400 Bid
- 00450 Bid Bond
- 00500 Agreement
- 00600 Performance Bond
- 00610 Payment Bond
- 00615 E-Verify and Oath
- 00620 Certificate of City of Brunswick's Attorney
- 00700 General Conditions

Addenda: No. _____, dated, _____
 No. _____, dated, _____
 No. _____, dated, _____
 No. _____, dated, _____
 No. _____, dated, _____

6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS. Partial pay estimates shall be in accordance with the Supplementary Conditions.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in five (5) counterparts each of which shall be deemed an original on the date first above written.

CITY OF BRUNSWICK:

BRUNSWICK, GEORIGIA

BY: _____

(SEAL)

NAME: Cornell L. Harvey

Title: Mayor

ATTEST:

Name: _____

Title: _____

CONTRACTOR:

BY: _____

NAME: _____

(SEAL)

ADDRESS: _____

ATTEST:

Name: _____

END OF SECTION

SECTION 00600

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal, &
(Corporation, Partnership, or Individual)

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of Brunswick, Georgia

601 Gloucester Street, Brunswick, Georgia, 31520

hereinafter called OWNER, in the penal sum of _____
_____ Dollars (\$ _____) in
lawful money of the United States, for the payment of which sum well and truly to be made, we
bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a
certain contract with the OWNER, dated the ____ day of _____, 2018, a copy of which
is hereto attached and made a part hereof for the construction of:

ROADWAY RESURFACING OF VARIOUS STREETS

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the
undertakings, covenants, terms, conditions, and agreements of said contract during the original term
thereof, and any extensions thereof which may be granted by the CITY OF BRUNSWICK, with or
without notice to the Surety, and during the one year guaranty period, and if he shall satisfy all
claims and demands incurred under such contract, and shall fully indemnify and save harmless the
OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall
reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making
good any default, then this obligation shall be void; otherwise to remain in full force and effect.

City of Brunswick, Georgia
ROADWAY RESURFACING OF VARIOUS STREETS
AUGUST 2018

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each one of which shall be deemed an original, this the ____ day of _____, 2018.

ATTEST:

(Principal Secretary)

Principal

(SEAL)

BY: _____(s)

(Address)

Witness as to Principal

(Address)

Surety

By: _____
Attorney-in-Fact and
Georgia Resident Agent

ATTEST:

Witness as to Surety

(Address)

(Address)

NOTE: DATE OF BOND MUST NOT BE PRIOR TO DATE OF CONTRACT. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

END OF SECTION

SECTION 00610

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called
(Corporation, Partnership, or Individual)

Principal, and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of Brunswick, Georgia

601 Gloucester Street, Brunswick, Georgia, 31520

hereinafter called OWNER, in the penal sum of _____
_____ Dollars (\$ _____) in
lawful money of the United States, for the payment of which sum well and truly to be made, we bind
ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain
contract with the OWNER, dated the ____ day of _____, 2018, a copy of which is hereto
attached and made a part hereof for the construction of:

ROADWAY RESURFACING OF VARIOUS STREETS

NOW THEREFORE, if the Principal shall promptly make payment to all persons, firms,
SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the
prosecution of the WORK provided for in such contract, and any authorized extension or
modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke,
repairs on machinery, equipment and tools, consumed or used in connection with the construction
of such WORK, and all insurance premiums on said WORK, and for all labor performed in such
WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to
remain in full force and effect.

City of Brunswick, GA
ROADWAY RESURFACING OF VARIOUS STREETS
AUGUST 2018

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 2018.

ATTEST:

(Principal Secretary)

(SEAL)

Witness as to Principal

(Address)

ATTEST:

Witness as to Surety

(Address)

Principal

BY: _____(s)

(Address)

Surety

By: _____
Attorney-in-Fact and
Georgia Resident Agent

(Address)

NOTE: DATE OF BOND MUST NOT BE PRIOR TO DATE OF CONTRACT. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

END OF SECTION



Contractor Affidavit under O.C.G.A. § 13-10-91 (b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Brunswick, GA, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A § 13-10-91 (b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, _____, 2018 in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

Subscribed and Sworn before me on this _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____



Subcontractor Affidavit under O.C.G.A. § 13-10-91 (b)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (*name of contractor*) on behalf of the City of Brunswick, GA, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91 (b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Subcontractor

Name of Project

Name of Public Employer

I do hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2018 in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

Subscribed and Sworn before me on this ____ day of _____, 201__.

NOTARY PUBLIC

Commission Expires

OATH

State of Georgia

County of Glynn

City of Brunswick

I, _____, solemnly swear that in the procurement of the contract ROADWAY RESURFACING OF VARIOUS STREETS, that I, nor any other person associated with me or my business, corporation or partnership, has prevented or attempted to prevent competition in the bidding or proposals of said project or from submitting a bid or proposal for this project by any means whatever.

Lastly, I swear that neither I, nor any other person associated with me or my business, corporation or partnership has caused or induced any other bidder or proposer to withdraw his/her bid or proposal from consideration for this project. Said oath is filled in accordance with the requirements set forth in O.C.G.A. § 36-91-21 (e).

This _____ day of _____ 2018

Signed by _____

(Corporate or Partnership Name)

Sworn to and subscribed

before me this _____ day of _____ 2018

NOTARY PUBLIC

My Commission Expires:

(SEAL)

City of Brunswick, Georgia
ROADWAY RESURFACING OF VARIOUS STREETS
AUGUST 2018

DRUG FREE WORK PLACE CERTIFICATION

In order to have a drug- free workplace, a business shall:

- Publish a statement notifying employees that the unlawful, manufacture, distribution, dispensing, possession, or use of controlled substances is prohibited in the workplace and specifying the actions that shall be taken against employees for violation of such prohibition.
- Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- As a condition of working on the commodities or contractual services then under Proposal, the employee shall notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.
- Impose a sanction on, or require satisfactory participation in a drug abuse assistance or rehabilitation program if such in available in the employee’s community, by any employee who is so convicted.
- Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

Company Name

Authorized Signature

Title

Date

SECTION 00620

CERTIFICATE OF ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of _____, do hereby certify as follows: I have examined the foregoing contract and surety bonds and the manner of execution thereof, and I am of the opinion that to the best of my knowledge, without independent verification, each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Signature of Attorney

Date

END OF SECTION

SECTION 00700
GENERAL CONDITIONS
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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Addenda - Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the bidding documents or the Contract Documents.

Agreement - (Also known as Contract) The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

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

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

Bonds - Bid, performance and payment bonds and other instruments of security.

Change Order - A document recommended by CONSTRUCTION MANAGER, 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 Time, issued on or after the Effective Date of the Agreement.

Contract Documents - The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the 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 amendments, modifications and supplements issued pursuant to paragraphs 3.4 and 3.5 on or after the Effective Date of the Agreement.

Contract Price - The moneys payable by OWNER to CONTRACTOR under the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.9.1 in the case of Unit Price Work).

Contract Time - The number of days (computed as provided in paragraph 17.2) or the date stated in the Agreement for the completion of the Work.

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

Defective - An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or 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 CONSTRUCTION MANAGER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.8 or 14.10).

Drawings - The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by CONSTRUCTION MANAGER and are referred to in the Contract Documents.

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.

CONSTRUCTION MANAGER - The person, firm or corporation named as such in the Agreement.

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

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

Laws and Regulations: Laws or Regulations - Laws, rules, regulations, ordinances, codes and/or orders.

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

Notice to Proceed - A written notice given by OWNER to CONTRACTOR (with a copy to CONSTRUCTION MANAGER) fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR'S obligations under the Contract Documents.

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

Partial Utilization - Placing a portion of the Work in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion for all the Work.

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

Resident Project Representative - The authorized representative of CONSTRUCTION

MANAGER who is assigned to the site or any part thereof.

Shop Drawings - All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.

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

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

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

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

Supplier - A manufacturer, fabricator, supplier, distributor, materialman or vendor.

Underground Facilities - All pipelines, conduits, ducts, cables, wires, manholes,

vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

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

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

Work Directive Change - A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by CONSTRUCTION MANAGER, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in paragraph 4.2 or 4.3 or to emergencies under paragraph 6.22. A Work Directive Change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive Change 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 Time as provided in paragraph 10.2.

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

ARTICLE 2 - PRELIMINARY MATTERS

Delivery of Bonds:

2.1 When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish in accordance with paragraph 5.1

Copies of Documents:

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

Commencement of Contract Time; Notice to Proceed:

2.3 The Contract Time will commence to run on the date indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the Effective Date of the Agreement. In no event will the Contract Time commence to run later than the thirtieth day after the Effective Date of the Agreement.

Starting the Project:

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

Before Starting Construction:

2.5 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to CONSTRUCTION MANAGER any conflict, error or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from CONSTRUCTION MANAGER before proceeding with any Work affected thereby; however, CONTRACTOR

shall not be liable to OWNER or CONSTRUCTION MANAGER for failure to report any conflict, error or discrepancy in the Contract Documents, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

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

2.6.1 an estimated progress schedule indicating the starting and completion dates of the various stages of the Work;

2.6.2 a preliminary schedule of Shop Drawing submissions; and

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

2.7 Before any Work at the site is started, CONTRACTOR shall deliver to OWNER, with a copy to CONSTRUCTION MANAGER, certificates (and other evidence of insurance requested by OWNER) which CONTRACTOR is required to purchase and maintain in accordance with paragraphs 5.1 and 5.2, and OWNER shall deliver to CONTRACTOR certificates (and other evidence of insurance requested by CONTRACTOR) which OWNER is required to purchase and maintain in accordance with paragraphs 5.4 and 5.5.

Preconstruction Conference:

2.8 Within twenty days after the Effective Date of the Agreement, but before CONTRACTOR starts the Work at the site, a

conference attended by CONTRACTOR, CONSTRUCTION MANAGER and others as appropriate will be held to discuss the schedules referred to in paragraph 2.6, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work.

Finalizing Schedules:

2.9 At least ten days before submission of the first Application for Payment, CONTRACTOR, CONSTRUCTION MANAGER and others as appropriate will finalize the schedules submitted in accordance with paragraph 2.6. The finalized progress schedule will be acceptable to CONSTRUCTION MANAGER as providing an orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on CONSTRUCTION MANAGER responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility therefor. The finalized schedule of Shop Drawing submissions will be acceptable to CONSTRUCTION MANAGER as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to CONSTRUCTION MANAGER as to form and substance.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

Intent:

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

3.2 It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any

Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe Work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR or CONSTRUCTION MANAGER, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to CONSTRUCTION MANAGER, or any of CONSTRUCTION MANAGER's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16. Clarifications and interpretations of the Contract Documents shall be issued by CONSTRUCTION MANAGER as provided in paragraph 9.4.

3.3 If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to CONSTRUCTION MANAGER in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from CONSTRUCTION MANAGER; however, CONTRACTOR shall not be liable to OWNER or CONSTRUCTION MANAGER for failure to report any conflict, error or

discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

Amending and Supplementing Contract Documents:

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

3.4.1 a formal Written Amendment,

3.4.2 a Change Order (pursuant to paragraph 10.4), or

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

As indicated in paragraph 11.2 and 12.1, Contract Price and Contract Time may only be changed by a Change Order or a Written Amendment.

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

3.5.1 a Field Order (pursuant to paragraph 9.5),

3.5.2 CONSTRUCTION MANAGER's review of a Shop Drawings or sample (pursuant to paragraphs 6.26 and 6.27), or

3.5.3 CONSTRUCTION MANAGER's written interpretation or clarification (pursuant to paragraph 9.4).

Reuse of Documents:

3.6 Neither CONTRACTOR nor any SubCONTRACTOR or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER shall 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 CONSTRUCTION MANAGER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER and CONSTRUCTION MANAGER and specific written verification or adaptation by CONSTRUCTION MANAGER.

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

Availability of Lands:

4.1 OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay in OWNER's furnishing these lands, rights-of-way or easements entitles CONTRACTOR to an extension of the Contract Time, CONTRACTOR may make a claim therefor as provided in Article 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Physical Conditions:

4.2.1 Explorations and Reports: Reference is made to the Supplementary Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by CONSTRUCTION MANAGER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports, but not upon nontechnical data, interpretations or opinions contained therein or for the completeness thereof for CONTRAC-

TOR's purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.

4.2.2 Existing Structures: Reference is made to the Supplementary Conditions for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in paragraph 4.3) which are at or contiguous to the site that have been utilized by CONSTRUCTION MANAGER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such drawings, but not for the completeness thereof for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.

4.2.3 Report of Differing Conditions: If CONTRACTOR believes that:

4.2.3.1 any technical data on which CONTRACTOR is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is inaccurate, or

4.2.3.2 any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted by paragraph 6.22), notify OWNER and CONSTRUCTION MANAGER in writing about the inaccuracy or difference.

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

4.2.5 Possible Document Change: If CONSTRUCTION MANAGER concludes that there is a material error in the Contract Documents or that because of newly discovered conditions a change in the Contract Documents is required, a Work Directive Change or a Change Order will be issued as provided in Article 10 to reflect and document the consequences of the inaccuracy or difference.

4.2.6 Possible Price and Time Adjustments: In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that these are attributable to any such inaccuracy or difference. If OWNER and CONTRACTOR are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in Articles 11 and 12.

Physical Conditions - Underground Facilities:

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

4.3.1.1 OWNER and CONSTRUCTION MANAGER shall not be responsible for the accuracy or completeness of any such information or data; and,

4.3.1.2 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the OWNERS of such Underground Facilities during construction, for the safety and protection thereof as provided in paragraph 6.20 and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

4.3.2 Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 6.22), identify the OWNER of such Underground Facility and give written notice thereof to that OWNER and to OWNER and CONSTRUCTION MANAGER. CONSTRUCTION MANAGER will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.20. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or

both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of. If the parties are unable to agree as to the amount or length thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

Reference Points:

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

ARTICLE 5 - BONDS AND INSURANCE

Performance and Other Bonds:

5.1 CONTRACTOR shall furnish performance and payments 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 otherwise provided by Law or Regulation or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the form

prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties as are named in the current of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

5.2 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 5.3, CONTRACTOR shall within five days thereafter substitute another Bond and Surety, both of which must be acceptable to OWNER.

CONTRACTOR's Liability Insurance:

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

5.3.1 Claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts;

5.3.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;

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

5.3.4 Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (b) by any other person for any other reason;

5.3.5 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;

5.3.6 Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and

5.3.7 Claims for damages because of bodily injury or death of any person or property damage arising out of the OWNERship, maintenance or use of any motor vehicle.

The insurance required by this paragraph 5.3 shall include the specific coverages and be written for not less than the limits of liability and coverages provided in the Supplementary Conditions, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall 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 CONSTRUCTION MANAGER by certified mail. All such insurance shall remain in effect until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing defective Work in accordance with paragraph 13.12. In addition, CONTRACTOR shall maintain such

completed operations insurance for at least two years after final payment and furnish OWNER with evidence of continuation of such insurance at final payment and one year thereafter.

Contractual Liability Insurance:

5.4 The comprehensive general liability insurance required by paragraph 5.3 will include contractual liability insurance applicable to CONTRACTOR's obligations under paragraphs 6.30 and 6.31.

OWNER's Liability Insurance:

5.5 OWNER shall be responsible for purchasing and maintaining OWNER's own liability insurance and, at OWNER's option, may purchase and maintain such insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

Waiver of Rights:

5.7

5.7.1 OWNER and CONTRACTOR waive all rights against each other for all losses and damages caused by any of the perils covered by the policies of insurance and any other property insurance applicable to the Work, and also waive all such rights against the SubCONTRACTORS, CONSTRUCTION MANAGER, CONSTRUCTION MANAGER's consultants and all other parties named as insureds in such policies for losses and damages so caused. As required by paragraph 6.11, each subcontract between CONTRACTOR and a SubCONTRACTOR will contain similar waiver provisions by the SubCONTRACTOR in favor of OWNER, CONTRACTOR, CONSTRUCTION MANAGER, CONSTRUCTION MANAGER's consultants and all other parties named as insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to the proceeds of insurance held by

OWNER as trustee or otherwise payable any policy so issued.

5.7.2 OWNER and CONTRACTOR intend that any policies provided shall protect all of the parties insured and provide primary coverage for all losses and damages caused by the perils covered thereby. Accordingly, all such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any of the parties named as insureds or additional insureds, and if the insurers require separate waiver forms to be signed by CONSTRUCTION MANAGER or CONSTRUCTION MANAGER's consultant OWNER will obtain the same, and if such waiver forms are required of any SubCONTRACTOR, CONTRACTOR will obtain the same.

Receipt and Application of Proceeds:

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

5.9 OWNER as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as trustee shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If required in

writing by any party in interest, OWNER as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of such duties.

Acceptance of Insurance:

5.10 If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with paragraphs 5.1 and 5.2 on the basis of its not complying with the Contract Documents, OWNER shall notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates to OWNER in accordance with paragraph 2.7. If CONTRACTOR has any objection to the coverage afforded by or other provisions of the policies of insurance required to be purchased and maintained by OWNER on the basis of their not complying with the Contract Documents, CONTRACTOR shall notify OWNER in writing thereof within ten days of the date of delivery of such certificates to CONTRACTOR in accordance with paragraph 2.7. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided by each as the other may reasonably request. Failure by OWNER or CONTRACTOR to give any such notice of objection within the time provided shall constitute acceptance of such insurance purchased by the other as complying with the Contract Documents.

Partial Utilization - Property Insurance:

5.11 If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with paragraph 14.10; provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the 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

lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence:

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

6.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and CONSTRUCTION MANAGER 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 the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials and Equipment:

6.3 CONTRACTOR shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site.

6.4 Unless otherwise specified in the General Requirements, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools,

appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

6.5 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by CONSTRUCTION MANAGER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to CONSTRUCTION MANAGER, or any of CONSTRUCTION MANAGER's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 to 9.16.

Adjusting Progress Schedule:

6.6 CONTRACTOR shall submit to CONSTRUCTION MANAGER for acceptance (to the extent indicated in paragraph 2.9) adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

Substitutes or "Or-Equal" Items:

6.7.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or

equipment of other Suppliers may be accepted by CONSTRUCTION MANAGER if sufficient information is submitted by CONTRACTOR to allow CONSTRUCTION MANAGER to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by CONSTRUCTION MANAGER will include the following as supplemented in the General Requirements. Requests for review of substitute items of material and equipment will not be accepted by CONSTRUCTION MANAGER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to CONSTRUCTION MANAGER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other CONTRACTORS affected by the resulting change, all of which shall be considered

by CONSTRUCTION MANAGER in evaluating the proposed substitute. CONSTRUCTION MANAGER may require CONTRACTOR to furnish at CONTRACTOR's expense additional data about the proposed substitute.

6.7.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to CONSTRUCTION MANAGER, if CONTRACTOR submits sufficient information to allow CONSTRUCTION MANAGER to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by CONSTRUCTION MANAGER will be similar to that provided in paragraph 6.7.1 as applied by CONSTRUCTION MANAGER and as may be supplemented in the General Requirements.

6.7.3 CONSTRUCTION MANAGER will be allowed a reasonable time within which to evaluate each proposed substitute. CONSTRUCTION MANAGER will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without CONSTRUCTION MANAGER's prior written acceptance which will be evidenced by either a Change Order or a reviewed Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute. CONSTRUCTION MANAGER will record time required by CONSTRUCTION MANAGER and CONSTRUCTION MANAGER's consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Contract Documents occasioned thereby. Whether or not CONSTRUCTION MANAGER accepts a

proposed substitute, CONTRACTOR shall reimburse OWNER for the charges of CONSTRUCTION MANAGER and CONSTRUCTION MANAGER's consultants for evaluating each proposed substitute.

Concerning SubCONTRACTORS, Suppliers and Others:

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

6.8.2 If the Supplementary Conditions require the identity of certain SubCONTRACTORS, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by OWNER and CONSTRUCTION MANAGER and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's or CONSTRUCTION MANAGER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such SubCONTRACTOR, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute, the Contract Price

will be increased by the difference in the cost occasioned by such substitution and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER or CONSTRUCTION MANAGER of any such SubCONTRACTOR, Supplier or other person or organization shall constitute a waiver of any right of OWNER or CONSTRUCTION MANAGER to reject defective Work.

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

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

6.11 All Work performed for CONTRACTOR by a SubCONTRACTOR will be pursuant to an appropriate agreement between CONTRACTOR and the SubCONTRACTOR which specifically binds the SubCONTRACTOR to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and CONSTRUCTION MANAGER and contains waiver provisions as required by paragraph 5.8. CONTRACTOR shall pay each SubCONTRACTOR a just share

of any insurance moneys received by CONTRACTOR on account of losses under policies issued pursuant to paragraph 5.4 and 5.5.

Patent Fees and Royalties:

6.12 CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or CONSTRUCTION MANAGER 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. CONTRACTOR shall indemnify and hold harmless OWNER and CONSTRUCTION MANAGER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees and court and arbitration costs) arising out of 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, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits:

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

OWNERS for connections to the Work, and OWNER shall pay all charges of such utility OWNERS for capital costs related thereto.

Laws and Regulations:

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

6.14.2 If CONTRACTOR observes that the Specifications or Drawings are at variance with any Laws or Regulations, CONTRACTOR shall give CONSTRUCTION MANAGER prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 3.4. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws or Regulations, and without such notice to CONSTRUCTION MANAGER, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

Taxes:

6.15 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.

Uses of Premises:

6.16 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of

workers to the Project site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the OWNER or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against OWNER or CONSTRUCTION MANAGER by any such OWNER or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold OWNER and CONSTRUCTION MANAGER harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of CONSTRUCTION MANAGERS, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against OWNER or CONSTRUCTION MANAGER to the extent based on a claim arising out of CONTRACTOR's performance of the Work.

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

6.18 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor

shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

Record Documents:

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

Safety and Protection:

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

6.20.1 all employees on the Work and other persons and organizations who may be affected thereby;

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

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

CONTRACTOR shall comply with all applicable Laws and Regulations of any public body

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

6.21 CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR's superintendent unless otherwise designated in writing by CONTRACTOR to OWNER.

Emergencies:

6.22 In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from CONSTRUCTION MANAGER or OWNER, is obligated to act to prevent threatened damage,

injury or loss. CONTRACTOR shall give CONSTRUCTION MANAGER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If CONSTRUCTION MANAGER determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Work Directive Change or Change Order will be issued to document the consequences of the changes or variations.

Shop Drawings and Samples:

6.23 After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, CONTRACTOR shall submit to CONSTRUCTION MANAGER for review in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.9), or for other appropriate action if so indicated in the Supplementary Conditions, three copies plus the number of copies required by the CONTRACTOR (unless otherwise specified in the General Requirements) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as CONSTRUCTION MANAGER may require. 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 enable CONSTRUCTION MANAGER to review the information as required.

6.24 CONTRACTOR shall also submit to CONSTRUCTION MANAGER for review with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission and will be

identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

6.25.1 Before submission of each Shop Drawing or sample CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and review or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

6.25.2 At the time of each submission, CONTRACTOR shall give CONSTRUCTION MANAGER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to CONSTRUCTION MANAGER for review of each such variation.

6.26 CONSTRUCTION MANAGER will review with reasonable promptness Shop Drawings and samples, but CONSTRUCTION MANAGER's review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by CONSTRUCTION MANAGER, and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by

CONSTRUCTION MANAGER on previous submittals.

6.27 CONSTRUCTION MANAGER's review 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 CONSTRUCTION MANAGER's attention to each such variation at the time of submission as required by paragraph 6.25.2 and CONSTRUCTION MANAGER has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any review by CONSTRUCTION MANAGER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 6.25.1.

6.28 Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to CONSTRUCTION MANAGER's review of the pertinent submission will be the sole expense and responsibility of CONTRACTOR.

Continuing the Work:

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

Indemnification:

6.30 To the extent permitted by law, the CONTRACTOR shall indemnify and hold harmless OWNER, CONSTRUCTION MANAGER, CONSTRUCTION MANAGER'S consultants and agents and employees of any of them from and against all claims, damages and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such

claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the CONTRACTOR, a SubCONTRACTOR, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 6.30.

6.31 In any and all claims against OWNER or CONSTRUCTION MANAGER or any of their consultants, agents or employees by any employee of CONTRACTOR, any SubCONTRACTOR, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.30 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 or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

6.32 The obligations of CONTRACTOR under paragraph 6.30 shall not extend to the liability of CONSTRUCTION MANAGER, CONSTRUCTION MANAGER's consultants, agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications.

ARTICLE 7 - OTHER WORK

Related Work at Site:

7.1 OWNER may perform other work related to the Project at the site by OWNER's own forces, have other work performed by utility OWNERS or let other direct contracts therefor

which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to CONTRACTOR prior to starting any such other work; and, if CONTRACTOR believes that such performance will involve additional expense to CONTRACTOR or requires additional time and the parties are unable to agree as to the extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

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

7.3 If any part of the CONTRACTOR's Work depends for proper execution or results upon the work of any such other CONTRACTOR or utility OWNER (or OWNER), CONTRACTOR shall inspect and promptly report to CONSTRUCTION MANAGER in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR's failure so to report will

constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in the other work.

Coordination:

7.4 If OWNER contracts with others for the performance of other work on the Project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime CONTRACTORS will be identified in the Supplementary Conditions, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided, in the Supplementary Conditions. Unless otherwise provided in the Supplementary Conditions, neither OWNER nor CONSTRUCTION MANAGER shall have any authority or responsibility in respect of such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.1 OWNER shall issue all communications to CONTRACTOR through CONSTRUCTION MANAGER.

8.2 In case of termination of the employment of CONSTRUCTION MANAGER, OWNER shall appoint an CONSTRUCTION MANAGER against whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former CONSTRUCTION MANAGER. Any dispute in connection with such appointment shall be subject to arbitration.

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

8.4 OWNER's duties in respect of providing lands and easements and providing CONSTRUCTION MANAGERing surveys to establish reference points are set forth in

paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and in existing structures which have been utilized by CONSTRUCTION MANAGER in preparing the Drawings and Specifications.

8.5 OWNER's responsibilities in respect of purchasing and maintaining liability and property insurance are set forth in paragraphs 5.3 through 5.6.

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

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

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

ARTICLE 9 - CONSTRUCTION MANAGER'S STATUS DURING CONSTRUCTION

OWNER's Representative:

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

Visits to Site:

9.2 CONSTRUCTION MANAGER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. CONSTRUCTION MANAGER will

not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. CONSTRUCTION MANAGER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations as an experienced and qualified design professional, CONSTRUCTION MANAGER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

Project Representation:

9.3 If OWNER and CONSTRUCTION MANAGER agree, CONSTRUCTION MANAGER will furnish a Resident Project Representative to assist CONSTRUCTION MANAGER in observing the performance of the Work. The duties, responsibilities and limitations of authority of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions. If OWNER designates another agent to represent OWNER at the site who is not CONSTRUCTION MANAGER's agent or employee, the duties, responsibilities and limitations of authority of such other person will be as provided in the Supplementary Conditions.

Clarifications and Interpretations:

9.4 CONSTRUCTION MANAGER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as CONSTRUCTION MANAGER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 11 or Article 12.

Authorized Variations in Work:

9.5 CONSTRUCTION MANAGER 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 Time and are consistent with the overall intent of 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 CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 11 or 12.

Rejecting Defective Work:

9.6 CONSTRUCTION MANAGER will have authority to disapprove or reject Work which CONSTRUCTION MANAGER believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in paragraph 13.9, whether or not the Work is fabricated, installed or completed.

Shop Drawings, Change Orders and Payments:

9.7 In connection with CONSTRUCTION MANAGER's responsibility for Shop Drawings and samples, see paragraph 6.23 through 6.29 inclusive.

9.8 In connection with CONSTRUCTION MANAGER's responsibilities as to Change Orders, see Articles 10, 11 and 12.

9.9 In connection with CONSTRUCTION MANAGER's responsibilities in respect of Application for Payment, see Article 14.

Determinations for Unit Prices:

9.10 CONSTRUCTION MANAGER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. CONSTRUCTION

MANAGER will review with CONTRACTOR CONSTRUCTION MANAGER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). CONSTRUCTION MANAGER's written decisions thereon will be final and binding upon OWNER and CONTRACTOR, unless, within ten days after the date of any such decision, either OWNER or CONTRACTOR delivers to the other party to the Agreement and to CONSTRUCTION MANAGER written notice of intention to appeal from such a decision.

Decisions on Disputes:

9.11 CONSTRUCTION MANAGER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Time will be referred initially to CONSTRUCTION MANAGER in writing with a request for a formal decision in accordance with this paragraph, which CONSTRUCTION MANAGER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter will be delivered by the claimant to CONSTRUCTION MANAGER and the other party to the Agreement promptly (but in no event later than thirty days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to CONSTRUCTION MANAGER and the other party within sixty days after such occurrence unless CONSTRUCTION MANAGER allows an additional period of time to ascertain more accurate data in support of the claim.

9.12 When functioning as interpreter and judge under paragraphs 9.10 and 9.11, CONSTRUCTION MANAGER 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 CONSTRUCTION MANAGER pursuant to paragraphs 9.10 and 9.11 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.16) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

Limitations on CONSTRUCTION MANAGER's Responsibilities:

9.13 Neither CONSTRUCTION MANAGER's authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by CONSTRUCTION MANAGER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of CONSTRUCTION MANAGER to CONTRACTOR, any SubCONTRACTOR, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

9.14 Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of CONSTRUCTION MANAGER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with 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 CONSTRUCTION MANAGER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16.

9.15 CONSTRUCTION MANAGER will not be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and CONSTRUCTION MANAGER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.

9.16 CONSTRUCTION MANAGER will not be responsible for the acts or omissions of CONTRACTOR or of any SubCONTRACTOR, any Supplier, or of any other person or organization performing or furnishing any of the Work.

ARTICLE 10 - CHANGES IN THE WORK

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

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

10.3 CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 3.4 and 3.5, except in the case of an emergency as provided in paragraph 6.22 and except in the case of uncovering Work as provided in paragraph 13.9.

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

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

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

10.4.3 changes in the Contract Price or Contract time which embody the substance of any written decision rendered by CONSTRUCTION MANAGER pursuant to paragraph 9.11;

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

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

ARTICLE 11 - CHANGE OF CONTRACT PRICE

11.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by

CONTRACTOR shall be at his expense without change in the Contract Price.

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

11.3 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

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

11.3.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 11.6.2.1).

11.3.3 On the basis of the Cost of the Work (determined as provided in paragraphs 11.4 and 11.5) plus a CONTRACTOR's Fee for overhead and profit (determined as provided in paragraphs 11.6 and 11.7).

Cost of the Work:

11.4 The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in 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 11.5:

11.4.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. 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' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above.

11.4.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits

funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

11.4.3 Payments made by CONTRACTOR to the SubCONTRACTORS for Work performed by SubCONTRACTORS. If required by OWNER, CONTRACTOR shall obtain competitive bids from SubCONTRACTORS acceptable to CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of CONSTRUCTION MANAGER, which bids will be accepted. If a 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 shall be determined in the same manner as CONTRACTOR's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

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

11.4.5 Supplemental costs including the following:

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

11.4.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the

performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

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

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

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

11.4.5.6 Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work or otherwise sustained by CONTRACTOR in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by OWNER in accordance with paragraph 5.7), provided they have resulted from causes other than the negligence of CONTRACTOR, and SubCONTRACTOR, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and

expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's Fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraph 11.6.2.

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

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

11.4.5.9 Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by OWNER in accordance with paragraph 5.7.

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

11.5.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, CONSTRUCTION MANAGERS, 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 a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.4.1 or specifically covered by paragraph 11.4.4 - all of which are to be considered administrative costs covered by the CONTRACTOR's Fee.

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

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

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

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

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

CONTRACTOR's Fee:

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

11.6.1 a mutually acceptable fixed fee; or if none can be agreed upon.

11.6.2 a fee based on the following percentages of the various portions of the Cost of the Work:

11.6.2.1 for costs incurred under paragraphs 11.4.1 and 11.4.2, the CONTRACTOR's Fee shall be fifteen percent;

11.6.2.2 for costs incurred under paragraph 11.4.3, the CONTRACTOR's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all SubCONTRACTORS shall be fifteen percent;

11.6.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 11.4.4, 11.4.5 and 11.5;

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

11.6.2.5 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 11.6.2.1 through 11.6.2.4, inclusive.

11.7 Whenever the cost of any Work is to be determined pursuant to paragraph 11.4 or 11.5, CONTRACTOR will submit in form acceptable to CONSTRUCTION MANAGER an itemized cost breakdown together with supporting data.

Cash Allowances:

11.8 It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such SubCONTRACTORS or Suppliers and for such sums within the limit of the allowances as may be acceptable to CONSTRUCTION MANAGER. CONTRACTOR agrees that:

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

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

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

Unit Price Work:

11.9.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Proposal. 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 CONSTRUCTION MANAGER in accordance with Paragraph 9.10.

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

11.9.3 Where the quantity of any item of Unit Price Work performed by

CONTRACTOR differs by more than twenty-five percent from the estimated quantity of such item indicated in the Proposal and there is no corresponding adjustment with respect to any other item of Work and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the amount of any such increase.

ARTICLE 12 - CHANGE OF CONTRACT TIME

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

12.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefor as provided in paragraph 12.1. Such delays shall include, but not be limited to,

acts of neglect by OWNER or others performing additional work as contemplated by Article 7, or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

12.3 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including but not limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals and court and arbitration costs) for delay by either party.

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

Warranty and Guarantee:

13.1 CONTRACTOR warrants and guarantees to OWNER and CONSTRUCTION MANAGER that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 13.

Access to Work:

13.2 CONSTRUCTION MANAGER and CONSTRUCTION MANAGER's representatives, other representatives of OWNER, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

Tests and Inspections:

13.3 CONTRACTOR shall give CONSTRUCTION MANAGER timely notice of readiness of the Work for all required inspections, tests or approvals.

13.4 If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish CONSTRUCTION MANAGER the required certificates of inspection, testing or approval. CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with OWNER's or CONSTRUCTION MANAGER's acceptance of a Supplier of materials or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by OWNER (unless otherwise specified).

13.5 All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to OWNER and CONTRACTOR (or by CONSTRUCTION MANAGER if so specified).

13.6 If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of CONSTRUCTION MANAGER, it must, if requested by CONSTRUCTION MANAGER, be uncovered for observation. Such uncovering shall be at CONTRACTOR's expense unless CONTRACTOR has given CONSTRUCTION MANAGER timely notice of CONTRACTOR's intention to cover the same and CONSTRUCTION MANAGER has not acted with reasonable promptness in response to such notice.

13.7 Neither observations by CONSTRUCTION MANAGER nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR's obligations to perform the Work in accordance with the Contract Documents.

Uncovering Work:

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

13.9 If CONSTRUCTION MANAGER considers it necessary or advisable that covered Work be observed by CONSTRUCTION MANAGER or inspected or tested by others, CONTRACTOR, at CONSTRUCTION MANAGER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as CONSTRUCTION MANAGER 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 bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals), and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in Article 11. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

OWNER May Stop the Work:

13.10 If the Work is defective, or CONTRACTOR fails to supply sufficiently skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for

such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

Correction or Removal of Defective Work:

13.11 If required by CONSTRUCTION MANAGER, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by CONSTRUCTION MANAGER, remove it from the site and replace it with nondefective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals) made necessary thereby.

One Year Correction Period:

13.12 If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific Provision of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions, either correct such defective Work, or if it has been rejected by OWNER, remove it from the site and replace it with nondefective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals) will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all 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.

Acceptance of Defective Work:

13.13 If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to CONSTRUCTION MANAGER's recommendation of final payment, also CONSTRUCTION MANAGER) prefers to accept it, OWNER may do so. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by CONSTRUCTION MANAGER as to reasonableness and to include but not be limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals). If any such acceptance occurs prior to CONSTRUCTION MANAGER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

OWNER May correct Defective Work:

13.14 If CONTRACTOR fails within a reasonable time after written notice of CONSTRUCTION MANAGER to proceed and to correct defective Work or to remove and replace rejected Work as required by CONSTRUCTION MANAGER in accordance with paragraph 13.11, 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. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. To the

extent necessary to complete 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 such access to the site as may be necessary to enable OWNER to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of OWNER in exercising such rights and remedies under this paragraph will be charged against CONTRACTOR in an amount approved as to reasonableness by CONSTRUCTION MANAGER, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. Such direct, indirect and consequential costs will include but not be limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

Schedule of Values:

14.1 The schedule of values established as provided in paragraph 2.9 will serve as the basis for progress payments and will be

incorporated into a form of Application for Payment acceptable to CONSTRUCTION MANAGER. Progress payments on account of Unit Price Work will be based on the number of units completed.

Application for Progress Payment:

14.2 At least fifteen days before each progress payment is scheduled (but not more often than once a month), CONTRACTOR shall submit to CONSTRUCTION MANAGER 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, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER's interest therein, all of which will be satisfactory to OWNER. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

CONTRACTOR's Warranty of Title:

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

Review of Applications for Progress Payment:

14.4 CONSTRUCTION MANAGER will, within five 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 CONSTRUCTION MANAGER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. Ten days after presentation of the Application for Payment with CONSTRUCTION MANAGER's recommendation, the amount recommended will (subject to the provisions of the last sentence of paragraph 14.7) become due and when due will be paid by OWNER to CONTRACTOR.

14.5 CONSTRUCTION MANAGER's recommendation of any payment requested in an Application for Payment will constitute a representation by CONSTRUCTION MANAGER to OWNER, based on CONSTRUCTION MANAGER's on-site observations of the Work in progress as an experienced and qualified design professional and on CONSTRUCTION MANAGER's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of CONSTRUCTION MANAGER's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.10, and to any other qualifications stated in the recommendation); and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment CONSTRUCTION MANAGER will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to CONSTRUCTION MANAGER in the Contract Documents or that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid

additionally by OWNER or OWNER to withhold payment to CONTRACTOR.

14.6 CONSTRUCTION MANAGER's recommendation of final payment will constitute an additional representation by CONSTRUCTION MANAGER to OWNER that the conditions precedent to CONTRACTOR's being entitled to final payment as set forth in paragraph 14.13 have been fulfilled.

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

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

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

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

14.7.4 of CONSTRUCTION MANAGER's actual knowledge of the occurrence of any of the events enumerated in paragraphs 15.2.1 through 15.2.9 inclusive.

OWNER may refuse to make payment of the full amount recommended by CONSTRUCTION MANAGER because claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling OWNER to a set-off against the amount recommended, but OWNER must give CONTRACTOR immediate written notice (with

a copy to CONSTRUCTION MANAGER) stating the reasons for such action.

Substantial Completion:

14.8 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and CONSTRUCTION MANAGER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that CONSTRUCTION MANAGER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER, CONTRACTOR and CONSTRUCTION MANAGER shall make an inspection of the Work to determine the status of completion. If CONSTRUCTION MANAGER does not consider the Work substantially complete, CONSTRUCTION MANAGER will notify CONTRACTOR in writing giving the reasons therefor. If CONSTRUCTION MANAGER considers the Work substantially complete, CONSTRUCTION MANAGER 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 CONSTRUCTION MANAGER as to any provisions of the certificate or attached list. If, after considering such objections, CONSTRUCTION MANAGER concludes that the Work is not substantially complete, CONSTRUCTION MANAGER will within fourteen days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, CONSTRUCTION MANAGER considers the Work substantially complete, CONSTRUCTION MANAGER will within said fourteen days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as CONSTRUCTION MANAGER

believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion CONSTRUCTION MANAGER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform CONSTRUCTION MANAGER prior to CONSTRUCTION MANAGER's issuing the definitive certificate of Substantial Completion, CONSTRUCTION MANAGER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

At substantial completion of the work and as the CONSTRUCTION MANAGER determines the work to be reasonably satisfactory, the OWNER shall within 30 days after invoice and other appropriate documentation as may be required by the contract documents are provided pay the retainage to the CONTRACTOR. If at that time there are any remaining incomplete minor items, an amount equal to 200 percent of the value of each item as determined by the CONSTRUCTION MANAGER shall be withheld until such item or items are completed.

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

Partial Utilization:

14.10 Use by OWNER of any finished part of the Work, which has specifically been identified in the Contract Documents, or which OWNER, CONSTRUCTION MANAGER and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER without significant interference with CONTRACTOR's performance

of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

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

14.10.2 OWNER may at any time request CONTRACTOR in writing to permit OWNER to take over operation of any such part of the Work although it is not substantially complete. A copy of such request will be sent to CONSTRUCTION MANAGER and within

a reasonable time thereafter OWNER, CONTRACTOR and CONSTRUCTION MANAGER shall make an inspection of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If CONTRACTOR does not object in writing to OWNER and CONSTRUCTION MANAGER that such part of the Work is not ready for separate operation by OWNER, CONSTRUCTION MANAGER will finalize the list of items to be completed or corrected and will deliver such list to OWNER and CONTRACTOR together with a written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance, warranties and guarantees for that part of the Work which will become binding upon OWNER and CONTRACTOR at the time when OWNER takes over such operation (unless they shall have otherwise agreed in writing and so informed CONSTRUCTION MANAGER). During such operation and prior to Substantial Completion of such part of the Work, OWNER shall allow CONTRACTOR reasonable access to complete or correct items on said list and to complete other related Work.

14.10.3 No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of paragraph 5.8 in respect of property insurance.

Final Inspection:

14.11 Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, CONSTRUCTION MANAGER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective.

CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

Final Application for Payment:

14.12 After CONTRACTOR has completed all such corrections to the satisfaction of CONSTRUCTION MANAGER and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph 6.19) and other documents - all as required by the Contract Documents, and after CONSTRUCTION MANAGER has indicated that the Work is acceptable (subject to the provisions of paragraph 14.16), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any SubCONTRACTOR or Supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

Final Payment and Acceptance:

14.13 If, on the basis of CONSTRUCTION MANAGER's observation of the Work during construction and final inspection, and CONSTRUCTION MANAGER's review of the final Application for Payment and accompanying documentation - all as required

by the Contract Documents, CONSTRUCTION MANAGER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, CONSTRUCTION MANAGER will, within ten days after receipt of the final Application for Payment, indicate in writing CONSTRUCTION MANAGER's recommendation of payment and present the Application to OWNER for payment. Thereupon CONSTRUCTION MANAGER will give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.16. Otherwise, CONSTRUCTION MANAGER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after presentation to OWNER of the Application and accompanying documentation, in appropriate form and substance, and with CONSTRUCTION MANAGER's recommendation and notice of acceptability, the amount recommended by CONSTRUCTION MANAGER will become due and will be paid by OWNER to CONTRACTOR.

14.14 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if CONSTRUCTION MANAGER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of CONSTRUCTION MANAGER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.1, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to CONSTRUCTION MANAGER 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.

Payment to the CONTRACTOR of interest earned on the retained amounts shall be made after certification by the Construction Manager in charge of the project covered by the contract that the work has been completed within the time specified and within the price specified in the contract.

CONTRACTOR's Continuing Obligation:

14.15 CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by CONSTRUCTION MANAGER, nor the issuance of a certificate of Substantial Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by OWNER, nor any pact of acceptance by OWNER nor any failure to do so, nor any review of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by CONSTRUCTION MANAGER pursuant to paragraph 14.13, nor any correction of defective Work by OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 14.16).

Waiver of Claims:

14.16 The making and acceptance of final payment will constitute:

14.16.1 a waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.11 or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver by OWNER of any rights in respect of CONTRACTOR's

continuing obligations under the Contract Documents; and

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

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

OWNER May Suspend Work:

15.1 OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and CONSTRUCTION MANAGER 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 increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefor as provided in Articles 11 and 12.

OWNER May Terminate:

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

15.2.1 if CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;

15.2.2 if a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency;

15.2.3 if CONTRACTOR makes a general assignment for the benefit of creditors;

15.2.4 if a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR's creditors;

15.2.5 if CONTRACTOR admits in writing an inability to pay its debts generally as they become due;

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

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

15.2.8 if CONTRACTOR disregards the authority of CONSTRUCTION MANAGER; or OWNER may, after giving CONTRACTOR (and the surety, if there be one) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored

elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals and court and arbitration costs) such excess will be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER will be approved as to reasonableness by CONSTRUCTION MANAGER and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

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

15.4 Upon seven days' written notice to CONTRACTOR and CONSTRUCTION MANAGER, OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs (including, but not limited to, fees and charges of CONSTRUCTION MANAGERS, architects, attorneys and other professionals and court and arbitration costs).

CONTRACTOR May Stop Work or Terminate:

15.5 If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or CONSTRUCTION MANAGER fails to act on any Application for Payment within thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to OWNER and CONSTRUCTION MANAGER, terminate the Agreement and recover from OWNER payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if CONSTRUCTION MANAGER has failed to act on an Application for Payment or OWNER and CONSTRUCTION MANAGER stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of the obligations under paragraph 6.29 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with OWNER.

ARTICLE 16 - ARBITRATION

16.1 All claims, disputes and other matters in question between OWNER and CONTRACTOR arising out of, or relating to the Contract Documents or the breach thereof (except for claims which have been waived by the making or acceptance of final payment as provided by paragraph 14.16) will be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining subject to the limitations of this Article 16. This agreement so to arbitrate and any other agreement or consent to arbitrate entered into in accordance herewith as provided in this Article 16 will be specifically enforceable under the prevailing law of any court having jurisdiction.

16.2 No demand for arbitration of any claim, dispute or other matter that is required to be referred to CONSTRUCTION MANAGER initially for decision in accordance with paragraph 9.11 will be made until the earlier of (a)

the date on which CONSTRUCTION MANAGER has rendered a decision or (b) the tenth day after the parties have presented their evidence to CONSTRUCTION MANAGER if a written decision has not been rendered by CONSTRUCTION MANAGER before that date. No demand for arbitration of any such claim, dispute or other matter will be made later than thirty days after the date on which CONSTRUCTION MANAGER has rendered a written decision in respect thereof in accordance with paragraph 9.11; and the failure to demand arbitration within said thirty days' period shall result in CONSTRUCTION MANAGER's decision being final and binding upon OWNER and CONTRACTOR. If CONSTRUCTION MANAGER renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence but will not supersede the arbitration proceedings, except where the decision is acceptable to the parties concerned. No demand for arbitration of any written decision of CONSTRUCTION MANAGER rendered in accordance with paragraph 9.10 will be made later than ten days after the party making such demand has delivered written notice of intention to appeal as provided in paragraph 9.10.

16.3 Notice of the demand for arbitration will be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy will be sent to CONSTRUCTION MANAGER for information. The demand for arbitration will be made within the thirty-day or ten-day period specified in paragraph 16.2 as applicable, and in all other cases within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

16.4 No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder or in any other manner any other person or entity (including CONSTRUCTION MANAGER, CONSTRUCTION MANAGER's agents,

employees or consultants) who is not a party to this contract unless:

16.4.1 the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration,

16.4.2 Such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and

16.4.3 the written consent of the other person or entity sought to be included and of OWNER and CONTRACTOR has been obtained for such inclusion, which consent shall make specific reference to this paragraph; but no such consent shall constitute consent to arbitration of any dispute not specifically described in such consent or to arbitration with any party not specifically identified in such consent.

16.5 The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Sections 10 and 11 of the Federal Arbitration Act (9 U.S.C. §§10,11).

ARTICLE 17 - MISCELLANEOUS

Giving Notice:

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

Computation of Time:

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

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

General:

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

17.4 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 6.30, 13.1, 13.13, 13.14, 14.3 and 15.2 and all of the rights and remedies available to OWNER and CONSTRUCTION MANAGER thereunder, are in addition, to and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents will survive

final payment and termination or completion of the Agreement.

END OF SECTION