

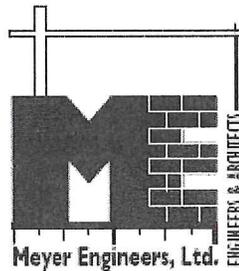
**LUCY LEVEE TRAIL
S.P. NO. H.012243**

ST. JOHN THE BAPTIST PARISH, OWNER

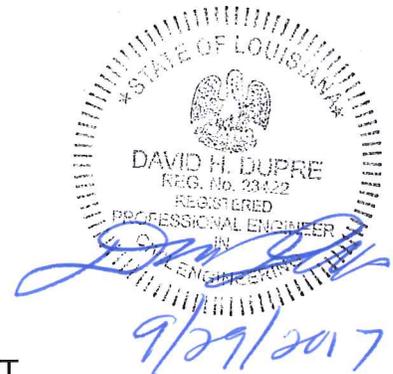
Natalie Robottom, Parish President
Laverne Toombs, CAO

Larry Sorapuru, Jr., Councilman-at-Large, Division A
Jaclyn Hotard, Councilwoman-at-Large, Division B

Kurt Becnel, District I
Julia Remondet, District II
Lennix Madere, Jr., District III
Marvin Perrilloux, District IV
Michael Wright, District V
Larry Snyder, District VI
Thomas Malik, District VII



MEYER ENGINEERS, LTD.
ENGINEER AND ARCHITECT
4937 Hearst Avenue
P.O. Box 763
Metairie, Louisiana 70004



SEPTEMBER 29, 2017

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* * *

ADVERTISEMENT FOR BIDS

St. John the Baptist Parish Council (herein referred to as the "Owner")

Sealed bids shall be received by the Owner for the construction of the project described as follows:

LUCY LEVEE TRAIL
S.P. NO. H.012243

Bids shall be addressed to the St. John the Baptist Parish Council and delivered to the receptionist at the Parish President's Office in the Percy Hebert Building, 1801 West Airline Highway, LaPlace, LA not later than **2:45 o'clock P.M.** on **August 14, 2018.**

Sealed Bid envelope displaying the bidder's name, address, and Contractor's License number shall be marked "Sealed Bid-Lucy Levee Trail." Any bids received after the specified time and date will not be considered.

The sealed bids will be publicly opened and read aloud at **3:00 o'clock p.m., August 14, 2018** in the Joel S. McTopy Council Chambers of the Percy Hebert Building, 1801 W. Airline Hwy., LaPlace, LA.

The Information for Bidders, Bid Proposal, Plans, and Specifications may be examined online or at the Office of **Meyer Engineers, Ltd.** located at **4937 Hearst Street, Suite 1B, Metairie, LA (504-885-9892).** Prime Bidders may obtain copies of Bidding Documents at that office upon payment of **\$60.00 for hard copy set which constitutes the cost of reproduction and handling and/or a non-refundable fee of \$25.00 for an electronic set on a compact disc.** Deposit on the first hard set of documents furnished bona fide prime bidders will be fully refunded upon return of documents in good condition no later than ten (10) days after receipts of bids.

Details may be viewed and electronic bids are being accepted at **www.centralbidding.com.** All Bid Documents and Specifications may also be viewed at the Parish website, **www.sjbparish.com.**

The Owner reserves the right to accept or reject any and all bids and to waive any irregularities or informalities incidental thereto, and to accept any bid, which the Owner feels, serves their best interest. Such action will be in accordance with Title 38 of the Louisiana Revised Statutes.

Each Bidder **must deposit** with his/her bid, security in the amount equal to five percent (5%) of the total bid in the form of a certified check, cashier's check or bid bond.

All bidders must show proof that he/she is licensed in the State of Louisiana to perform this type of construction.

Contractors bidding this work must possess a current Louisiana **Highway, Street and Bridge Construction** License in accordance with LA-R.S. 37:2150 through 37:2163, as amended, and be in good standing with the State and the Parish.

Contractor's license number must appear on the face of the sealed envelope containing the bid.

*St. John the Baptist Parish Council, being a government agency, is exempt from all sales tax. The vendor awarded the contract will be provided documentation to support their tax free purchases for this project. Therefore, **the amount you bid should contain no sales tax.***

The successful bidder will be required to furnish a Performance and Payment Bond written by a company licensed to do business in Louisiana, in the amount equal to one hundred percent (100%) of the contract price. Certificates of Insurance will also be required as specified in the bid package.

No bidder may withdraw his/her bid within forty-five (45) days after the actual date of opening thereof.

The Contractor shall begin mobilization and procurement of necessary materials within ten (10) working days of the receipt of the Notice to Proceed.

Any person with disabilities requiring Special Accommodation must contact the St. John the Baptist Parish Council Office at (985) 652-9569 no later than seven (7) days prior to bid opening.

Participation by minority and female-owned businesses, as well as businesses located in this Parish, is encouraged.

ST. JOHN THE BAPTIST PARISH COUNCIL

Publish:

Wednesday, July 18, 2018

Wednesday, July 25, 2018

Wednesday, August 1, 2018

SECTION 00103: BIDDING INSTRUCTIONS

SECTION 1. BID FORM

A. General

- (1) Sealed bids will be received in the office of St. John the Baptist Parish, until the date and hour specified in these bidding documents, at which time they will be publicly opened. LATE BIDS WILL NOT BE ACCEPTED.
- (2) All bids submitted are subject to these instructions and general conditions and any special conditions and specifications contained herein, all of which are made part of this bid proposal.
- (3) ONLY BIDS WRITTEN IN INK OR TYPE WRITTEN AND PROPERLY SIGNED BY A MEMBER OF THE FIRM OR AUTHORIZED REPRESENTATIVE, WILL BE ACCEPTED. PENCIL AND/OR PHOTOSTATIC FIGURES OR SIGNATURES WILL DISQUALIFY BID. HOWEVER ELECTRONIC SIGNATURES AS DEFINED IN LSA-R.S. 9:2602(8) ARE ACCEPTABLE.
- (4) For submission of bids, the only bid form used shall be the bid form/proposal contained herein.
 - (a) All papers bound with or attached to the Bid Form are considered a part thereof and must not be altered.
 - (b) Complete sets of the bidding documents designated in the bid form shall be used in preparing bids.
 - (c) All blanks on the bid forms shall be filled out in ink or typed. Illegibility or ambiguity therein may constitute justification for rejection of the bid.
- (5) USE OF BRAND NAMES AND STOCK NUMBERS. Where brand names, make, manufacturer or stock numbers are specified, it is for the purpose of establishing certain minimum standards of quality. Bids may be submitted for products of equal quality, style, type and character provided brand names and stock numbers are specified.
- (6) The Owner, its engineers, architects or anyone distributing plans and specifications for public works projects, equal to or over the contract limit as defined in LSA-R.S. 38:2212A(1)(d), shall furnish all prime bidders who request bid documents and who are properly licensed by the Louisiana State Licensing Board for Contractors with at least one set of completed bid documents. A deposit or fee may be charged on the documents as authorized by LSA-R.S. 38:2212A(3)(e).
- (7) Each bidder shall comply with all rules and regulations of the Louisiana State Licensing Board for Contractors in accordance with existing state laws.
- (8) Each bid must be submitted in a sealed envelope bearing on the outside: the name of the Bidder, his address, and the name of the project for which the bid is submitted; and, if the bid is in the amount of \$50,000 or more, the state license number of the Bidder, unless otherwise excepted by law.

- (9) Prime bidders shall obtain an original set of electronic or paper documents from the design professional who prepared such documents.

B. Price

- (1) Only for the purposes of interpretation of the base bid total and alternate bids, when applicable, written words shall govern if a conflict exists between words and numbers.
- (2) The price quoted for the work on the unit price form shall be stated in figures. In the event there is a difference in unit prices and totals the unit prices shall prevail.
- (3) The quantities listed on the unit price form are prepared for comparison of bids and may be approximate. Payment to the contractor will be made in accordance with measurement and payment requirements for bid items and other requirements of the project specifications. Bid item quantities may be increased, decreased, or omitted as provided in the specifications.
- (4) The price quoted in Proposals to supply labor and materials to St. John the Baptist Parish shall include all costs necessary for the complete performance of the work in full conformity with the conditions of the Contract Documents, and shall include all licenses and permit fees and all applicable Federal, State, County or Parish, Municipal, or other taxes due by the contractor.

C. Signing

The Proposal shall be properly signed with ink by the Bidder in accordance with the requirements on the bid form. FAILURE TO DO SO SHALL RESULT IN BID BEING REJECTED.

D. Insurance

Certificate of insurance shall be supplied within ten (10) calendar days after receipt of notice of award of the Contract by the Owner.

E. Bid Security

- (1) When required, a Bid Security in the proper amount and in the proper form must accompany the proposal. Cashier's check or certified check must be made payable to the order of the Owner. Cash deposits will not be accepted. The Owner reserves the right to cash or deposit the cashier's check, certified check or bid bond.
- (2) The amount of the bid security shall be not less than five (5%) percent of the the sum of the base bid and all alternates and at the option of the bidder may be a cashier's check, certified check, or a satisfactory bid bond attached to the bid form.

- (3) Bid Security of the three lowest bidders will be retained by the Owner until the Contract is executed or until final disposition is made of the bids submitted. Bid Security of all other bidders will be returned within ten (10) days after the canvass of bids.
- (4) Bids shall remain binding for at least forty-five (45) days after the date set for Bid Opening. In the event the Owner issues the Letter of Award during this period, the bid accepted shall continue to remain binding until the Execution of Contract. St. John the Baptist Parish and the lowest responsible bidder, by mutual written consent, may agree to extend the deadline for award by one or more extension of thirty (30) calendar days.
- (5) The successful bidder upon his failure or refusal to execute Contract with Owner and deliver bonds within a period of ten (10) calendar days after original date of Owner's Letter of Award, as defined in the General Specifications, shall forfeit to Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

F. Post Bid Information to be Provided by Low Bidder

- (1) The apparent low bidder on this project must submit the completed Public Works Bid Affidavit form found within this bid package. The Public Works Bid Affidavit form shall be submitted to Meyer Engineers, Ltd. within ten (10) days after the opening of bids. If the apparent low bidder does not submit the proper information or documentation as required by the bidding documents with the ten (10) day period, such bidder shall be declared non-responsive and the public entity may award the bid to the next low bidder not less than ten (10) days from the date the apparent low bidder is declared non-responsive, and may continue such process until the public entity either determines the low bidder or rejects all bids.
- (2) Performance and Payment Bonds: The Performance and Payment Bonds shall be supplied no later than the date of execution of the contract.

SECTION 2. WITHDRAWAL OR REVISION OF BIDS

- A. A bid may be withdrawn at any time prior to the scheduled closing time for receipt of bids, provided a request in writing, executed by the Bidder or his duly authorized representative, is filed with the Owner prior to that time. When such a request is received, the bid will be returned to the Bidder unopened.
- B. Written communications, over the signature of the Bidder, to modify bids will be accepted and the bids corrected in accordance therewith if received by the Owner prior to the scheduled closing time for receipt of bids. Oral, telephonic, telegraphic modifications will not be considered.
- C. No bid can be modified, or corrected after the hour set for opening such bids.

- D. No bid can be withdrawn after the hour set for opening such bid except as provided in LSA-R.S. 38:2214C, i.e. bids containing patently obvious, unintentional, and substantial mechanical, clerical, or mathematical errors, or errors of unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the bid, may be withdrawn by the contractor if clear and convincing sworn, written evidence of such errors is furnished to St. John the Baptist Parish within forty-eight (48) hours of the bid opening excluding Saturdays, Sundays, and legal holidays. Such errors must be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or material used in the preparation of the bid sought to be withdrawn. If the St. John the Baptist Parish determines that the error is a patently obvious mechanical, clerical, or mathematical error, or unintentional omission of a substantial quantity of work, labor, material, or service, as opposed to a judgment error, and that the bid was submitted in good faith it shall accept the withdrawal and return the bid security to the contractor. A contractor who attempts to withdraw a bid under these provisions shall not be allowed to resubmit a bid on the project (LSA-R.S. 38:2214D).

SECTION 3. INTERPRETATION OF CONTRACT DOCUMENTS

- A. No oral interpretation will be made to any Bidder as to the meaning of the drawings, specifications, or contract documents. Every request for such interpretation shall be made in writing and addressed and forwarded to the Engineer, Architect or person distributing plans and specifications. No inquiry received within five (5) days prior to the day fixed for opening of the bids will be given consideration. Every interpretation made to the Bidder shall be in the form of an addendum to the Specifications and shall be issued. All such addenda shall become a part of the Contract Documents. Failure of any Bidder to receive, any such interpretation shall not relieve any Bidder from any obligation under his Bid as submitted without modification.
- B. The specifications and plans are complementary of each other and all work called for or reasonably implied by either shall be performed as if called for by both. In case of conflict between the requirements of the specifications and plans, the specifications shall take precedence. Figured dimensions shall take precedence over scale dimensions, and larger scale details shall take precedence over smaller scale details in the general work drawings.

SECTION 4. REJECTION OF BIDS

- A. The Owner reserves the right to reject any or all Bids and to make award as it may elect, pursuant to the law. Just cause is defined by not limited to:
- (1) unavailability of funds for construction.
 - (2) all bids are higher than the pre-bid estimate.

- (3) substantial change in design prior to award.
 - (4) decision not to build within 12 months after bid.
 - (5) disqualification of all bidders.
- B. Bids may be considered irregular and be rejected for any of the following, but is not limited to the following circumstances;
- (1) If the bid form is on a form other than that furnished in the bidding documents.
 - (2) If **affidavits** are not submitted within ten (10) calendar days of the bid opening or are not properly executed and notarized.
 - (3) If there are unauthorized additions, conditional or alternate bids or irregularities which alter the general terms and conditions, the plans or specifications, or make the bid incomplete, indefinite, or ambiguous as to its meaning.
 - (4) If the bidder adds provisions reserving the right to accept or reject the award or to enter into the contract pursuant to the award.
 - (5) If an owner or a principal officer of the bidding firm is an owner or a principal officer of a firm which has been declared by St. John the Baptist Parish to be ineligible to bid.
 - (6) If the proposed bid security does not meet the requirements of the bidding documents.
 - (7) If more than one proposal for the same work, services, materials or supplies is received from an individual, partner, firm, corporation, joint venture, other legal entity, or combination thereof under the same or a different name.
 - (8) The bid is not properly signed or the authority of the signed person submitting the bid is deemed insufficient or unacceptable.
 - (9) If the bidder doesn't possess the proper license(s) required as noted in the bidding documents.
 - (10) Any other reasons for rejection set forth by State or Parish laws, ordinances or resolutions.

SECTION 5. FAMILIARITY WITH LAWS AND ORDINANCES

- A. Bidders shall familiarize themselves with and shall comply with all applicable Federal and State Laws, parish/municipal ordinances, resolutions, and the rules and regulations of all authorities having jurisdiction over construction of the project, which may directly or indirectly affect the work or its prosecution.
- B. These laws and/or ordinances will be deemed to be included in the contract, the same as though herein written in full.
- C. In case of conflict between the requirements of these specifications and any State and/or Federal Regulations or Laws, the State and/or Federal Regulations

or Laws shall take precedence in all cases in which State and/or Federal Funding of the contract, in whole or in part, depends upon compliance with said State and/or Federal Regulations or Laws.

SECTION 6. EXAMINATION OF SITE, DRAWINGS, ETC.

- A. Prior to submitting a bid each Bidder shall visit the site of the proposed work and fully acquaint himself with all surface and subsurface conditions as they may exist so that he may fully understand the facilities, difficulties, and restrictions attending the execution of the Work under this Contract. Bidders shall also thoroughly examine and be familiar with Drawings, Specifications, and Contract Documents. The failure or omission of any Bidder to receive or examine any form, instrument, drawing, or document or to visit the site and acquaint himself with conditions there existing, shall in no way relieve any Bidder from any obligation with respect to his Bid and the responsibility in the premises rests with him. Submission of a bid shall be considered evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to requirements of the plans, project specifications, and contract forms.
- B. Any pre-bid test and boring data in connection with subsurface conditions which have been completed by St. John the Baptist Parish or its engineers and furnished to the bidder shall not be considered as fully representative of subsurface conditions existing throughout the area tested nor shall they in any way be binding upon St. John the Baptist Parish, it being understood that said data is furnished the bidder for his convenience only and the bidder shall be solely responsible for conducting his own boring explorations he deems necessary in preparing his bid.
- C. No claims shall be made against St. John the Baptist Parish for additional compensation due to unforeseen subsurface conditions arising during progress of the work and which might be in variance with St. John the Baptist Parish's pre-bid boring data.

SECTION 7. AWARD OF CONTRACT

- A. The award of the Contract, if it be awarded, will be by the Owner to the lowest responsible and responsive Bidder whose Proposal shall have complied with all the requirements necessary to render it formal. The successful Bidder will be notified by telegram or letter mailed to the address shown on the Proposal that his bid has been accepted and that he has been awarded the Contract. No award will be made to any Contractor until their certificates of insurance, performance bonds, labor and materials payment bonds, or any other bonds required are made satisfactory to the Owner.

- B. St. John the Baptist Parish reserves the right to award contracts or place orders on a lump sum or individual item basis, or such combination as shall, in its judgment, be in the best interest of St. John the Baptist Parish. Every contract or order shall be awarded to the **LOWEST RESPONSIBLE AND RESPONSIVE BIDDER**, taking into consideration the **CONFORMITY WITH THE SPECIFICATIONS**, and the **DELIVERY AND/OR COMPLETION DATE**.

SECTION 8. EXECUTION OF CONTRACT

The successful Bidder shall execute the Contract with the Owner in the form of the Contract included in the Specifications, a copy of which is annexed hereto, in such number of counterparts as the Owner may request within twelve (12) days after receipt of notice of award of the Contract by the Owner. One copy of the executed contract with all documents forming a part thereof shall be filed at the expense of the Contractor, with the Recorder of Mortgages in St. John the Baptist Parish.

SECTION 9. MISCELLANEOUS

Bidders are not to exclude from participation in, deny the benefits of, or subject to discrimination under any program or activity, any person in the United States on the grounds of race, color, national origin, sex or religion under Title VII of the Civil Rights Act of 1964, as amended; nor discriminate on the basis of age under the Age Discrimination Act of 1975, as amended; nor with respect to an otherwise qualified handicapped individual as provided in Title V of the Rehabilitation Act of 1973, as amended. This assurance includes compliance with the administrative requirements of the Revenue Sharing final handicapped discrimination provisions contained in Section 51.55 (c), (d), (e), and (k) (5) of the Regulations.

SECTION 10. PREBID CONFERENCE

- (1) A Pre-Bid Conference may be held before the date for receipt for bids. The purpose of the Pre-Bid Conference is to familiarize bidders with the requirements of the project and the intent of the bid documents, and to receive comments and information from interested bidders. If the Pre-Bid conference is stated in the Advertisement for Bids to be a Mandatory Pre-Bid Conference, bids shall be accepted only from those bidders who attend the Pre-Bid Conference. Contractors who are not in attendance for the **entire** Pre-Bid Conference will be considered to have not attended and shall be prohibited from submitting a bid for the project.
- (2) Any revision of the bid documents made at the Pre-Bid Conference shall not be valid unless included in an addendum.

SECTION 11. COMPLETION AND DAMAGES

The undersigned agrees to commence actual physical Work on the site with an adequate force and equipment within 10 days from date of Notice to Proceed. All work shall be substantially completed in SIXTY (60) consecutive calendar days from Notice to Proceed. The undersigned is aware that the Owner will sustain actual damages in the event of delay in the completion of the Work, that time is of the essence, and therefore, further agrees that he, the Contractor, and his sureties shall be liable for and shall pay to the Owner the sum of TWO HUNDRED (\$200.00) DOLLARS per calendar day applicable to all Work hereby stipulated, as fixed, agreed, and liquidated damages for each calendar day of delay until the Work is completed and accepted by the Owner.

* * *

LOUISIANA UNIFORM PUBLIC WORK BID FORM

TO: ST. JOHN THE BAPTIST PARISH
PARISH PRESIDENTS OFFICE
PERCY HEBERT BUILDING
1801 W. AIRLINE HIGHWAY
LAPLACE, LA 70068

BID FOR: LUCY LEVEE TRAIL
S.P. NO. H.012243
A/E PROJECT NO. 20-1663

The undersigned bidder hereby declares and represents that she/he; a) has carefully examined and understands the Bidding Documents, b) has not received, relied on, or based his bid on any verbal instructions contrary to the Bidding Documents or any addenda, c) has personally inspected and is familiar with the project site, and hereby proposes to provide all labor, materials, tools, appliances and facilities as required to perform, in a workmanlike manner, all work and services for the construction and completion of the referenced project, all in strict accordance with the Bidding Documents prepared by: MEYER ENGINEERS, LTD. and dated SEPTEMBER 29, 2017.

Bidders must acknowledge all addenda. The Bidder acknowledges receipt of the following ADDENDA: (Enter the number the Designer has assigned to each of the addenda that the Bidder is acknowledging)

TOTAL BASE BID: For all work required by the Bidding Documents (including any and all unit prices designated "Base Bid" * but not alternates) the sum of: Dollars (\$)

ALTERNATES: For any and all work required by the Bidding Documents for Alternates including any and all unit prices designated as alternates in the unit price description.

Additive Alternate No. 1 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of: N/A Dollars (\$ N/A)

Alternate No. 2 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of: N/A Dollars (\$ N/A)

Alternate No. 3 (Owner to provide description of alternate and state whether add or deduct) for the lump sum of: N/A Dollars (\$ N/A)

NAME OF BIDDER:

ADDRESS OF BIDDER:

LOUISIANA CONTRACTOR'S LICENSE NUMBER:

NAME OF AUTHORIZED SIGNATORY OF BIDDER:

TITLE OF AUTHORIZED SIGNATORY OF BIDDER:

SIGNATURE OF AUTHORIZED SIGNATORY OF BIDDER **:

DATE:

THE FOLLOWING ITEMS ARE TO BE INCLUDED WITH THE SUBMISSION OF THIS LOUISIANA UNIFORM PUBLIC WORK BID FORM:

* The Unit Price Form shall be used if the contract includes unit prices. Otherwise it is not required and need not be included with the form. The number of unit prices that may be included is not limited and additional sheets may be included if needed.

** A CORPORATE RESOLUTION OR WRITTEN EVIDENCE of the authority of the person signing the bid for the public Work as prescribed by LA R.S. 38:2212(B)(5).

BID SECURITY in the form of a bid bond, certified check or cashier's check as prescribed by LA RS 38:2218.(A) attached to and made a part of this bid.

LOUISIANA UNIFORM PUBLIC WORK BID FORM
UNIT PRICE FORM

TO: ST. JOHN THE BAPTIST PARISH
PARISH PRESIDENTS OFFICE
PERCY HEBERT BUILDING
1801 W. AIRLINE HIGHWAY
LAPLACE, LA 70068

BID FOR: LUCY LEVEE TRAIL
S.P. NO. H.012243
A/E PROJECT NO. 20-1663

UNIT PRICES: This form shall be used for any and all work required by the Bidding Documents, and described as unit prices. Amounts shall be stated in figures and only in figures.

DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	EXCAVATION AND EMBANKMENT		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
203-05-00100	1	LS		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	BORROW (VEHICULAR MEASURE)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
203-07-00100	2,500	CY		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	TEMPORARY SEDIMENT CHECK DAMS		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
204-05-00100	1	EA		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	TEMPORARY SILT FENCING		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
204-06-00100	8,200	LF		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	CLASS II BASE COURSE (STONE OR RECYCLED PORTLAND CEMENT CONCRETE)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
302-01-00800	100.0	CY		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	SCARIFYING AND COMPACTING ROADBED (6" THICK)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
306-02-00100	8,200	SY		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	ASPHALTIC CONCRETE (LEVEL A)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
502-01-00100	975	TON		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	SIDE DRAIN PIPE (18" RCP)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
701-05-01040	60	LF		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	SIDE DRAIN SAFETY END (TYPE 1)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
702-08-00100	1	EA		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	TEMPORARY SIGNS AND BARRICADES		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
713-01-00100	1	LS		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	EROSION CONTROL SYSTEM (SLOPE PROTECTION) (TYPE A)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
720-01-01000	8,200	SY		
DESCRIPTION:	<input checked="" type="checkbox"/> BASE BID	MOBILIZATION		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
727-01-00100	1	LS		

DESCRIPTION:	✓ BASE BID	SIGN (TYPE A)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
729-01-00100	17.0	SF		
DESCRIPTION:	✓ BASE BID	U-CHANNEL POST		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
729-21-00100	4	EA		
DESCRIPTION:	✓ BASE BID	PLASTIC PAVEMENT STRIPING (BROKEN LINE) (4" WIDTH) (THERMOPLASTIC 90 MIL)		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
732-03-02000	0.76	MILE		
DESCRIPTION:	✓ BASE BID	HYDRO-SEEDING		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
739-01-00100	1.70	ACRE		
DESCRIPTION:	✓ BASE BID	CONSTRUCTION LAYOUT		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
740-01-00100	1	LS		
DESCRIPTION:	✓ BASE BID	AS-BUILT SURVEY		
REF. NO.	QUANTITY:	UNIT OF MEASURE:	UNIT PRICE	UNIT PRICE EXTENSION (Quantity times Unit Price)
740-02-00100	1	LS		

Wording for "DESCRIPTION" to be provided by the Owner.
All quantities are estimated. The contractor will be paid based upon actual quantities as verified by the Owner.

BID BOND

FOR

LUCY LEVEE TRAIL

S.P. NO. H.012243

Date: _____

KNOW ALL MEN BY THESE PRESENTS:

That _____ of _____, as Principal, and _____, as Surety, are held and firmly bound unto the _____ (Obligee), in the full and just sum of five (5%) percent of the total amount of this bid, including all alternates, lawful money of the United States, for payment of which sum, well and truly be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

Surety represents that it is listed on the current U. S. Department of the Treasury Financial Management Service list of approved bonding companies as approved for an amount equal to or greater that the amount for which it obligates itself in this instrument or that it is a Louisiana domiciled insurance company with at least an A - rating in the latest printing of the A. M. Best's Key Rating Guide. If surety qualifies by virtue of its Best's listing, the Bond amount may not exceed ten percent of policyholders' surplus as shown in the latest A. M. Best's Key Rating Guide.

Surety further represents that it is licensed to do business in the State of Louisiana and that this Bond is signed by surety's agent or attorney-in-fact. This Bid Bond is accompanied by appropriate power of attorney.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas said Principal is herewith submitting its proposal to the Obligee on a Contract for:

LUCY LEVEE TRAIL

S.P. NO. H.012243

NOW, THEREFORE, if the said Contract be awarded to the Principal and the Principal shall, within such time as may be specified, enter into the Contract in writing and give a good and sufficient bond to secure the performance of the terms and conditions of the Contract with surety acceptable to the Obligee, then this obligation shall be void; otherwise this obligation shall become due and payable.

PRINCIPAL (BIDDER)

SURETY

BY: _____
AUTHORIZED OFFICER-OWNER-PARTNER

BY: _____
AGENT OR ATTORNEY-IN-FACT(SEAL)

Hold Harmless

To the fullest extent permitted by law, Company/Consultant shall indemnify, hold harmless, and defend the Parish Council and all of its Agents and Employees, from and against all claims, damages, losses and expenses, including but not limited to attorney's 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 Company.

Non-assignability

No Company/Consultant shall assign any interest in this contract by assignment, transfer, or novation, without prior written consent of the Parish. This provision shall not be construed to prohibit the contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the Parish.

Exclusions

Pursuant to Louisiana Revised Statute 38:2227, Company must certify that he has not been convicted of, or has not entered into a plea of guilty or nolo contendere to public bribery, corrupt influencing, extortion, money laundering or their equivalent Federal crimes. Consultant must further certify that he has not been convicted of, or has not entered into a plea of guilty or nolo contendere to theft, identify theft, theft of a business record, false accounting, issuing worthless checks, bank fraud, forgery, contractors' misapplication of payments, malfeasance in office, or their equivalent Federal crimes within the five (5) years prior to submitting the proposal.

Disclosure

Company/Consultant must disclose whether it provides services or pays commissions to any employee or elected official of St. John the Baptist Parish. If so, company must disclose to whom services are provided and/or commissions are paid. Both positive and negative responses must be submitted.

E-Verify Program

Pursuant to Louisiana Revised Statute 38:2212.10, contractor must certify that it and each individual, firm or corporation associated with it and engaged in the physical performance of services in the State of Louisiana, under a contract with St. John the Baptist Parish has registered with, is participating in, and shall continue to participate in a federal work authorization program designated as such under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, which is operated by the United States Department of Homeland Security, known as the "E-Verify" program. Contractor must verify the legal status of all existing and new employees in the State of Louisiana by attesting herein that each is a citizen of the United States or legal aliens as defined by now effective immigration laws of the United States of America.

E-VERIFY AFFIDAVIT

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned Notary Public PERSONALLY CAME AND APPEARED,

I, _____, the owner/authorized representative of

Company/Individual/Legal Entity Name

who hereby personally and as the authorized representative of the above identified legal person executes this affidavit, as the undersigned Contractor verification of its current and future compliance with L.S.A. R.S. 38:2212.10, stating affirmatively that it and each individual, firm or corporation associated with it and engaged in the physical performance of services in the State of Louisiana, under a contract with St. John the Baptist Parish has registered with, is participating in, and shall continue to participate in a federal work authorization program designated as such under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, which is operated by the United States Department of Homeland Security, known as the "E-Verify" program. The Contractor hereby verifies the legal status of all existing and new employees in the State of Louisiana by attesting herein that each is a citizen of the United States or legal aliens as defined by now effective immigration laws of the United States of America.

Contractor shall not assign this Contract or any monies due or to become due hereunder, or subcontract any part of the Work without the prior written consent of St. John the Baptist Parish.

Contractor verifies that Contractor will collect an affidavit in this form from any approved subcontractor and forward a copy to: St. John the Baptist Parish, 1801 West Airline Hwy, LaPlace, Louisiana 70068, no later than five business days of contracting with its subcontractor; however, in no instance shall the affidavit be received after commencement of work by the subcontractor.

Signature of Authorized Signatory

Date E-Verify ID Assigned

Printed Name of Signatory

E-Verify ID

Title of Authorized Signatory

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE DAY OF _____, 20____

Notary Signature

Printed Notary Name: _____

Notary/Bar Roll Number: _____

My Commission is For/Expires: _____

PAST CRIMINAL CONVICTIONS OF BIDDERS ATTESTATION (LA. R.S. 38:2227)

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned Notary Public PERSONALLY CAME AND APPEARED,

I, _____, (Appearer) the owner/authorized representative of

Company / Individual / Legal Entity Name

Appearer, as a Bidder on the herein named Project, does hereby attest that:

A. No sole proprietor or individual partner, incorporator, director, manager, officer, organizer, or member who has a minimum of a ten percent (10%) ownership in the bidding entity named herein, including any silent or dormant owner or manager, has been convicted of, or has entered a plea of guilty or nolo contendere to, any of the following state crimes or equivalent federal crimes:

- (a) Public bribery (R.S. 14:118)
- (b) Corrupt influencing (R.S. 14:120)
- (c) Extortion (R.S. 14:66)
- (d) Money laundering (R.S. 14:230)

B. For five years prior to the project bid date, no sole proprietor or individual partner, incorporator, director, manager, officer, organizer, or member who has a minimum of a ten percent (10%) ownership in the bidding entity named herein, including any silent or dormant owner or manager, has been convicted of, or has entered a plea of guilty or nolo contendere to any of the following state crimes or equivalent federal crimes, during the solicitation or execution of a contract or bid awarded pursuant to the provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes:

- (a) Theft (R.S. 14:67)
- (b) Identity Theft (R.S. 14:67.16)
- (c) Theft of a business record (R.S. 14:67.20)
- (d) False accounting (R.S. 14:70)
- (e) Contractor's misapplication of payments (R.S. 14:202)
- (f) Bank fraud (R.S. 14:71.1)
- (g) Forgery (R.S. 14:72)
- (h) Issuing worthless checks (R.S.14:71)
- (i) Malfeasance in office (R.S. 14:134)

Name of Bidder

Signature of Authorized Signatory of Bidder

Project Name/Number

Title of Authorized Signatory

SUBSCRIBED AND SWORN BEFORE ME ON THIS _____ DAY OF _____, 20_____.

Notary Signature

Printed Notary Name: _____

Notary/Bar Roll Number: _____

My Commission is For/Expires: _____

**SAINT JOHN THE BAPTIST PARISH
NON-SOLICITATION AND UNEMPLOYMENT AFFIDAVIT**
(Pursuant to La. R.S. 38:2224 and La. R.S. 23:1726(B))

STATE OF _____

PARISH/COUNTY OF _____

Before me, the undersigned authority, came and appeared,

I, _____, the owner/authorized representative of

Company/Individual/Legal Entity Name

who, being first duly sworn, deposed and state that I personally and as an authorized representative of the above identified legal person executes this continuing affidavit stating that neither the above named Contractor nor a person acting on its behalf, either directly or indirectly, employed, paid, nor promised any gift, consideration or commission to any person or legal entity to procure or assist in procuring this public contract, other than persons regularly employed by Contractor whose services were in the regular course of their duties for Contractor in connection with the construction, alteration or demolition of a public building or project.

The above named Contractor, if awarded, continually affirms that no part of the contract price received by Contractor was paid or will be paid to any person, corporation, firm, association, or other organization for soliciting the contract, other than the payment of their normal compensation to persons regularly employed by the affiant whose services were in the regular course of their duties for Contractor.

The above named Contractor hereby attests and certifies that it does not have any unpaid assessment or penalty levied against it regarding unemployment compensation and currently does and will continue to properly classify each employee.

Contractor verifies that Contractor will collect an affidavit in this form from any approved subcontractor and forward a copy to: Saint John the Baptist Parish, 1801 West Airline Hwy, LaPlace, Louisiana 70068, no later than five business days after contracting with its subcontractor; however, in no instance shall the affidavit be received after commencement of work by the subcontractor.

_____ Signature of Authorized Signatory	SUBSCRIBED AND SWORN BEFORE ME ON THIS _____ DAY OF _____ 2012.
_____ Printed Name of Signatory	_____ Notary Signature
_____ Title of Authorized Signatory	Printed Notary Name: _____
_____ Project Name/Number	Notary/Bar Roll Number: _____
	My Commission is for/expires on: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification.

STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and



AMERICAN CONSULTING
ENGINEERS COUNCIL



Issued and Published Jointly By
*National Society of
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Professional Engineers in Private Practice
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS



AMERICAN SOCIETY OF
CIVIL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General



Contractors of America

Construction Specifications Institute



This Standard Form of Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. The suggested language for instructions of bidders contained in the Guide to the Preparation of Instructions to Bidders (No. 1910-12, 1996 Edition) is also carefully interrelated with the language of this Agreement. Comments concerning their usage are contained in the EJCDC User's Guide (No. 1910-50). See also Guide to the Preparation of Supplementary Conditions (No. 1910-17, 1996 Edition).

MS970416

00502 - 1

EJCDC No. 1910-8-A-1 (1996 Edition)

Note to User

Certain states and federal agencies require provisions in public contracts which permit Contractors to deposit acceptable securities with Owner or a stakeholder in lieu of retainage. Many Owners will not accept this procedure except where required by Laws or Regulations. In the event such a procedure is required, the provisions of this Agreement and possibly those of the other Contract Documents dealing with retainage should be amended, and an attorney should be consulted to prepare the revised language. Among the issues to be addressed by such language are: initial and subsequent valuations of the securities, right to withdraw excess collateral and obligation to deposit additional collateral as market value changes, who is entitled to interest and dividends on deposited collateral, responsibilities of stakeholder, may collateral be freely sold in the event of Contractor default and method of such sale, and application of Uniform Commercial Code and state and federal security laws to the arrangement.

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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2715

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

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

EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is by and between _____
(hereinafter called OWNER) and _____
(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by Meyer Engineers, Ltd.

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Dates for Substantial Completion and Final Payment

_____ days from Notice to Proceed

A. The Work will be substantially completed on or before _____, _____, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions ~~on or before~~
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

[or]

4.02 Days to Achieve Substantial Completion and Final Payment

A. ~~The Work will be substantially completed on or before _____, _____, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within _____ days after the date when the Contract Times~~
~~completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within _____ days after the date when the Contract Times~~
~~completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within _____ days after the date when the Contract Times~~

4.03 Liquidated Damages

A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$ _____ for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$ _____ for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

NOTE TO USER

1. Where failure to reach a Milestone on time is of such consequence that the assessment of liquidated damages for failure to reach one or more Milestones on time is to be provided, appropriate amending or supplementing language should be inserted here.

ARTICLE 5 - CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work other than Unit Price Work, a Lump Sum of:

_____ (\$ _____)
(use words) (figure)

All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 5.01.B:

UNIT PRICE WORK

<u>No.</u>	<u>Item</u>	<u>Unit</u>	<u>Estimated Quantity</u>	<u>Unit Price</u>	<u>Total Estimated</u>
------------	-------------	-------------	-------------------------------	-------------------	----------------------------

See Attached Bid

TOTAL OF ALL UNIT PRICES _____ \$ _____ (dollars)
(use words)

As provided in paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

C. For all Work, at the prices stated in CONTRACTOR's Bid, attached hereto as an exhibit.

NOTES TO USER

1. *If adjustment prices for variations from stipulated Base Bid quantities have been agreed to, insert appropriate provisions. See BF-4.*
2. *Depending upon the particular project bid form used, use A-5.01.A alone, A-5.01.A and A-5.01.B together, A-5.01.B alone, or A-5.01.C alone, deleting those not used and renumbering accordingly. If A-5.01.C is used, CONTRACTOR's Bid is attached as an exhibit and listed in A-9.*

ARTICLE 6 - PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the 10th day of each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:

a. _____ % of Work completed (with the balance being retainage). ~~Notwithstanding to the extent that the Work has been satisfactory to OWNER and ENGINEER, OWNER, on the basis of the schedule of values established in paragraph 2.07.A of the General Conditions, shall determine that as long as the Work has been satisfactory to OWNER, the balance of the Work shall be paid in full at the time of Substantial Completion, less the aggregate of payments previously made and less such amounts as OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions.~~

b. _____ % of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to _____ % of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less _____ % of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of _____ % per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

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

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

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.

NOTE TO USER

1. If the reports and/or drawings referred to in A-8.01.D do not exist, either modify A-8.01.D or delete A-8.01.D and renumber accordingly.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

NOTE TO USER

1. If the reports and/or drawings referred to in A-8.01.D do not exist, delete the phrase "additional or supplementary" in the first sentence of A-8.01.E.

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

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

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
1. This Agreement (pages 1 to _____, inclusive);
 2. Performance Bond (pages _____ to _____, inclusive);
 3. Payment Bond (pages _____ to _____, inclusive);
 4. Other Bonds (pages _____ to _____, inclusive);
 - a. _____ (pages _____ to _____, inclusive);
 - b. _____ (pages _____ to _____, inclusive);
 - c. _____ (pages _____ to _____, inclusive);
 5. General Conditions (pages _____ to _____, inclusive);
 6. Supplementary Conditions (pages _____ to _____, inclusive);
 7. Specifications as listed in the table of contents of the Project Manual;
 8. Drawings consisting of a cover sheet and sheets numbered _____ through _____, inclusive, with each sheet bearing the following general title: _____;
 9. Addenda (numbers _____ to _____, inclusive);
 10. Exhibits to this Agreement (enumerated as follows):
 - a. ~~Notice to Proceed (pages _____ to _____, inclusive);~~
 - b. CONTRACTOR's Bid (pages _____ to _____, inclusive);
 - c. Documentation submitted by CONTRACTOR prior to Notice of Award (pages _____ to _____, inclusive);
 - d. _____;
 11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s).
- B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.05 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

NOTE TO USER

1. Insert other provisions here if applicable.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

NOTE TO USER

1. See 1-21 and correlate procedures for format and signing between the two documents.

This Agreement will be effective on _____, _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

By: _____

By: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

(If OWNER is a corporation, attach evidence of authority to sign. If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.)

License No. _____

(Where applicable)

Agent for service of process: _____

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:

Designated Representative:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

* * *

Construction Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

EJCDC No. 1910-28A (1984 Edition)

Prepared through the joint efforts of The Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1. The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and
 - 3.2. The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1. Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2. Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
 - 4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
 - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1. The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2. Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3. Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1. Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 12.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 12.3. Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
 - 12.4. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY—Name, Address and Telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

Construction Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

EJCDC No. 1910-28B (1984 Edition)

Prepared through the joint efforts of the Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, American Institute of Architects, American Subcontractors Association, and the Associated Specialty Contractors.

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2. Claimants who do not have a direct contract with the Contractor:
 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1. Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2. Pay or arrange for payment of any undisputed amounts.
7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract

and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. DEFINITIONS
 - 15.1. Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY—Name, Address and Telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

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

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and



AMERICAN CONSULTING
ENGINEERS COUNCIL

Issued and Published Jointly By
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Professional Engineers**
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AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General



Contractors of America

Construction Specifications Institute



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

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

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

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

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

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

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

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

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

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

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

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the

Contract Times, issued on or after the Effective Date of the Agreement.

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

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

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

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

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

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

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

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

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

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

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

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

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

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

24.A. SEE SUPPLEMENTARY CONDITIONS

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

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

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

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

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

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

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

32. *PCBs*--Polychlorinated biphenyls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.02 Terminology

A. Intent of Certain Terms or Adjectives

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The

use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. Day

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

C. Defective

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. Furnish, Install, Perform, Provide

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

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

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

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

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

ARTICLE 2 - PRELIMINARY MATTERS

2.01 Delivery of Bonds

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

2.01.A.1. SEE SUPPLEMENTARY CONDITIONS

2.02 Copies of Documents

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

2.03 Commencement of Contract Times; Notice to Proceed

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 Starting the Work

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

2.05 Before Starting Construction

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

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

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

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

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

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

C. Evidence of Insurance: Before any Work at the Site is started, CONTRACTOR and OWNER shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with Article 5.

2.06 Preconstruction Conference

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 Initial Acceptance of Schedules

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

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

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

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

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 Intent

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

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

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

3.01.D. SEE SUPPLEMENTARY CONDITIONS

3.02 Reference Standards

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

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids),

except as may be otherwise specifically stated in the Contract Documents.

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

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

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

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

SEE SUPPLEMENTARY CONDITIONS

3.04 Amending and Supplementing Contract Documents

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

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

3.05 Reuse of Documents

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

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

4.01 Availability of Lands

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

B. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

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

4.02 *Subsurface and Physical Conditions*

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

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

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

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

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

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

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

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

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

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

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

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the necessity of OWNER's obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. *Possible Price and Times Adjustments*

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

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

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

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

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

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

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

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

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

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

a. reviewing and checking all such information and data,

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

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

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

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility.

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

4.05 *Reference Points*

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property

monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 Hazardous Environmental Condition at Site

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

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

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

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

Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

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

G. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing

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

H. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

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

ARTICLE 5 - BONDS AND INSURANCE

5.01 Performance, Payment, and Other Bonds

SEE SUPPLEMENTARY CONDITIONS

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements

of paragraph 5.01.B; CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 Licensed Sureties and Insurers

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

5.03 Certificates of Insurance

A. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain. OWNER shall deliver to CONTRACTOR, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by CONTRACTOR or any other additional insured) which OWNER is required to purchase and maintain.

5.03.B. SEE SUPPLEMENTARY CONDITIONS

5.04 CONTRACTOR's Liability Insurance

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

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

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

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

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

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

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

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

3. include completed operations insurance;

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

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be

correcting, removing, or replacing defective Work in accordance with paragraph 13.07; and

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

5.04.C./5.04.D. SEE SUPPLEMENTARY CONDITIONS
5.05 OWNER's Liability Insurance

5.05.A SEE SUPPLEMENTARY CONDITIONS

~~A. In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.04, OWNER, at OWNER's option, may purchase and maintain at OWNER's expense OWNER's own liability insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.~~

5.06 Property Insurance

5.06.A. SEE SUPPLEMENTARY CONDITIONS

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

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

~~2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;~~

~~3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);~~

~~4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;~~

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

~~6. include testing and startup; and~~

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

~~SEE SUPPLEMENTARY CONDITIONS~~

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

~~C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.07.~~

~~SEE SUPPLEMENTARY CONDITIONS~~

~~D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.06 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.~~

~~SEE SUPPLEMENTARY CONDITIONS~~

~~E. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraph 5.06, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work~~

~~at the Site. OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.~~

5.06.F. SEE SUPPLEMENTARY CONDITIONS
5.07 Waiver of Rights

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

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

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

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

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

C. Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against CONTRACTOR, -- Subcontractors, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by paragraph 5.06 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.08.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

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

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required

of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.09.B. SEE SUPPLEMENTARY CONDITIONS 5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

5.11. SEE SUPPLEMENTARY CONDITIONS ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

6.01.A.1./6.01.A.2. SEE SUPP. CONDITIONS

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.01.B.1. SEE SUPPLEMENTARY CONDITIONS

6.02 *Labor, Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

6.02.B. See Supplementary Conditions

~~B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.~~

6.02.B.1. See Supplementary Conditions

6.03 *Services, Materials, and Equipment*

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

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.03.B.1./6.03.B.2. SEE SUPP. CONDITIONS

6.04 *Progress Schedule*

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

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with

any provisions of the General Requirements applicable thereto.

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

6.05 *Substitutes and "Or-Equals"*

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

1. "Or-Equal" Items: If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

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

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

2. *Substitute Items*

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

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

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

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

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly

required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.05.A.2.

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

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

E. ENGINEER's Cost Reimbursement: ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

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

6.06 Concerning Subcontractors, Suppliers, and Others

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

6.06.A.1. SEE SUPPLEMENTARY CONDITIONS

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

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

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

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

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

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

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor

or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.06, the agreement between the CONTRACTOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

6.07 Patent Fees and Royalties

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

6.08 Permits

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits

and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto, such as plant investment fees.

6.08.B. SEE SUPPLEMENTARY CONDITIONS

6.09 *Laws and Regulations*

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

6.09.A.1. SEE SUPPLEMENTARY CONDITIONS

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

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

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

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

unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER'S Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

6.11.A.4. SEE SUPPLEMENTARY CONDITIONS

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

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

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

6.12 *Record Documents*

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work

Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 Safety and Protection

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

1. all persons on the Site or who may be affected by the Work;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and

responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 Safety Representative

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

6.15 Hazard Communication Programs

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

6.16 Emergencies

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 Shop Drawings and Samples

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample

submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. *Submittal Procedures*

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

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

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

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

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

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

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

Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. *ENGINEER's Review*

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

4. SEE SUPPLEMENTARY CONDITIONS

F. *Resubmittal Procedures*

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 *Continuing the Work*

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except

as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

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

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

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

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

6.20 *Indemnification*

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

and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom; and

2. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

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

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

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

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

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

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

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

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

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

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

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

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

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of ENGINEER*

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

8.03 *Furnish Data*

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

8.04 *Pay Promptly When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

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

8.06 Insurance

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

8.07 Change Orders

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

8.08 Inspections, Tests, and Approvals

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

8.09 Limitations on OWNER's Responsibilities

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

8.10 Undisclosed Hazardous Environmental Condition

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

8.11 Evidence of Financial Arrangements

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

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 OWNER'S Representative

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

9.02 Visits to Site

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 Project Representative

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another

representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

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

9.05 *Authorized Variations in Work*

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 *Rejecting Defective Work*

A. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 *Shop Drawings, Change Orders and Payments*

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

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

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

9.08 *Determinations for Unit Price Work*

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

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

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

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 *Limitations on ENGINEER's Authority and Responsibilities*

A. Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority

or responsibility of the undertaking, exercise, or performance of any authority or responsibility by ENGINEER shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

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

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

D. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

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

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

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

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

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

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

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

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

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

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

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

10.05 *Claims and Disputes*

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

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

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

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

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

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

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

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

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

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

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

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

5. Supplemental costs including the following:

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

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

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

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

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable,

and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee.

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

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

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

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

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

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

considered administrative costs covered by the CONTRACTOR's fee.

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

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

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

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

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

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

11.02 Cash Allowances

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

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

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

ances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

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

11.03 Unit Price Work

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

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

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

SEE SUPPLEMENTARY CONDITIONS

~~1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and~~

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

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

ARTICLE 12 - CHANGE OF CONTRACT PRICE;
CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

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

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

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

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

1. a mutually acceptable fixed fee; or

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

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

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

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

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

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

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

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

12.02 *Change of Contract Times*

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

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

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by

Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.03.A.1. SEE SUPPLEMENTARY CONDITIONS

12.04 Delays Within CONTRACTOR's Control

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

SEE SUPPLEMENTARY CONDITIONS

12.05 Delays Beyond OWNER's and CONTRACTOR's Control

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 Delay Damages

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or

2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

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

12.06.E. SEE SUPPLEMENTARY CONDITIONS

12.06.D. SEE SUPPLEMENTARY CONDITIONS
**ARTICLE 13 - TESTS AND INSPECTIONS;
CORRECTION, REMOVAL OR ACCEPTANCE OF
DEFECTIVE WORK**

13.01 Notice of Defects

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

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

13.02 Access to Work

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

13.03 Tests and Inspections

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

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

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and

3. as otherwise specifically provided in the Contract Documents.

13.03.B.4. SEE SUPPLEMENTARY CONDITIONS

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

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

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 Uncovering Work

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

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 OWNER May Stop the Work

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop

the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 Correction or Removal of Defective Work

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 Correction Period

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that

item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

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

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In

connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto; take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 Progress Payments

A. Applications for Payments

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

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

14.02.A.3. SEE SUPPLEMENTARY CONDITIONS

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

B. Review of Applications

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

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

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

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

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

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

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests,

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

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

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

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

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

C. *Payment Becomes Due*

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

D. *Reduction in Payment*

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

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

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

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

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

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

OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

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

14.03 *CONTRACTOR's Warranty of Title*

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

14.04 *Substantial Completion*

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibility.

ties pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

14.04.A.1./14.04.A.2. SEE SUPP. CONDITIONS

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

14.05 Partial Utilization

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

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

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

14.06 Final Inspection

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

14.07 Final Payment

A. Application for Payment

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

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in paragraph 14.07.A.2 and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

B. Review of Application and Acceptance

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

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

14.08 Final Completion Delayed

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 Waiver of Claims

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

1. a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

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

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER May Suspend Work

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 OWNER May Terminate for Cause

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

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);

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

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

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

15.02.A.5. SEE SUPPLEMENTARY CONDITIONS

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate

the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

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

15.03 OWNER May Terminate For Convenience

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

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

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

3. for all claims, costs, losses, and damages (including but not limited to all fees and charges of

engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

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

15.04 CONTRACTOR May Stop Work or Terminate

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

ARTICLE 16 - DISPUTE RESOLUTION

16.01 Methods and Procedures

SEE SUPPLEMENTARY CONDITIONS

~~A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.~~

17.01 *Giving Notice*

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

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

* * *

SECTION 00802: SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edition) have the meanings assigned to them in the General Conditions. Articles, Paragraphs, Subparagraphs or Clauses modified or deleted have the same numerical designation as those occurring in the General Conditions.

ARTICLE 1 - DEFINITIONS

1.01.A.19. Add the following language at the end of paragraph 1.01.A.19:

"The term "Engineer," when used in the Contract Documents, shall mean the prime Designer (Engineer). The terms Engineer, Architect, Architect/Engineer and A/E are interchangeable in these specifications."

1.01.24.A. Add a new paragraph immediately after paragraph 1.01.24:

"1.01.24.A. Inspect, Inspection, Inspector - To inspect the work of contractors means to observe the work of those contractors and/or subcontractors on all tiers responsible for implementing CONSULTANT's plans, specifications, reports and other instruments of professional service. An inspector has no authority or responsibility to direct any construction workers, and may not stop the work. An inspector is not responsible for, and does not have the education, training, or experience needed to affect the means, methods, sequences, or operations of construction, or safety procedures attendant thereto."

ARTICLE 2 - PRELIMINARY MATTERS

2.01.A.1 Delivery of Bonds: Add a new paragraph immediately after paragraph 2.01.A.1 of the General Conditions which is to read as follows:

"2.01.A.1. The Contractor shall record the Contract, Performance Bond, and Labor and Material Payment Bond with the Clerk of Court of the Recorder of Mortgages in the Parish in which the Work is to be performed and shall provide the Parish with a copy of the recordation filing before the work commences."

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT AND REUSE

3.01.D. Add a new paragraph immediately after paragraph 3.01.C. of the General Conditions which is to read as follows:

"3.01.D. The Contractor shall also notify the Engineer of any other condition found by him which would make it desirable in his judgment to modify the requirements of the Work in order to produce the best results. However, the Engineer shall have the final authority to determine whether any change or modification should be made, and no change or modification of any kind shall be made except on the Engineer's instructions."

3.03.B.1.c. Add a new paragraph immediately after paragraph 3.03.B.1.b of the General Conditions which is to read as follows:

"3.03.B.1.c If there should be any discrepancy between scale and dimension, figured dimensions shall override scale dimensions. In the case of remodeling or reconstruction work, or in fitting Work to existing conditions, the Contractor shall work to measurements of existing construction."

ARTICLE 5 - BONDS AND INSURANCE

5.01.A Performance, Payment and Other Bonds: Delete Paragraph 5.01.A. and 5.01.B. of the General Conditions in its entirety and insert the following in its place:

"5.01.A. The Contractor shall furnish and pay for a Performance Bond and for a Labor and Materials Payment Bond of a company having an B+ or better rating in the current A.M. Best Company Report, qualified to do business in the state where the Project is located, and which is acceptable to and in form approved by the Owner, each bond in a amount equal to 100% of the Contract Sum, as security for the true and faithful performance of the Contract and payment in full of all Subcontractors and persons performing labor, services, materials, machinery and fixtures in connection with the Work. The surety shall be bound in solido with the Contractor. The executed bonds, together with the bonding agent's power of attorney, shall be furnished to the Owner along with the executed Contract, and the number of copies reasonably required by him. The bonds shall provide that the surety waives the requirements of notice of any change in the Work which does not exceed 20% of the Contract Amount and of any extension of time granted to the Contractor. The Contractor shall deliver the required bonds to the Owner no later than the date of execution of the Contract or if the Work is commenced prior thereto in response to a Notice to Proceed, the Contractor shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be issued. This Contract and bonds of the Contractor may be assigned by the Owner to any bank or lending institution making construction loans in connection with the Project without any other formality. Contractor and the bonding company hereby consent to such assignments and subordinate their lien to the lien of the bank or lending institution, it being understood that the lien of the bank of lending institution is to be paramount, regardless of date of execution of this Contract or commencement of the Work at the site."

5.01.C. Change all references from paragraph 5.01.B to 5.01.A.

5.03.B. Add a new paragraph immediately after paragraph 5.03.A. of the General Conditions which is to read as follows:

"5.03.B. The Engineer shall be named as an additional insured on all policies except as applied to Worker's Compensation Coverage. A sample Certificate of Insurance is attached. After two incorrect submittals, Contractor will be charged for Engineer's time and expense for additional review and correction."

5.04.C. Add the following immediately after the final paragraph of sub-paragraph 5.04.B.7. of the General Conditions which is to read as follows:

"5.04.C. Insurance coverage specified in the General Conditions NSPE/ASCE Document 1910 - 8 (1996 Edition) to be provided by the Contractor, and any other insurance described below shall be furnished with the following minimum limits:

5.04.C.1. Workmen's Compensation (Clause 53.1.):

A. Statutory Workman's Compensation covering all state and local requirements and Employer's Liability Insurance covering all persons employed by Contractor in connection with this agreement.

The limits for "A" above shall be not less than:

- | | | | | |
|----|--|-----------|--------|----|
| .1 | Employers | liability | limits | of |
| | \$1,000,000/\$1,000,000/\$1,000,000 | | | |
| .2 | Some contracts may require USL&H or maritime coverage. This should be checked out with Insurance Dept./Legal Dept. | | | |
| .3 | WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council should be indicated on certificate | | | |
| .4 | No excluded classes of personnel or employees shall be allowed on Council's premises | | | |

5.04.C.2. Contractor's Liability Insurance (Clause 5.3.3., 5.3.4., 5.3.5., 5.3.6.) including Contractual Liability: Form of insurance shall be Comprehensive General Liability:

A. Commercial General Liability, including:

- .1 Contractual liability assumed by this agreement
- .2 Owners and Contractor's Protective Liability (if Contractor is a General Contractor)
- .3 Personal and advertising liability

- .4 Completed operations
- .5 Medical payments

The limits for "A" above shall not be less than:

- .1 \$1,000,000 each occurrence limit
- .2 \$2,000,000 general aggregate limit other than products – completed operations
- .3 \$1,000,000 personal and advertising injury limit
- .4 \$1,000,000 products/completed operations aggregate limit
- .5 \$50,000 fire damage limit
- .6 \$5,000 medical expense limit (desirable but not mandatory)
- .7 \$1,000,000 CSL each occurrence WITH NO annual aggregate will be acceptable in lieu of 1 + 2 above. Must include BFCGL endorsement
- .8 **St. John the Baptist Parish Council will be NAMED as additional insured and WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council should be indicated on certificate**
- .9 Some contracts may require Protection and Indemnity coverage. This should be checked out with Insurance Dept./Legal Dept.

- B. Comprehensive Automobile Liability covering all owned, hired and other non-owned vehicles of the Contractor.

The limits for "B" above shall not be less than:

- .1 \$1,000,000 CSL
- .2 **St. John the Baptist Parish Council will be NAMED as additional insured and WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council should be included on certificate**

5.04.D.

The Contractor shall, before commencing any work to be conducted under this Contract, procure Workmen's Compensation and Employer's Liability Insurance with an insurance company authorized to write such policies of insurance in the State of Louisiana. It shall be the further responsibility of the Contractor to require that all Subcontractors have in full force and effect a policy of Workmen's Compensation and Employer's Liability Insurance before proceeding with any of the work required under this Contract. The Contractor shall procure and maintain, during the life of this Contract, such public liability and property damage insurance, including the operation of motor vehicles, with limits as herein above provided, which will cover the Contractor's, the Owner's and the Engineer's legal liability arising out of the work performed by the Contractor and any Subcontractor, and by anyone directly or indirectly employed by either of them for claims for damages for

personal injury, including accidental death, as well as claims for property damages, which may arise from operations under this Contract."

5.05.A. Owner's Liability Insurance: Delete paragraph 5.05.A. of the General Conditions in its entirety and insert the following in its place:

"5.05.A. Owner's Liability Insurance shall be furnished by the contractor with the following minimum limits:

1.	Bodily Injury:	
	Each Occurrence	\$1,000,000
	Aggregate	\$1,000,000
2.	Property Damage:	
	Each Occurrence	\$1,000,000
	Aggregate	\$1,000,000

The policy shall not cover liability arising from errors in Drawings and Specifications prepared by the Engineer."

5.06.A. Property Insurance: Delete Paragraphs 5.06.A., 5.06.A.1., 5.06.A.2., 5.06.A.3., 5.06.A.4., 5.06.A.5., 5.06.A.6, and 5.06.A.7. of the General Conditions in its entirety and insert the following in their place:

"5.06.A. The Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. Such insurance shall be in a company or companies against which the Owner has no reasonable objection. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. If not covered under all risk insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit when such portions of the Work are to be included in an Application for Payment.

5.06.A.1. The form of policy for this coverage shall be Completed Value.

5.06.A.2. If by the terms of this insurance any mandatory deductibles are required, or if the Contractor should elect, with the concurrence of the Owner, to increase the mandatory deductible amounts or purchase this insurance with voluntary deductible amounts, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim. The deductible for this section shall not exceed \$1,000.

5.06.A.3. The coverage shall include the Engineer's fee for Work required in reconstruction following a loss. The policy shall either name the Owner as a co-insured or contain an endorsement providing that the insurer shall have no right to be subrogated to claims against the Owner.

5.06.A.4. Property Damage Liability Insurance shall include coverage for the following hazards: X (Explosion), C (Collapse), U (Underground).

5.06.A.5. Installation Floater - to insure all material and equipment specified under this Contract against all risks of physical loss or damage.

5.06.A.6. Exceptions: If the Contract does not include construction of structures qualifying for insurance, Builder's Risk Insurance will not be required.

5.06.B. Amend the first line of paragraph 5.06.B of the General Conditions to read as follows: "CONTRACTOR shall purchase and maintain such boiler and machinery insurance..."

5.06.C. Add the following sentence immediately after the last line in paragraph 5.06.C. of the General Conditions which is to read as follows: "A guarantee that 30 days notice will be given to the Owner prior to the expiration, termination, or change in, any such insurance shall be endorsed on each policy and noted on each certificate of insurance."

5.06.E. Delete Paragraph 5.06.E. of the General Conditions in its entirety and insert the following in its place:

"5.06.E If Owner requests in writing that other special insurance be included in the property insurance policies provided under paragraphs 5.06.A. or 5.06.B., Contractor shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the site, Contractor shall in writing advise Owner whether or not such other insurance has been procured by Contractor."

5.06.F. Add a new paragraph immediately after paragraph 5.06.E. of the General Conditions which is to read as follows:

"5.06.F. If the Owner requests in writing that insurance for risks other than those described in Article 5 or other special hazards be included in the property insurance policy, the Contractor shall, if possible, include such insurance, and the cost thereof shall be charged to the Owner by appropriate Change Order."

5.09.B. Add a new paragraph immediately after paragraph 5.09.A. of the General Conditions which is to read as follows:

"5.09.B. The Contractor shall file Certificates of Insurance, or if required by the Owner, a certified copy of all policies with the Owner before exposure to loss can occur. If the Owner is damaged by the failure of the Contractor to maintain such insurance and to so notify the Owner, than the Contractor shall bear all reasonable costs properly attributable thereto."

5.11.

Add a new paragraph immediately after paragraph 5.10.A. of the General Conditions which is to read as follows:

"5.11. The following requirements shall apply to all insurance required under this Article 5:

5.11.A. Insurance shall be with a reliable company (having at least an "A" or better Financial Rating and a "B" or better General Policy Holders Rating according to the latest A.M. Best Report), of the Contractor's choice, acceptable to and approved by the Owner, and authorized to do business in the State where the Project is located.

5.11.B. The Contractor shall call the attention of his insurance agent to the Clause in the General Conditions as modified by the Supplemental Conditions entitled "Use of Site" and the Contractor shall have the policies endorsed to reflect and insure any occupancy by Owner at the time of such occupancy.

5.11.C. All liability policies referred to in this Article shall be maintained in the same company.

5.11.D. The Contractor shall not commence Work under this Contract until he has obtained all the insurance required herein and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence Work on his Subcontract until all insurance required of the Subcontractor has been so obtained by Contractor. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder. Each and every Contractor and Subcontractor shall maintain all insurance required under this Article during the life of the Contract and for no less than one (1) year thereafter.

5.11.E. Should any of the insurance be canceled, the Contractor and all subcontractors shall cease operations on the date of cancellation and shall not resume operations until new insurance is in force.

5.11.F. Indemnification: The Contractor agrees to indemnify, defend and save harmless the Owner and the Engineer, their consultants, agents and employees, from and against all loss or expense (including costs and attorney's fees) by reason of liability imposed by law upon the Owner and the Engineer, their consultants, agents and employees for damage because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in consequence of the performance of this work, whether such injuries to person or damage to property is due or claimed to be due to the negligence of the Contractor, his subcontractors, the Owner and the Engineer, their consultants, agents and employees, except only such injury or damage as shall have been occasioned by the sole negligence of the Owner or Engineer, and their

consultants and further excepting such injury or damage due to any professional negligent act, error and omission of the Owner and Engineer, their consultants, agents and employees."

- 5.12 Certificates: Prior to starting the work, the Contractor shall deliver to the Director of Purchasing & Procurement, 1801 West Airline Highway, LaPlace, LA 70068 certificates evidencing that the insurance required is in effect. Such certificates shall provide that the Insurer shall give the Owner thirty (30) days written notice of any material change in or cancellation of such insurance.
- 5.13 Hold Harmless Clause: To the fullest extent permitted by law, Contractor shall indemnify and hold harmless and defend the Council and all of its Agents and Employees, from and against all claims, damages, losses and expenses, including but not limited to attorney's 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 cause in whole or in part by negligent acts or omissions of Contractor.
- 5.14 **License Requirements: When applicable, a current St. John the Baptist Parish Occupational License is to be maintained during the duration of this contract. Yearly, a copy of such license shall be provided to the Director of Purchasing.**

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

- 6.01.A.1 Add the following immediately after paragraph 6.01.A. of the General Conditions which is to read as follows:
- "6.01.A.1. The Contractor shall be solely responsible for all grades, lines and levels and responsible for the Work being within the permissible limits established by the survey required.
- 6.01.A.2. If the Project is for new construction on the ground, the Contractor shall provide and maintain well-built boards at corners and establish and safeguard bench marks in at least two (2) widely separated places. As Work progresses, he shall establish bench marks at each level and lay out partitions and door openings on the rough floor in exact locations as a guide to all trades."
- 6.01.B.1 Add a new paragraph immediately after paragraph 6.01.B. of the General Conditions which is to read as follows:
- "6.01.B.1. The superintendent shall have successfully handled and completed projects of equivalent size and similar nature and shall devote his full time to supervisory work on the Project."

6.02.B Labor, Working Hours: Delete Paragraph 6.02.B. of the General Conditions in its entirety and insert the following in its place:

"6.02.B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours (between 7:00 a.m. and 6:00 p.m.), and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER. Emergency Work may be done without prior permission."

6.02.B.1. Add a new paragraph immediately after paragraph 6.02.B. of the General Conditions which is to read as follows:

"6.02.B.1. CONTRACTOR shall establish a normal work schedule which does not exceed 40 hours per week. Whenever CONTRACTOR's work requires scheduled overtime, CONTRACTOR shall reimburse OWNER for the extra costs incurred for providing Resident Project Representative services (in accordance with the terms of the ENGINEER's agreement with the OWNER) and shall be assessed on CONTRACTOR's progress payments. Overtime shall be scheduled only after CONTRACTOR obtains written permission from OWNER."

6.03.B.1. Add the following immediately after paragraph 6.03.B. of the General Conditions which is to read as follows:

"6.03.B.1. No later than five (5) days from the Contract Date, the Contractor shall provide a list showing the name of the manufacturer proposed to be used for each of the products identified in the Specifications and, where applicable, the name of the installing Subcontractor.

6.03.B.2. The Engineer will promptly reply in writing to the Contractor stating whether the Owner or the Engineer, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer or installer is not available, the Engineer may state that action will be deferred until the Contractor provides further data. Failure of the Owner or Engineer to reply promptly shall constitute notice of no reasonable objection. Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must conform to such requirements."

6.06.A.1. Add a new paragraph immediately after paragraph 6.06.A. of the General Conditions which is to read as follows:

"6.06.A.1. The Engineer's and Owner's approval or disapproval of any Subcontractor will not relieve the Contractor of his responsibility for the acceptable performance of the Work nor will the approval of a particular Subcontractor be construed as approval of any particular process or material."

6.08.B. Permits. Add a new paragraph immediately after paragraph 6.08.A. of the General Conditions which is to read as follows:

"6.08.B. The Contractor shall be responsible for all fees and cost incurred in connection with paying for the Final Fire Marshal Inspection Certificate, if a Fire Marshal Certificate is required."

6.09.A.1. Laws and Regulations: Add a new paragraph immediately after paragraph 6.09.A. of the General Conditions which is to read as follows:

"6.09.A.1. On any bid amounting to \$50,000 or more, the Contractor shall certify that he is licensed under R.S. 37:2151-2163 of the State of Louisiana."

6.11.A.4. Use of Site and other areas: Add a new paragraph immediately after paragraph 6.11.A.3 of the General Conditions which is to read as follows:

"6.11.A.4 Subject to the Contractor's concurrence, the Owner shall have the privilege to use any and all portions of the Project that have reached such a stage of completion as to permit occupancy, provided that such occupancy does not hamper the Contractor or prevent his efficient completion of the Contract. Terms of the partial occupancy shall not constitute an acceptance of the Contractor's Work in whole or in part. Upon substantial completion of the Work, and the execution by the Owner and the Contractor of the Certificate of Substantial Completion, the Owner will be permitted to occupy the Project and execution of this Certificate by the Owner will constitute a partial acceptance of the Work by the Owner to the extent indicated on it. However, this shall not constitute an acceptance of the completion of the Contract, nor shall such occupancy release the Contractor from his obligations under the Contract. Unless otherwise agreed to in writing by Owner, all warranties, guarantees, etc., shall begin from the date of substantial completion of the entire project."

ARTICLE 11 - CHANGE OF CONTRACT PRICE

11.03.C.1. Delete paragraph 11.03.C.1. of the General Conditions and replace with the following:

"11.03.C.1. If the total cost of a particular item of Unit Price Work amounts to ten (10%) per cent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than fifteen (15%) per cent from the estimated quantity of such item indicated in the Agreement; and"

ARTICLE 12 - CHANGE OF THE CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.03.A.1. Add the following immediately after paragraph 12.03.A. of the General Conditions which is to read as follows:

"12.03.A.1. Normal rainfall for the Southeast Louisiana area, according to Weather Bureau records, Contractors failure to timely order materials, etc., shall not be a cause for an extension of the Contract Time unless such extension is agreed to in writing between Contractor and Owner. The Contractor agrees that the measure of extreme weather during period covered by this contract shall be the number of days in excess of the number indicated in the Form of Proposal on which precipitation exceeded 0.01 inch as recorded at the nearest official rain gauge. Normal rainfall for the area is defined as 'Mean Number of Days,' as established in Table entitled Meteorological Data for the Current Year for Station New Orleans, Louisiana, New Orleans International Airport, dated 1991. The latest table sets forth acceptable rain days as follows:

January	10	July	15
February	9	August	13
March	9	September	10
April	7	October	6
May	8	November	7
June	11	December	10"

12.04.A. Add the following sentence immediately after paragraph 12.04.A. of the General Conditions which is to read as follows:

"The provisions of this Article 12 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and dispute resolution costs) for delay by either party."

12.06.C. Add the following immediately after paragraph 12.06.B. of the General Conditions which is to read as follows:

"12.06.C. Liquidated Damages:

12.06.C.1. The Owner will suffer financial loss if the Project is not Substantially Complete on the date set forth in the Contract Documents. The Contractor (and his Surety) shall be liable for and shall pay to the Owner an amount shown in the Agreement between Owner and Contractor (or attachments thereto) as fixed, agreed, and liquidated damages for each calendar day of delay until the Work is Substantially Complete.

12.06.C.2. Should the contract close-out exceed the Substantial Completion date by more than 45 days, requiring additional burden on part of Owner and Engineer in administering and observing the Work, Liquidated Damages will be reassessed."

12.06.D. Add a new paragraph immediately after paragraph 12.06.C. of the General Conditions which is to read as follows:

"12.06.D. Should the time of completion exceed the stipulated Contract Time by more than 30 days due to no fault of Owner or Engineer or both, requiring additional burden on part of Owner and Engineer in administering the Work, Contractor shall reimburse Owner such expenses as he may incur as result of such additional administration. This shall include both Owner's and Engineer's direct personnel expense including normal overhead and profit and shall also include other direct expenses such as long distance telephone, telegraph charges and travel expenses."

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

13.03.B.04. Tests and Inspections: Add a new paragraph immediately following paragraph 13.03.B.3. of the General Conditions which is to read as follows:

"13.03.B.4. Inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor."

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.02.A.3 Delete paragraph 14.02.A.3 in it entirety and replace with the following:
14.02.A.3 "Retainage shall be as follows:

1. Projects with Contract Price up to \$500,000 - 10% of the Contract Price.
2. Projects with Contract Price exceeding \$500,000 - 5% of the Contract Price.

The normal retainage shall not be due the Contractor until expiration of the lien period and submission to the Engineer of a Clear Lien Certificate.

14.02.A.3.a. The Owner will consider payment for materials stored in a bonded warehouse, properly insured, a maximum of fifty (50) miles distance from the site. Proof of storage and insurance must accompany each Request for Payment.

14.02.A.3.b. The Owner shall have the right to act as agent for the Contractor and disburse funds withheld pursuant to this Article to the party or parties entitled to payment. The Owner will render an accounting of funds so disbursed to the Contractor."

14.08.A.1. Substantial Completion: Add a new paragraph immediately following paragraph 14.04.A. of the General Conditions which is to read as follows:

"14.08.A.1. Upon the recommendation of the Engineer, the Owner will issue a Certificate of Substantial Completion of Contract for the Contractor to record with the Clerk of Court of the Recorder of Mortgages in the Parish in which the Work has been performed.

14.08.A.2. The Contractor shall record the Certificate of Substantial Completion in the Parish in which the work has been performed and shall furnish a Clear Lien Certificate from the Clerk of Court 45 days after recordation of Certificate of Substantial Completion in the case of public works and 30 days after recordation of Certificate of Substantial Completion in the case of private work. The Contractor shall also provide a copy of the recordation of the Certificate of Substantial Completion to the Parish."

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.02.A.5. Add a new paragraph immediately following paragraph 15.02.A.4. of the General Conditions which is to read as follows:

"15.02.A.5. If an agreed sum of liquidated damages has been established, termination by the Owner under this Article will not relieve the Contractor of his obligations under the liquidated damages provisions and the Contractor shall be liable to the Owner for per diem liquidated damages."

ARTICLE 16 - DISPUTE RESOLUTION

16.01.A Delete paragraph 16.01.A. in its entirety and replace with the following:

16.01.A. "Dispute Resolution. Any controversy, claim or dispute arising out of or relating to the interpretation, construction or performance of this Agreement, or breach thereof, shall be referred to voluntary, non-binding mediation to be conducted by a mutually acceptable mediator prior to resorting to litigation or arbitration."

ACORD CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY
A

COMPANY
B

COMPANY
C

COMPANY
D

INSURED

Sample

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONT PROT				GENERAL AGGREGATE \$ PRODUCTS-COMP/OP AGG \$ PERSONAL & ADV INJURY \$ EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				STATUTORY LIMITS EACH ACCIDENT \$ DISEASE - POLICY LIMIT \$ DISEASE - EACH EMPLOYEE \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

All required insurance includes Owner and Meyer Engineers, Ltd. as an additional insured except as applied to Worker's Compensation coverage.

CERTIFICATE HOLDER

Meyer Engineers, Ltd.
P.O. Box 763
Metairie, LA 70004

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE

INSURANCE REQUIREMENTS

St. John the Baptist Parish Council

1801 West Airline Highway LaPlace, LA 70068

Contractor shall obtain, pay for and keep in force, at its own expense, minimum insurance effective in all localities where contractor may perform the work hereunder, with such carriers as shall be acceptable to Council:

A. Statutory Workman's Compensation covering all state and local requirements and Employer's Liability Insurance covering all persons employed by Contractor in connection with this agreement.

The limits for "A" above shall be not less than:

1. Employers liability limits of \$1,000,000/\$1,000,000/\$1,000,000
2. Some contracts may require USL&H or maritime coverage. This should be checked out with Insurance Dept. /Legal Dept.
3. No excluded classes of owners/officers or employees shall be allowed on Council's premises

WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council shall be indicated on certificate

B. Commercial General Liability, including:

1. Contractual liability assumed by this agreement
2. Owners and Contractor's Protective Liability (if Contractor is a General Contractor) may be required
3. Personal and advertising liability
4. Completed operations
5. Medical payments

The limits for "B" above shall not be less than:

1. \$1,000,000 each occurrence limit
2. \$2,000,000 general aggregate limit
3. \$1,000,000 products/completed operations aggregate limit
4. \$1,000,000 personal and advertising injury limit
5. \$50,000 fire damage limit
6. \$5,000 medical expense limit (desirable but not mandatory)

St. John the Baptist Parish Council will be NAMED as additional insured and WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council shall be indicated on certificate. Some contracts may require Protection and Indemnity coverage. This should be checked out with Insurance Dept. /Legal Dept.

C. Comprehensive Automobile Liability covering all owned, hired and other non-owned vehicles of the Contractor.

The limits for "C" above shall not be less than:

1. \$1,000,000 CSL

St. John the Baptist Parish Council will be NAMED as additional insured and WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council shall be included on certificate.

D. Professional Liability Insurance covering the Wrongful Acts of those professional firms and individuals performing services for SJPB.

Certain classifications of service providers will be required to provide evidence of Professional Liability Insurance. Examples of these providers include but are not limited to: Professional Engineers, Architects, Land Surveyors, Attorneys, and IT Consultants.

The limits for "D" above shall not be less than:

1. \$1,000,000 CSL

WAIVER OF SUBROGATION in favor of St. John the Baptist Parish Council shall be included on the Certificate.

OTHER SPECIFIC COVERAGE RELATED TO THE TASK BEING PERFORMED MAY BE REQUIRED, i.e. Builders Risk, Installation Floater.

All required insurance certificates shall be submitted to the Director of Purchasing & Procurement prior to commencement of work. Vendor shall maintain insurance in full force and effect during the entire period of performance of work. All policies must have a thirty (30) day non-cancellation clause giving the Parish thirty (30) days prior written notice in the event a policy is changed or canceled.

CERTIFICATES

A W-9 form is to be furnished prior to work being issued.

When applicable, a current St. John the Baptist Parish Occupational License is to be maintained. Yearly, a copy of such license shall be provided to the Director of Purchasing

WHEN APPLICABLE, A CURRENT LOUISIANA STATE CONTRACTOR'S LICENSE SHOULD BE FURNISHED.

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Fom FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

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

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

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347Instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

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

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

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

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

BUY AMERICA PROVISIONS

BUY AMERICA PROVISIONS (05/15): Pursuant to the "Buy America Provisions" of the Surface Transportation Assistance Act (STAA) of 1982 as promulgated by current FHWA regulation 23 CFR 635.410 and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amendment to (STAA), all steel and iron materials permanently installed on this project shall be manufactured, including application of a coating, in the United States, unless a waiver of these provisions is granted. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. The request for waiver must be presented in writing to the Department by the contractor. Such waiver may be granted if it is determined that:

- (1) The application of Buy America Provisions would be inconsistent with the public interest or;
- (2) Such materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Minimal use of foreign steel and iron materials will be allowed without waiver provided the cost of these materials does not exceed 0.1 percent of the total contract cost or \$2,500, whichever is greater; however, the contractor shall make written request to the Chief Construction Division Engineer for permission to use such foreign materials and shall furnish a listing of the materials, their monetary value, and their origin and place of production.

The burden of proof for the origin and place of production and any request for waiver is the responsibility of the contractor.

Prior to the use of steel and iron materials in the project, the contractor shall furnish Mill Test Reports to the engineer for such steel and iron materials, accompanied by a certification stating that the Mill Test Reports represent the steel and iron materials to be furnished and that such materials were produced and fabricated in the United States.

Pig iron and processed, pelletized, and reduced iron ore are exempt from the Buy America Provisions

DIVISION I
GENERAL SPECIFICATIONS

SPECIAL PROVISIONS

- 1.0 BIDDERS CHECK LIST, PROPOSAL FORM AND AFFIDAVIT
- 1.1 The Proposal Form and Affidavit bound in these Specifications are for bidder's information only. They may be reproduced from these Specifications.
- 1.2 An Affidavit is NOT required to be submitted with the bid. An Affidavit must be provided within 10 calendar days of bid opening by the apparent low bidder. A copy of this Affidavit is included following these Bidding Documents.
- 1.3 Prevailing Wage Rates are not applicable to this project unless specifically set forth herein.
- 2.0 COOPERATION BETWEEN CONTRACTORS
- 2.1 The Contractor shall be cognizant of the fact that other work may be under construction at the same time that this Contract is active. There shall be complete cooperation with any other Contractor in the area, and any unavoidable conflicts shall be immediately brought to the A/E's attention.
- 3.0 LABOR PREFERENCE - OMIT
- 4.0 CORRECTION OF WORK AFTER FINAL PAYMENT
- 4.1 Neither the final payment nor any provision in the Contract Documents shall relieve the Contractor of the responsibility for negligence or faulty materials, equipment, or workmanship, and upon written notice he shall remove any defects due thereto and pay for any damage due to other work resulting therefrom which shall appear within one (1) year after date of completion and acceptance.
- 5.0 STANDARD SPECIFICATIONS
- 5.1 All work performed under this contract shall conform with the Louisiana STANDARD SPECIFICATIONS FOR ROADS AND BRIDGES, 2006 EDITION, AS AMENDED, EXCEPT AS MODIFIED IN THE TECHNICAL SPECIFICATIONS.

6.0 PRE-BID CONFERENCE

6.1 A pre-bid conference, date to be announced, may be called by and at the discretion of the Owner.

7.0 PRE-CONSTRUCTION CONFERENCE

7.1 Prior to the start of construction the Project A/E shall schedule a pre-construction conference. The Contractor shall be represented at the conference by his Project Superintendent and any other concerned personnel. Representatives from the Owner will be invited as well as representatives of utility companies, when necessary.

8.0 UTILITY RELOCATION AND ADJUSTMENTS

8.1 Private utilities located on public right-of-way which are required to be permanently relocated at the jobsite or removed entirely from the jobsite to accommodate the project will be indicated on the plans and will be done so at the expense of the utility owner.

8.2 Private utilities located on public right-of-way which the Contractor requests to be temporarily relocated, disconnected or de-energized for the convenience of construction or for safety reasons shall be done so at the contractor's expense.

8.3 Disposition of Utilities: Follow rules and regulations of the authority having jurisdiction in executing all Work under this article. Adequately protect active utilities shown on the Drawings from damage and remove or relocate only as indicated or specified. Where active utilities are encountered, but are not shown on the Drawings, advise the A/E. Adequately protect, support, or relocate the Work as directed. Remove, plug or cap inactive and abandoned utilities encountered in excavating and grading operations as directed.

9.0 DRAINAGE AND SHEETING, SHORING AND BRACING

9.1 The Contractor shall impede drainage only in the event such impediment is necessary for the implementation of the work. When impeding drainage is necessary, Contractor shall take the necessary steps to protect life and property.

9.2 The Contractor shall be responsible for supplying materials, services, and labor necessary to provide sheeting, shoring and bracing or supports as required to provide a safe working condition for Contractor's personnel and to provide for protection of utilities, buildings, and structures. It shall be the sole responsibility of the Contractor to comply with these requirements.

10.0 BENCH MARK AND ALIGNMENT

10.1 The A/E will furnish a bench mark for use by the Contractor to develop vertical control.

10.2 The Contractor will be responsible for establishing all lines and grades and staking out all work on this project from these controls. The Contractor shall employ sufficient qualified engineering personnel experienced in layout and construction of streets, drainage, sewerage, water, and related structures to correctly establish, keep complete and comprehensive notebook records of all lines and grades necessary during various operations, from initial layouts or final acceptance as the work progresses. The Contractor is accordingly liable for the accuracy of the initial layout along with all subsequent alignment and elevations during his construction operations. He shall, at his own expense, rebuild, restore, repair and make good any members or portions of the work found to be incorrectly positioned, either horizontally or vertically at any time before final acceptance.

10.3 Number notebooks for complete and comprehensive recording of all lines and grades will be provided to the A/E and shall be properly indexed and cross referenced by the Contractor for as-built data. The Contractor will be responsible for providing a marked-up set of prints showing as-built conditions.

10.4 The A/E may, at his option, make either spot or complete checks on all construction alignment and grades to determine the correctness of the survey work; however, these checks by the A/E will not relieve the Contractor of his responsibility for constructing the work in the positions and to the elevations shown on the plans or approved revisions thereto. All measurements for determination of pay quantities will be plan dimension unless amended by field construction.

11.0 EXISTING POWER POLES

11.1 Where excavation is required adjacent to existing power poles or other structures, the Contractor has the responsibility to maintain the integrity of the structure by bracing or other means subject to the approval of the Project A/E.

12.0 TRAFFIC MAINTENANCE, CONSTRUCTION SIGNING, TEMPORARY SIGNS AND BARRICADES

12.1 With reference to Section 713 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended, the Contractor will be required to provide all necessary signs and barricades shown in the plans and in accordance with The Manual on Uniform Traffic Control Devices,

Part VI Traffic Controls for Street and Highway Construction and Maintenance Operations as well as all signs, barricades, blinking lights or other necessary traffic control devices required by Owner or other governing authority or Specifications.

12.2 The Contractor shall be responsible for providing safe and expeditious movement of traffic through construction zones. A construction zone is defined as the immediate area of actual construction and all abutting areas which are used by the Contractor and which interfere with the driving or walking public. The Contractor shall be responsible for installation and maintenance of all devices and requirements in accordance with the construction signing details for the duration of the construction period. Cuts in roadway lanes which must be left open overnight shall be covered with steel plates sufficiently heavy to carry vehicular traffic or backfilled and shelled, and properly lighted and barricaded.

13.0 MEASUREMENT AND PAYMENT

13.1 Measurement and Payment shall be as specified and as shown on the plans and in the proposal. No direct payment will be made for any item of work normally required for the type of construction involved that is not a pay item on the Proposal Form.

13.2 All measurements for payment shall be reviewed by the Project A/E or his representative.

14.0 SUMMARY OF WORK

14.1 Work Covered by Contract Documents:

- A. The Work of this Contract comprises of Project includes constructing an asphalt multi-use path on top of the existing crown of the levee.
- B. The Contractor shall furnish all labor, materials, equipment, tools, services, and incidentals to complete all work required by these Specifications and as shown on the Drawings.
- C. The Contractor shall perform the work complete, in place and ready for continuous service, and shall include repairs, replacements, and restoration required as a result of damages caused during this construction.
- D. Furnish and install all materials, equipment, and labor which is reasonably and properly inferable and necessary for the proper completion of the work, whether specifically indicated in the Contract Documents or not.
- E. Protect all existing work from damage. It is intended that any existing Work in place shall be repaired to original condition if damaged by Work of this Contract.

- F. The Contractor shall verify all field and job conditions prior to preparing his bid. Any conditions not described in these Drawings and Specifications shall be brought to the attention of the A/E prior to bid date. Failure to do so shall render the Contractor responsible for correction of this condition should he be awarded the contract.
- G. The work "Provide" as used in these Specifications and on the Drawings will be termed to mean "furnish and install".
- H. Visit and examine the job site, and with all authorities concerned in order to become familiar with all existing conditions pertinent to the work to be performed thereon. No additional compensation will be allowed for failure to be so informed. Pay all costs and fees for utility connections.
- I. All work shall be performed in a neat and workmanlike manner, and in accordance with all codes, standards, and requirements of the industry.
- J. Check all Specifications and all Drawings and bring to attention any conflicts or variations as shown or noted.
- K. Specifications and accompanying Drawings apply to all material and/or labor for construction of work specified herein and shown on the Drawings.
- L. For any points which are not clear, or from items and/or details which the Contractor feels are in need of clarification, consult the A/E before submission of a proposal.
- M. The Drawings and the Specifications are complementary and what is shown and/or called for one shall be furnished and installed the same as if shown and/or called for in the other.
- N. In case of discrepancies and/or ambiguities in the Drawings and/or in the Specifications, the A/E shall be consulted prior to submission of a proposal. Failure to do so on the part of the successful bidder shall be construed as explicit agreement on his part to abide by the A/E's decision in such matters.
- O. Protect all existing fencing, other work to remain, from damage. If damaged, restore or replace at no additional cost to Owner.
- P. Any excavation made immediately adjacent to existing utilities shall be done with caution. It shall be Contractor's responsibility to verify utility locations. Any damage to utilities shall be repaired at no cost to Owner.

14.2 Contract: Construct work under a contract with unit prices. It is understood by the Contractor that the quantities given in the Schedule of Bid Items are a fair approximation of the amount of work to be done and that the sum of the products of the approximate quantities multiplied by the unit prices bid constitutes the Total Bid Price, which sum shall be used in the comparison of bids and award of the Contract.

14.3 Work Sequence: Contractor is responsible for work sequence.

15.0 APPLICATIONS FOR PAYMENT

15.1 General: Submit Applications for Payment monthly to A/E in accord with the schedule established by General Conditions of the Contract and Agreement Between Owner and Contractor.

15.2 Format and Data Required: Submit itemized applications Monthly.

15.3 Preparation of Application for Each Progress Payment:

A. Application Form:

1. Fill in required information, including that for Change Orders executed prior to the date of submittal of application.
2. Fill in summary of dollar values to agree with the respective totals indicated on the continuation sheets.
3. Execute certification with the signature of a responsible officer of the Contract firm.

B. Continuation Sheets:

1. Fill in total list of all scheduled component items of Work, with item number and the scheduled dollar value for each item.
2. Fill in the dollar value in each column for each scheduled line item when Work has been performed or products stored.
3. List each Change Order executed prior to the date of submission, at the end of the continuation sheets. List by Change Order Number, and description, as for an original component item of work.
4. Prior to each pay request, present project record documents for review by the A/E. Documents shall be annotated as required herein to include those portions of work of which payment is requested. Failure to have properly maintained Project Record Documents will be considered as incomplete work. At contract close-out, deliver record documents to the A/E.

15.4 Substantiating Data for Progress Payments:

A. When the Owner or the A/E requires substantiating data, Contractor shall submit suitable information, with a cover letter identifying:

1. Project.
2. Application number and date.
3. Detailed list of enclosures.
4. For stored products:
 - a. Item number and identification as shown on application.
 - b. Description of specific material.

- B. Submit one (1) copy of data and cover letter for each copy of application.
- C. Submit Record Drawings for review by A/E. A/E will return Record Drawings after review.

15.5 Preparation of Application for Final Payment:

- A. Fill in Application form as specified for progress payments.
- B. Use continuation sheet for presenting the final statement of accounting as specified in Contract Closeout Section.

15.6 Submittal Procedure:

- A. Submit Applications for Payment to the A/E at the times stipulated in the Conditions of the Contract.
- B. Number: Five (5) copies of each Application.
- C. When the A/E finds the Application properly completed and correct, he will transmit a certificate for payment to Owner, with a copy to Contractor.
- D. Contractor must submit a Project Schedule with each Application for Payment. The Project Schedule must be up to date and included in each and every Application for Payment submittal. Each schedule shall indicate the original schedule with the current schedule immediately below it.

16.0 TESTING LABORATORY

16.1 Testing Laboratory:

- A. Should the owner so decide, an independent testing laboratory shall be employed and paid by the Owner for the purposes of conducting tests of materials.
- B. The selection of the testing laboratory by the Owner shall be understood as in no way relieving the Contractor of his responsibility for satisfactory performance of the work in full conformance with the requirements of the contract. Excluding written protest by the Contractor in advance of processing or use of materials, services of the testing laboratory shall be understood as constituting full acceptance and approval of the Contractor.
- C. The Contractor shall cooperate with and make available to the testing laboratory such facilities and material samples as may be necessary for the performance of these services without charge.

16.2 Contractor's Responsibilities:

- A. Cooperate with laboratory personnel, provide access to Work.
- B. Provide to the laboratory the preliminary design mix proposed to be used for concrete, and other materials mixes which require control by the testing laboratory. Material supplier shall provide laboratory with field mix data for each delivery.

- C. Make available, without cost, samples of all materials to be tested in accordance with applicable standard Specifications.
- D. Furnish such nominal labor and sheltered working space as is necessary to obtain samples at the Project.
- E. Advise the laboratory of the identity of materials sources and instruct the suppliers to allow tests or inspections by the laboratory.
- F. Notify the laboratory sufficiently in advance, 24 hours minimum, of operations to allow for completion of initial tests and assignment of inspection personnel.
- G. Notify the laboratory sufficiently in advance of cancellation of required testing operations. The Contractor shall be responsible to the laboratory for charges due to failure to notify if requirements for testing are cancelled.
- H. Make arrangements with laboratory and pay for additional samples and tests required for Contractor's convenience. Employ and pay for the services of a separate, equally qualified independent testing laboratory to perform additional inspections, sampling, and testing required when initial tests indicate Work does not comply with Contract Documents.
- I. The Contractor shall pay all fees and charges incurred for retesting due to failure of initial test or other deficiencies that are the contractor's responsibility.
- J. If tests indicate insufficient concrete strength and if additional tests are ordered (cores, etc.), Contractor shall pay for such additional tests and any additional design services required.

16.3 Test Methods: Tests and inspections shall be conducted in accordance with the latest standards of the American Society of Testing and Materials (ASTM), or other methods as described or modified herein.

16.4 Test Reports: The laboratory shall promptly submit written reports on each test and inspection made to the A/E within 48 hours after the tests have been made.

16.5 Extent of Laboratory Tests and Inspections:

- A. The A/E will recommend to the Owner the type and number of tests to be performed on the project. The Contractor will be advised of the number and type of tests to be performed by the testing laboratory.
- B. The laboratory shall immediately notify the A/E by telephone of any test data prerequisite to continuance of the Work by the Contractor.
- C. The A/E will be immediately notified of any test result that falls below the requirements of these Specifications and the laboratory will hold this information confidential until notified otherwise by the A/E.

17.0 CONSTRUCTION PROGRESS PHOTOGRAPHS

17.1 Construction Progress Photographs:

- A. General: All photographs shall be produced by a professional photographer acceptable to A/E. All negatives and two (2) 8" x 10" prints of each view shall be submitted. Negatives shall be identified with description of view and date. Prints shall be mounted on linen with flap for binding or enclosed in clear plastic binders, and marked on the back with the name and number of the contract, name of Contractor, and/or Sub-Contractor, description and location of view and date photographed. Photographs shall be glossy and shall be taken with a 35mm camera or a special graphic press type camera. All photography shall be at the contractor's expense. A/E shall transmit one (1) copy of each photograph to Owner.
- B. Number required per submittal: At least two (2) different views of typical construction.
- C. Schedule:
 - 1. Prior to beginning of work. Existing conditions.
 - 2. Deliver two (2) sets of photographs to the A/E with each Application for Payment.
 - 3. Prior to final inspection.
- D. Direction of view/vantage points: As directed by the A/E.
- E. Prints:
 - 1. Photographs shall be sharp, clearly showing all details.
 - 2. Full color prints of each view.
 - 3. Glossy Finish.
 - 4. Size: 8 x 10 inch
 - 5. Paper weight: Professional Quality.

17.2 Audio Video Survey

- A. General: Prior to the start of construction on the Contract, the Contractor shall furnish to the A/E, the video tapes of the construction areas. The tapes will remain available for viewing by the Contractor and may be reviewed by him for any assistance that the tapes may provide in resolving disputes which arise with the property owners claiming improper restoration of their properties. The tapes will also be used as a guide by the A/E, prior to issuance of final payments, in determining the adequacy of restoration and the extent of damages attributable to the Contractor's work. At least 24 hours prior to taping, the Contractor shall notify the A/E when taping will begin so that the A/E may have a representative present.
- B. Technical Requirements: The total audio-video recording system and the procedures employed in its use shall be such as to produce a finished product that will fulfill the technical requirements of the project, as well as those more subjective requirements of high-

quality audio and video protection. The video portion of the recording shall reproduce bright, sharp, clear pictures with accurate colors and shall be free from distortion, tearing, rolls or any other form of picture imperfection. The audio portion of the recording shall reproduce precise and concise explanatory notes by the camera operator with proper volume, clarity and freedom from distortion.

1. Recorder: The records shall record the color signal with a minimum horizontal resolution of 240 lines. The recorder shall be of the 1/2 inch VHS format.
 2. Camera: When taping areas accessible to conventional wheeled vehicles, the color video camera shall have a horizontal resolution of 300 lines at center (e.g. JVC KY 1900 or equivalent). When taping areas not accessible to conventional vehicles, the color video camera shall have a horizontal resolution of at least 300 lines at center.
 3. Character Printout: All video recordings must, by electronic means, display continuously and simultaneously, generated transparent digital information to include (1) the date and the time of the recording, (2) the Engineering stationing corresponding to the stationing on the plans, or as directed by the A/E, (3) the name of the street, easement, or building being documented, (4) the project name, and (5) the direction of travel and the viewing side. The time and date shall appear linearly in the bottom left hand corner (e.g. 9-20-81 8:30:15).
- C. Operator Experience: The operator in charge must have had previous experience video documenting a minimum of 50 miles of pre-construction work, any apprentice operators must be continuously supervised by an above described experienced operator.
- D. Recording Schedule: The recording shall be performed prior to the placement of any construction materials or equipment on the proposed construction site, but not more than seven (7) weeks prior to the placement of materials or equipment.
- E. Tape Indexing: All video tapes and their storage cases shall be properly identified by video tape index number, project title and general project location. Displayed on the storage case of each video tape shall be a log of that tape's contents. That log shall describe (1) the various segments contained on that tape in terms of the names and the sides of the streets or easements, (2) coverage start, direction and endpoints, with corresponding video tape player counter numbers. A cumulative index correlating the various segments of coverage to their corresponding tapes shall be typed and supplied to the Owner.
- F. Unacceptable Documentation: The Owner shall have the authority to reject all or any portion of the video tape documentation not

conforming to the Specifications. Those rejected portions shall be re-taped at no additional cost to the Owner.

- G. Specification Deviations: Any deviation from these Specifications must have the written approval of the A/E.
- H. Ownership: Upon payment made in accordance with Specifications, all tapes and written records become the property of the Owner.
- I. Plan Stationing: Plan stationing shall be expressed in engineering symbols and shall appear directly beneath the time and date information (e.g. 87 + 03). The remainder of the printed information shall appear at the bottom of the viewing screen (e.g. N on First St. V/E Maybury Twp.). To maximize viewing area no more than 24 masters shall be used to express the transparent digital information.
- J. Audio: At the start of production, and at the beginning of a new street or easement, an identification summary shall be read into the record while, at the same time, a wide-angle view with numeric displays shall be provided for a visual record. This summary will include (1) tape number, (2) job title, (3) job location, (4) positional location at job start, (5) date and time, (6) weather, and (7) any other notable conditions.
- K. Coverage: The recording shall include coverage of all surface features located within the construction zone-of-influence. This zone shall be defined as 1) the area within the permanent and temporary easements and areas adjacent to these easements which may be affected by routing construction operations, 2) road right-of-way, 3) areas directed by the Owner. The surface features within the construction zone shall include, but not be limited to, all roadways, traffic signs and signals, pavements, curbs, driveways, sidewalks, culverts, headwalls, retaining walls, buildings, landscaping, shrubbery and fences. Of particular concern shall be the existence, or non-existence, of any faults, fractures or defects.
- L. Visibility: No recording shall be done during periods of significant precipitation, mist or fog. The recording shall only be done when sufficient sunlight is present to properly illuminate the subjects of recording.
- M. Rate of Travel: The vehicle's rate of travel shall be indirectly proportional to the number, size and value of the surface features within that construction area's zone-of-influence. The average rate of travel shall not exceed 48 feet per minute.
- N. Camera Elevation: To ensure proper perspective and to capture optimal detail, the distance from the camera lens to the ground shall not be less than 12 feet when conventional wheeled vehicles are employed.
- O. All tapes and written records become the property of the Owner.

18.0 TEMPORARY FACILITIES

18.1 General:

- A. Comply with Federal, State, and Local codes and regulations.
- B. Materials may be new or used, but must be adequate in capacity for the required usage, must not create unsafe conditions, and must not violate requirements of applicable codes and standards.

18.2 Job Sign:

- A. Construct and maintain job sign as detailed herein; painted by professional sign painter. All lumber shall be treated pine. Signs shall be 3/4 inch thick exterior grade plywood with "B" or better face.
- B. At his option, Contractor may provide and maintain a separate sign, approved by the A/E, for listing of subcontractors. If approved, paint (by professional) in identical colors as project sign.
- C. Do not allow other signs or advertisements at or near the project site.

18.3 Temporary Sanitary Facilities: The Contractor shall provide and maintain an adequate number of temporary toilets with proper enclosures as necessary for use of workmen during construction. Keep toilets clean and comply with all local and state health requirements and sanitary regulations. Toilet facilities shall consist of the prefabricated chemical type.

18.4 Temporary Electricity and Lighting:

- A. Comply with National Electric Code.
- B. Provide connections to existing facilities, size to provide service required for power and lighting at Contractor's expense.
- C. Provide adequate artificial lighting for all areas of work when natural light is not adequate for Work, and for areas accessible to the public.

18.5 Temporary Access: Do not disturb any lawn areas. Construct and maintain in good, usable condition required temporary access and appurtenances; when no longer required, remove temporary construction.

18.6 Temporary Sheds: The Contractor shall provide and maintain additional offices, storage sheds, and other temporary buildings or trailers as required. Location of sheds and trailers shall be approved by the Owner and the A/E. Remove sheds when work is completed, or as directed.

18.7 Removal:

- A. Completely remove temporary materials and equipment when their use is no longer required. Clean and repair damage caused by temporary installations or use of temporary facilities.

18.8 There will be no direct payments for Items of this Section.

19.0 MATERIAL AND EQUIPMENT

19.1 Reuse of Existing Material:

- A. Except as specifically indicated or specified, materials and equipment removed from the existing structure shall not be used in the completed Work.
- B. For material and equipment specifically indicated or specified to remain or to be used in the Work.
 - 1. Use special care in removal, handling, storage, and reinstallation to assure proper function in the completed Work.
 - 2. Arrange transportation, storage, and handling of products which require off-site storage, restoration, or renovation. Pay all costs for such work.

20.0 SHOP DRAWINGS

20.1 General:

- A. Submit, to the A/E, shop drawings, project data, and samples required by specification sections.
- B. Prepare and submit, with Construction Schedule, a separate schedule listing dates for submission and date reviewed shop drawings, project data, and samples will be needed for each product.

20.2 Shop Drawings: Original drawings, prepared by Contractor, Subcontractor, Supplier, or Distributor, which illustrate some portion of the Work; showing fabrication, layout, setting, or erection details.

- A. Prepared by a qualified detailer.
- B. Identify details by reference to sheet and detail numbers shown on Contract Drawings.
- C. Maximum Sheet Size: 24" x 36".
- D. Reproduction for Submittals: Three (3) opaque diazo prints or one (1) reproducible sepia transparency.

20.3 Manufacturer's Literature, Project Data:

- A. Manufacturer's standard schematic drawings.
 - 1. Modify drawings to delete information to provide additional information applicable to project.
 - 2. Supplement standard information to provide additional information applicable to project.
- B. Manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations, and other standard descriptive data.

1. Clearly mark each copy to identify pertinent materials, products, or models.
2. Show dimensions and clearances required.
3. Show performance characteristics and capacities.
4. Show wiring diagrams and control.

20.4 Samples: Physical examples to illustrate materials, equipment, or workmanship, and to establish standards by which completed work is judged.

20.5 Contractor Responsibilities:

- A. Review Shop Drawings, Project Data, and Samples prior to submission.
- B. Verify field measurements, field construction criteria, catalog numbers, and similar data.
- C. Coordinate each submittal with requirements of Work and of Contract Documents.
- D. Contractor's responsibility for errors and omissions in submittals is not relieved by A/E's review of submittals.
- E. Contractor's responsibility for deviations in submittals from requirements of Contract Documents is not relieved by A/E's review of submittals, unless A/E gives written acceptance of specific deviations.
- F. Notify A/E, in writing at time of submission, of deviations in submittals from requirements of Contract Documents.
- G. Begin no work which requires submittals until return of submittals with A/E's stamp and initials or signature indicating review.
- H. After A/E's review, distribute copies.
- I. Contractor shall direct specific attention, in writing, to the A/E of the failure to receive reviewed submittals after a reasonable time and shall denote consequences of an excessive review period with regard to the progress of work.
- J. Contractor shall submit a schedule of the submittals needed prior to construction.
- K. Contractor shall review each submittal and verify in writing to the A/E each submittal conforms with the Contract Documents.

20.6 Submission Requirement:

- A. Schedule submissions at least 21 days before dates reviewed submittals will be needed.
- B. Shop Drawings: Submit one (1) reproducible sepia transparency and three (3) opaque print of Shop Drawings.
- C. Manufacturer's Literature: Number of copies of Project Datum which Contractor requires for distribution plus 2 copies which will be

retained by A/E, plus one (1) copy retained by the Consulting A/E for mechanical or electrical submittals.

- D. Submit number of Samples specified in each of specification sections.
- E. Accompany submittals with transmittal letter containing: date; project title and number; Contractor's name and address; the number of each Shop Drawings, Project Datum, and Sample submitted; notification of deviations from Contract Documents; other pertinent data.
- F. Submittals shall include:
 - 1. Date and revision dates.
 - 2. Project title, A/E Project number, and Owner's Project number, if any.
 - 3. The names of: A/E; Contractor; Subcontractor; Supplier; Manufacturer.
 - 4. Identification of product or material.
 - 5. Relation to adjacent structure or materials.
 - 6. Field dimensions, clearly identified as such.
 - 7. Applicable standards, such as ASTM number or Federal Specification.
 - 8. A blank space, 8" x 8" for the A/E's stamp.
 - 9. Identification of deviations from Contract Documents.
 - 10. Contractor's stamp, initialed or signed, certifying to review of submittal, verification of field measurements, and compliance with Contract Documents.
 - 11. Applicable standards, such as ASTM number or Federal Specification number.

20.7

Resubmission Requirements:

- A. Shop Drawings: Revise initial drawings as required and resubmit as specified for initial submittal. Indicate on drawings any changes which have been made other than those requested by A/E.
- B. Project Data and Samples: Submit new datum and samples as required for initial submittal.
- C. Contractor shall accept full responsibility for the completeness of each submission, and, in the case of a resubmission, shall verify that all exceptions previously noted by A/E have been taken into account. In the event that more than one (1) resubmission is required because of failure of Contractor to account for exceptions previously noted, Contractor shall reimburse Owner for the charges of A/E for review of the additional resubmissions.
- D. Any need for more than one (1) resubmission, or any other delay in obtaining A/E's review of submittals, will not entitle Contractor an extension of the Contract Time unless delay of the Work is directly caused by a change in the Work authorized by a Change Order or by failure of A/E to return any submittal within a reasonable time after its receipt in A/E's office.

- E. When the drawings and data are returned marked SUBMIT SPECIFIED ITEM the Contractor shall do so. When the drawings and data are returned marked REVISE AND RESUBMIT, the corrections shall be made as noted thereon and as instructed by the A/E and nine (9) corrected copies (or one (1) corrected reproducible copy) resubmitted.

20.8 Distribution of Submittals after Review:

- A. Distribute copies of Shop Drawings and Project Datum which carry A/E stamp to:
 - 1. Contractor's file
 - 2. Job site file
 - 3. Record Documents file
 - 4. Subcontractors
 - 5. Supplier or fabricator
 - 6. Other affected Contractors
- B. Distribute samples as directed.

20.9 A/E's Duties:

- A. Review submittals with reasonable promptness.
- B. Review for design concept of project and information given in Contract Documents.
- C. Review of separate item does not constitute review of an assembly in which item functions.
- D. Affix stamp and initials or signature certifying to review of submittal.
- E. Return sepia of Shop Drawings and other submittals to Contractor for distribution, or for resubmission. Contractor is responsible obtaining number of opaque prints from sepia necessary for distribution.
- F. A/E's review of drawings and data submitted by Contractor will cover only general conformity to the drawings and specifications, external connections, and dimensions which affect the layout. A/E's review does not indicate a thorough review of all dimensions, quantities, and details of the material, equipment, device, or item shown. A/E's review of submittals shall not relieve Contractor from responsibility for errors, omissions, or deviations, nor responsibility for compliance with the Contract Documents.
- G. The A/E shall review and approve Contractor's submittals, such as shop drawings, product data, samples and other data, as required by the A/E, but only for the limited purpose of checking for conformance with the design conception and the information expressed in the Contract Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. The A/E's review shall be

conducted with reasonable promptness while allowing sufficient time in the A/E's judgement to permit adequate review. Review of a specific item shall not indicate that the A/E has reviewed the entire assembly of which the item is a component. The A/E shall not be responsible for any deviations from the Contract Documents not brought to the attention of the A/E in writing by the Contractor. The A/E shall not be required to review partial submissions or those for which submissions or correlated items have not been received.

21.0 PROJECT RECORD DOCUMENTS

21.1 Maintenance of Documents:

- A. Maintain at jobsite one (1) copy of: Contract Drawings; Specifications; Addenda; Reviewed Shop Drawings; Change Orders; Other Modifications to Contract; Field Test Records.
- B. Maintain documents in clean, dry, legible condition.
- C. Do not use record documents for construction purposes.
- D. Make documents available at all times for inspection by the A/E and the Owner.

21.2 Recording:

- A. Label each document "PROJECT RECORD DOCUMENTS" in printed letters.
- B. Keep record documents current.
- C. Do not permanently conceal any work until required information has been recorded.
- D. "Project Record Documents" Drawings: Legibly mark to record actual construction:
 - 1. Horizontal and vertical location of underground utilities and appurtenances referenced to permanent surface improvements.
 - 2. Field changes of dimension and detail.
 - 3. Changes made by Change Order or Field Order.
 - 4. Details not on original Contract Drawings.
- E. Specifications and Addenda: Legibly mark each Section to record:
 - 1. Manufacturer, trade name, catalog number, and Supplier of each product and item of equipment actually installed.
 - 2. Changes made by Change Order or Field Order.

21.3 Submittal:

- A. Prior to each pay request, present project record documents for review by the A/E. Documents shall be annotated as required herein to include those portions of work of which payment is requested. Failure to have properly maintained Project Documents

- will be considered as incomplete work.
- B. At Contract close-out, deliver "Project Record Documents" record documents to the A/E. Provide two (2) copies of the Contract Drawings; one (1) copy of other required record documents.
 - C. Accompany submittal with transmittal letter containing:
 - 1. Date.
 - 2. Project title and number.
 - 3. Title and number of each "Project Record Documents" drawing.
 - 4. Signature of Contractor or his authorized representative.

22.0 CONTRACT CLOSEOUT

22.1 General: Comply with requirements stated in Conditions of the Contract and in Specifications for administrative procedures in closing out the Work.

22.2 Substantial Completion:

- A. When the Contractor considers a portion of the Work is substantially complete, he shall submit to the A/E a written notice that the Work, or designated portion thereof, is substantially complete and a list of items to be completed or corrected.
- B. Within a reasonable time after receipt of such notice, the A/E will make an inspection to determine the status of completion.
- C. Should the A/E determine that the Work is not substantially complete:
 - 1. A/E will promptly notify the Contractor in writing, giving the reasons therefor.
 - 2. The Contractor shall remedy the deficiencies in the Work, and send a second written notice of substantial completion to the A/E.
 - 3. A/E will reinspect the Work.
 - 4. When the A/E concurs that the Work is substantially complete, he will:
 - a. Prepare a Certificate of Substantial Completion accompanied by Contractor's list of items to be completed or corrected, as verified and amended by the A/E.
 - b. Submit the Certificate to Owner and Contractor for their written acceptance of the responsibilities assigned to them in the Certificate.
 - c. Request the Contractor to make closeout submittals.

- 22.3 Contractor's Closeout Submittals to the A/E:
- A. Evidence of compliance with requirements of governing authorities and all Certificates of Inspection.
 - B. At Contract close-out, deliver "Project Record Documents" record documents to the A/E. Provide two (2) copies of the Contract Drawings; one (1) copy of other required record documents.
 - C. Evidence of Payment and Release of Liens: To requirements stated in the Conditions of the Contract.

- 22.4 Final Inspection:
- A. When the Contractor considers the Work is complete, he shall submit written certification that:
 - 1. Contract Documents have been reviewed.
 - 2. Work has been inspected for compliance with Contract Documents.
 - 3. Work has been completed in accordance with Contract Documents.
 - 4. Equipment and systems have been tested in presence of the Owner's representative and are operational.
 - 5. Work is completed and ready for final inspection.
 - 6. Project Record Documents are completed and submitted to the A/E for acceptance.
 - B. A/E will make an inspection to verify the status of completion with reasonable promptness after receipt of such certification.
 - C. Should the A/E consider that the Work is incomplete or defective:
 - 1. A/E will promptly notify the Contractor in writing, listing the incomplete or defective work.
 - 2. The Contractor shall take immediate steps to remedy the stated deficiencies, and send a second written certification to the A/E that the Work is complete.
 - 3. A/E will reinspect the Work.

- 22.5 Reinspection Fees:
- A. Should the A/E perform reinspection due to failure of the Work to comply with the claims of status of completion made by the Contractor:
 - 1. Owner will compensate the A/E for such additional services.
 - 2. Owner will deduct the amount of such compensation from the final payment to the Contractor.

- 22.6 Final Adjustment of Accounts:
- A. Submit a final statement of accounting to the A/E.
 - B. Statement shall reflect all adjustments to the Contract Sum:

1. The Original Contract Sum.
 2. Additions and deductions resulting from:
 - a. Previous Change Orders.
 - b. Unit Prices.
 - c. Deductions for uncorrected Work.
 - d. Deductions for liquidated damages.
 - e. Deductions for reinspection payments.
 - f. Other adjustments.
 3. Total Contract Sum, as adjusted.
 4. Previous payments.
 5. Sum remaining due.
- C. A/E will prepare a final Change Order, reflecting approved adjustments to the Contract Sum which were not previously made by Change Orders.

22.7

Final Application for Payment: The Contractor shall submit the Final Application for Payment in accordance with procedures and requirements stated in the Conditions of the Contract.

DIVISION II
TECHNICAL SPECIFICATIONS
SECTION 203
"EXCAVATION AND EMBANKMENT"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 203 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

This item consists of the excavation of any material necessary for construction or other miscellaneous excavation as described in the governing specifications. Select material from this item as approved by the project Engineer, shall be used for materials of this section. It shall be placed and spread to the grades as required. The Contractor shall remove all excavated material, which is unsuitable, from the site. There will be no direct payment for handling excavated material, select or unsuitable.

PART 2: MATERIALS:

Materials shall be in accordance with the requirements of Section 203 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended, and as follows:

- A. Fill Material: Fill material from off-site borrows shall meet the requirements listed on the plans.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 203-05-00100 "EXCAVATION AND EMBANKMENT" paid per LUMP SUM.

ITEM 203-07-00100 "BORROW (VEHICULAR MEASURE)" paid per CUBIC YARD.

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DIVISION II

TECHNICAL SPECS

SECTION 204

"TEMPORARY EROSION CONTROL"

PART 1. DESCRIPTION:

The work required by this Section shall consist of constructing and maintaining temporary erosion control features that satisfy the terms and conditions of the Storm Water Pollution Prevention Plan (SWPPP) and the National Pollution Discharge Elimination System (NPDES) General Permit. The SWPPP shall be comprised of Section 204 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, and latest revisions, or as amended herein. Jefferson Parish has obtained a Louisiana Department of Environmental Quality Storm Water General Permit for Construction Activities (Permit No. LAR100000) for the life of the project. This Permit has been attached as Appendix A.

PART 2. GENERAL:

The Contractor, by signing this contract, certifies under penalty of law that he understands and will abide by the terms and conditions of the Storm Water Pollution Prevention Plan (SWPPP) and the National Pollution Discharge Elimination System (NPDES) General Permit that require the discharges from construction sites to be managed to prevent pollutants from entering waters of the United States in accordance with the Environmental Protection Agency's (EPA) regulations for storm water discharges with respect to 33 U.S.C. #1342 (Sections 402(p) and 405 of Public Law 100-4).

Temporary erosion control will ensure economical, effective and continuous control of erosion and water pollution throughout the life of the contract. The Contractor shall prevent the transmission of soil particles and pollutants into streams, canals, lakes, reservoirs or other waterways. In addition, the Contractor shall note that work may be simultaneously in progress on adjacent sites of other components of the Parc des Familles. The Contractor shall be responsible for coordinating his SWPPP with the SWPPP for adjacent sites.

The Contractor will submit an erosion control plan to the Engineer before beginning clearing or earthwork operations. The plan shall indicate the items to be used and the coordination of this work with the scheduling of clearing and earthwork.

PART 3. MATERIAL:

The Contractor shall provide all necessary materials and equipment necessary to complete all work associated with this item.

PART 4. MEASUREMENT AND PAYMENT:

All costs associated with this item of work including design, labor, equipment or materials required by this section shall be made under:

ITEM 204-05-00100 "TEMPORARY SEDIMENT CHECK DAMS" paid per EACH.

ITEM 204-06-00100 "TEMPORARY SILT FENCING" paid per LINEAR FOOT.

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DIVISION II
TECHNICAL SPECIFICATIONS
SECTION 302
"CLASS II BASE COURSE"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 302 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2: MATERIALS:

Sand clay gravel, stone or recycle portland cement concrete in accordance with Section 1003.03(a), 1003.03(b) and 1003.03(c) of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 302-01-00800 "CLASS II BASE COURSE (STONE OR RECYCLED PORTLAND CEMENT CONCRETE)" paid per CUBIC YARD.

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DIVISION II
TECHNICAL SPECIFICATIONS

SECTION 306

"SCARIFYING AND COMPACTING ROADBED"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 306 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2: MATERIALS:

Material shall be in accordance with the requirements of Section 306 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 3: MEASUREMENT AND PAYMENT:

Payment for work will be as noted.

ITEM 306-02-00100 "SCARIFYING AND COMPACTING ROADBED (6" THICK)"
paid per SQUARE YARD.

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DIVISION II

TECHNICAL SPECIFICATIONS

SECTION 502

"SUPERPAVE ASPHALTIC CONCRETE MIXTURES"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 502 of the Louisiana Standard Specifications for Roads and Bridges, **2016 Edition**, as amended.

PART 2: MATERIALS:

Material shall be in accordance with the requirements of Section 502 of the Louisiana Standard Specifications for Roads and Bridges, **2016 Edition**, as amended.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 502-01-00100 "ASPHALTIC CONCRETE (LEVEL A)" paid per TON.

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DIVISION II

TECHNICAL SPECIFICATIONS

SECTION 701

"CULVERTS AND STORM DRAINS"

PART 1. DESCRIPTION:

All work shall be in accordance with the requirements of Section 701 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2. MATERIAL:

- A. Reinforced Concrete Pipe shall conform to ASTM Designation C-76, Class III, pipe, Type 3 joint, as per Section 1006.03 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.
- B. Reinforced Concrete Pipe Arch in accordance with Section 1006.04 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended. Concrete pipe arch shall conform to ASTM C-506. All joints of pipe greater than 43 inch round and equivalent arch pipe shall be banded with metal straps on three sides in accordance with manufacturers requirements.
- C. Corrugated Metal Pipe 24 inch or larger diameter shall have 12 gauge thickness and 18 inch or smaller diameter shall have 14 gauge thickness. All corrugated metal pipe shall have Type 2 joints and be bituminous coated or polymer coated. If work is in Jefferson Parish, corrugated metal pipe shall be polymer coated unless otherwise noted. Binding shall be in accordance with ASTM A-885-88.
- D. Filter Cloth, Joint Wrapping shall conform to requirements of Section 1019 of the Louisiana Standard Specifications noted in Part 1 above.
- E. Lumber shall conform to requirements of Section 1014 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.
- F. PVC Pipe (Plastic Yard Drain Pipe) in accordance with Section 1006.09a(1) of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.
- G. Concrete Joints - A pipe puller device shall be used to seat concrete pipe joints. Joints that are not seated a minimum of 75% of the depth of the joint will not be acceptable.

PART 3. MEASUREMENT AND PAYMENT:

Payment for this work will be as noted. Payment for each item listed below shall include all materials and work associated with the materials as listed in Part 2 above. Bedding material, granular material, and geotextile fabric will be paid under separate items.

ITEM 701-05-01040 "SIDE DRAIN PIPE (18" RCP)" paid per LINEAR FOOT.

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DIVISION II

TECHNICAL SPECIFICATIONS

SECTION 702

"MANHOLES, JUNCTION BOXES, CATCH BASINS AND END TREATMENTS"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 702 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2: MATERIALS:

Material shall be in accordance with the requirements of Section 702 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

Bedding material shall be Stone, Sand/Stone, or Sand/Gravel, and be in accordance with the requirements of Section 726 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended. Compact all bedding material to 75% of relative density.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will include all excavation, 12 inch minimum bedding, backfill, and other incidentals required for the work.

Payment for this work will be as noted.

ITEM 702-08-00100 "SIDE DRAIN SAFETY END (TYPE 1)" paid per EACH.

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DIVISION II

TECHNICAL SPECIFICATIONS

SECTION 713

"TEMPORARY SIGNS, BARRICADES AND PAVEMENT MARKINGS"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 713 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended. All references made in this section to the "Department's Forces" shall be changed to the "Contractor".

This item includes but is not limited to providing all necessary signs and barricades shown in the plans and in accordance with "The Manual on Uniform Traffic Control Devices", 2009 Edition as revised, as well as all signs, barricades, blinking lights, or other necessary traffic control devices required by Section 713 above, or other governing specifications of this project.

PART 2: MATERIALS:

Material shall be in accordance with the requirements of Section 713 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended, and other sections of these specifications.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 713-01-00100 "TEMPORARY SIGNS AND BARRICADES" paid per LUMP SUM.

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DIVISION II
TECHNICAL SPECIFICATIONS
SECTION 720
"EROSION CONTROL SYSTEMS"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 720 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2: MATERIALS:

Material shall be in accordance with the requirements of Section 720 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 720-01-01000 "EROSION CONTROL SYSTEM (SLOPE PROTECTION) (TYPE A)" paid per SQUARE YARD.

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DIVISION II
TECHNICAL SPECIFICATIONS
SECTION 727
"MOBILIZATION"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 727 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2: MATERIALS:

None

PART 3: MEASUREMENT AND PAYMENT

Payment for this work will be as noted.

ITEM 727-01-00100 "MOBILIZATION" paid per LUMP SUM.

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DIVISION II
TECHNICAL SPECIFICATIONS
SECTION 729
"TRAFFIC SIGNS AND DEVICES"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 729 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2: MATERIALS:

Material shall be in accordance with the requirements of Section 729 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 729-01-00100 "SIGN (TYPE A)" paid per SQUARE FOOT.

ITEM 729-21-00100 "U-CHANNEL POST" paid per EACH.

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DIVISION II
TECHNICAL SPECIFICATIONS
SECTION 732
"PLASTIC PAVEMENT MARKINGS"

PART 1: DESCRIPTION:

All work shall be in accordance with the requirements of Section 732 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

Work consists of furnishing and placing reflective pavement markings of hot applied thermoplastic or preformed cold applied plastic at the locations shown on the plans or as directed, and in conformance with "The Manual on Uniform Traffic Control Devices", latest Edition, as amended and Section 732 as above, plan details and these specifications.

PART 2: MATERIALS:

A. Thermoplastic marking material and/or preformed plastic marking material and construction requirements shall conform to Section 732 as in Part 1 above.

PART 3: MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 732-03-02000 "PLASTIC PAVEMENT STRIPING (BROKEN LINE) (4" WIDTH) (THERMOPLASTIC 90 MIL)" paid per MILE.

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DIVISION II
TECHNICAL SPECS
SECTION 739
"HYDRO-SEEDING"

PART 1. DESCRIPTION:

All work shall be in accordance with the requirements of Section 739 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2. MATERIAL:

Material shall be in accordance with the requirements of Section 739 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 3. MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 739-01-00100 "HYDRO-SEEDING" paid per ACRE.

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DIVISION II
TECHNICAL SPECS
SECTION 740
"CONSTRUCTION LAYOUT"

PART 1. DESCRIPTION:

All work shall be in accordance with the requirements on Sheet 2 of the plans and Section 740 of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, as amended.

PART 2. MATERIAL:

NONE

PART 3. MEASUREMENT AND PAYMENT:

Payment for this work will be as noted.

ITEM 740-01-00100 "CONSTRUCTION LAYOUT" paid per LUMP SUM.

ITEM 740-02-00100 "AS-BUILT SURVEY" paid per LUMP SUM.

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