

**NORTHERN PALM BEACH COUNTY
IMPROVEMENT DISTRICT**

PROJECT MANUAL

MINOR SERVICES CONTRACT



PROJECT: Minor Services Qualifications Proposal
for Northern Palm Beach County
Improvement District

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PROJECT: Northern Palm Beach County Improvement
District Minor Services Qualifications Proposal

SECTION 00020

REQUEST FOR QUALIFICATION PROPOSAL

Qualification Proposals, in duplicate (one original & one copy), should be submitted to the Northern Palm Beach County Improvement District at Northern's office located at 359 Hiatt Drive, Palm Beach Gardens, FL 33418 (Phone 561-624-7830) for the subject contract.

The Owner for the Project is the Northern Palm Beach County Improvement District.

The Project is generally described as follows: Minor general contracting services for projects not exceeding \$25,000.00 associated with the installation, maintenance or repair of OWNER's facilities. Work may include, but is not limited, the following: electrical, roofing, structural, drainage system construction or repairs, roadway repairs (including signage striping, base rock, asphalt, curbing and swales), lake/canal bank repair, painting, trash removal (animals, trash, carts, etc.), landscaping (pruning, bracing, installation, fertilization, etc.) and general labor services. Proposals will be requested from the OWNER's Annual Minor service contractors and Work authorized based on the lowest and best responsive Bid.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid proposal on a contract with a public entity for the construction or repair of a public building or public work, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two for a period of 36 months from the date of being placed on the convicted vendor list.

It is the policy of Northern Palm Beach County Improvement District that those Small Business Enterprises that would be eligible for certification as such by Palm Beach County shall have the maximum practical opportunity to participate in the competitive process of supplying goods and services to Northern Palm Beach County Improvement District.

Contractors will be required to clearly identify their qualifications, experience, capabilities, manpower & equipment as it relates to the General Description of the proposed work in order to determine what type of work each bidder is qualified to perform.

The Owner reserves the right to reject any or all Qualification Proposals.

PLEASE NOTE THE FOLLOWING INSURANCE REQUIREMENTS. THESE REQUIREMENTS MUST BE FOLLOWED, THERE WILL BE NO EXCEPTIONS.

CONTRACTOR'S LIABILITY INSURANCE:

SC-5.3.

The limits of liability for the insurance required by paragraph 5.3. of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

5.3.1. and 5.3.2. Worker's Compensation, etc. under paragraphs 5.3.1. and 5.3.2. of the General Conditions:

- | | |
|--|---------------------|
| (1) State: | Statutory |
| (2) Applicable Federal (e.g. Longshoreman's and Harbour Workers' Compensation, Maritime, Jones Act, etc.): | Statutory |
| (3) Employer's Liability: | <u>\$300,000.00</u> |

5.3.3., 5.3.4., 5.3.5., 5.3.6. Occurrence Coverage - Comprehensive General Liability (under paragraphs 5.3.3. through 5.3.6. of the General Conditions):

- | | |
|--|------------------|
| (1) Bodily Injury (including completed operations and products liability): | |
| \$ <u>300,000</u> | Each Occurrence |
| \$ <u>300,000</u> | Annual Aggregate |

Property Damage:

- | | |
|-------------------------------|---------------------|
| \$ <u>300,000</u> | Each Occurrence |
| \$ <u>300,000</u> | Annual Aggregate |
| or a combined single limit of | <u>\$300,000.00</u> |

(2) Property Damage liability insurance will provide Explosion, Collapse and Underground coverage where applicable.

- | | |
|--|------------------|
| (3) Personal Injury, with employee exclusion deleted | |
| \$ <u>300,000</u> | Annual Aggregate |

5.3.7. Comprehensive Automobile Liability:

- | | |
|---------------------|-----------------|
| Bodily Injury: | |
| \$ <u>500,000</u> | Each Person |
| \$ <u>1,000,000</u> | Each Occurrence |

- | | |
|-------------------------------|---------------------|
| Property Damage: | |
| \$ <u>500,000</u> | Each Occurrence |
| or a combined single limit of | \$ <u>1,000,000</u> |

Add new Paragraphs immediately after paragraph 5.3.7. of the General Conditions which are to read as follows:

5.3.9. The comprehensive general liability insurance required under paragraph 5.3. of the General Conditions shall include by endorsement, Owner and when applicable, the Owners Engineer (when applicable), as additional insureds.

BY ORDER OF NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT

END OF SECTION

SECTION 00100

INSTRUCTIONS

1. DEFINED TERMS.

Terms used in these Instructions which are defined in the Standard General Conditions of the Construction Contract (EDCJC No. 1910-8, 1983 Edition) and any amendments within Supplementary Conditions section have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Qualification Proposal (hereinafter referred to as the "Proposal") directly to Owner, as distinct from a sub-bidder, who submits a bid to a Bidder. The term "Documents" includes the Request for Qualification Proposals, Instructions, the Proposal Form, also known as the Bid Form and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids). The term "Pricing Proposal" means the bid price submitted for consideration after an Annual Minor Services Contract is awarded and a specific request for services is made by Owner under the terms of the Contract.

2. COPIES OF QUALIFICATION DOCUMENTS.

Complete sets of Qualification Documents must be used; the Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Qualification Documents.

Owner in making copies of Qualification Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

To the extent that any of the Proposal Documents are subject to the public records exemption set forth in Chapter 119, Florida Statutes, then in that event, any entity or person receiving such documentation or information shall be obligated to maintain the exempt status of said documentation and information pursuant to the terms and provisions of the above referenced statute and by requesting or receiving such documentation or information agrees to be bound by this requirement.

3. QUALIFICATIONS OF CONTRACTORS.

Proposals must be accompanied by evidence of Contractor's Authorization to do business in Palm Beach County, Florida, together with appropriate State of Florida licenses and/or Palm Beach County Certificates of Competency as required to complete the Work.

To demonstrate qualifications to perform the Work, each Contractor shall complete the Table in the Bidders Qualification Form (BFQ) noting which services the Contractor's company is qualified to perform, their available manpower and equipment. The description should note the level of experience the Contractor has in providing each of the listed services.

4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE PRIOR TO PRICING PROPOSAL

It is the responsibility of each Contractor before submitting a Proposal, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully

correlate Bidder's observations with the Contract Documents, and (e) notify Owner of all conflicts, errors or discrepancies in the Contract Documents.

Reference is made to Division 1: General Requirements of the Specifications for the identification of:

4.2.1. Those reports of explorations and tests of subsurface conditions at the site which have been utilized by Owner in preparation of the Contract Documents.

4.2.2. Those drawings of physical conditions in or relating to existing surface and subsurface conditions (except Underground Facilities) which are at or contiguous to the site which have been utilized by Owner in preparation of the Contract Documents.

4.2.3. Copies of such reports and drawings (referred to above), if not attached to the Specifications or added on the Drawings, will be made available by Owner to any Contractor on request. Those reports and drawings are not a part of the Contract Documents. Contractor may not rely upon the accuracy of the non-technical data, interpretations or opinions contained in those reports and drawings. Contractor may not rely on the completeness of those reports and drawings for the purposes of bidding or construction. Contractor may rely on any technical data contained in those reports and drawings specifically referenced in Division 1: General Requirements as technical data that can be relied on.

Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner by owners of such Underground Facilities or others, and Owner does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in Contract Documents due to differing conditions appear in Paragraphs 4.2 and 4.3 of the General Conditions.

Each Contractor will, at Contractor's own expense, be responsible to make or obtain such examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Contractor deems necessary to determine its Proposal for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Owner. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

The submission of a Pricing Proposal will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract

Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

5. INTERPRETATIONS AND ADDENDA.

All questions about the meaning or intent of the Contract Documents are to be directed to the Owner (unless another issuing office is designated in the Request for Bid Qualification Proposals).

6. CONTRACT TIME.

The term of this Contract (or Agreement) shall commence upon completion and final execution of contract manual and conclude when terminated at either party's option, with or without cause, following a sixty (60) day advance written notice by one party to the other.

7. SPACE LEFT INTENTIONALLY BLANK

8. SUBSTITUTE OR "OR-EQUAL" ITEMS.

The Agreement, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Owner, application for such acceptance will not be considered by Owner until after the Effective Date of the Agreement. The procedure for submission of any such application by Contractor and consideration by Owner is set forth in Paragraphs 6.7.1, 6.7.2 and 6.7.3 of the General Conditions and may be supplemented in Division 1: General Requirements.

9. SUBCONTRACTORS, SUPPLIERS AND OTHERS.

If the Bid Form or Specifications require (or if Owner requests after Bids are received) the identity of certain Subcontractors, Suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Owner in advance of the specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within two days after request by Owner submit to Owner a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by Owner. **Subcontractors shall be required to meet Contractor's liability insurance requirements as established by the General and Supplementary Conditions or be listed as an additional insured on the apparent successful Bidder's policy.** (Emphasis added) If Owner after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, Owner may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price or schedule. If apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any Subcontractor, Supplier, other person or organization listed and to whom Owner does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.8.2 of the General Conditions.

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

10. PROPOSAL FORM

The Proposal Form is included with the Bidding Qualification Documents

All blanks on the Proposal Form must be completed in ink or by typewriter.

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

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

All names must be typed or printed below the signature.

The Proposal shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be filled in on the Proposal Form).

The Contractor's address and telephone number for communications regarding the Proposal must be shown.

Contractor shall complete, sign and submit a Trench Safety Affidavit (Form TSA) when applicable for authorized work.

11. SUBMISSION OF PROPOSAL

Proposals shall be submitted, in **duplicate**, in an opaque sealed envelope, marked with the Project title and name and address of the Contractor.

12. PROPOSALS TO REMAIN SUBJECT TO ACCEPTANCE.

All Proposals will remain subject to acceptance for 90 days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date.

13. AWARD OF AGREEMENT.

Owner reserves the right to reject any and all Proposals, to waive any and all informalities, time or changes in the Work and to negotiate agreement terms and price with all Contractors, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Proposal of any Contractor if Owner believes that it would not be in the best interest of the Project to make an award to the Contractor, whether because the Proposal is not responsive or the Contractor is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies in the multiplication of units of Work and unit prices will be

resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Proposals, Owner will consider the qualifications of the Contractor, whether or not the Proposals comply with the prescribed requirements, and such alternates, unit price, schedules and other data, as may be requested in the Bid Form or prior to the Notice of Award.

Owner may consider the qualifications and experience of Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions (or as requested by Owner after the Bids are received). Owner also may consider the operating costs, maintenance requirements, performance data, delivery data, personnel and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

If the Work is to be awarded, it will be awarded to the Bidders based on qualification, and whose evaluation by Owner indicates to Owner that the awards will be in the best interests of the Owner. It is the policy of Northern Palm Beach County Improvement District that those Small Business Enterprises that would be eligible for certification as such by Palm Beach County shall have the maximum practical opportunity to participate in the competitive process of supplying goods and services to Northern Palm Beach County Improvement District.

If the Work is to be awarded, Owner will give the Successful Bidders a Notice of Award within 90 days after the receipt of the Proposal.

14. CONTRACT SECURITY.

No contract security is required.

END OF SECTION

PROPOSAL FORM MUST BE SUBMITTED
IN **DUPLICATE**

Contractor: _____

PROJECT: Northern Palm Beach County Improvement
District
Minor Services Qualifications Proposal

DATE: _____
(Proposal Submitted on)

SECTION 00300

PROPOSAL FORM

THIS PROPOSAL IS SUBMITTED TO:

Northern Palm Beach County Improvement District
359 Hiatt Drive
Palm Beach Gardens 33418

1. The undersigned CONTRACTOR proposes and agrees, if this Proposal is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents and in accordance with the other terms and conditions of the Contract Documents.
2. CONTRACTOR accepts all of the terms and conditions of the Invitation for Proposals and Instructions including without limitation to the extent that any of the Documents are subject to the public records exemption set forth in Chapter 119, Florida Statutes, the CONTRACTOR agrees to maintain the non-disclosure status of said documentation and information in accordance with the terms and provisions of said statute and by requesting or receiving such documentation or information is bound by this requirement. This Proposal will remain subject to acceptance for 90 days after the day of Proposal opening. CONTRACTOR will sign and submit the Agreement with the Bonds and other documents required by the Proposal Requirements within 15 days after the date of OWNER's Notice of Award.
3. In submitting this Proposal, PROPOSALDER represents, as more fully set forth in the Agreement, that:
 - (a) CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
 - (b) This Space is intentionally left blank.
 - (c) CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies (in addition to or to supplement those referred to in (c) above) which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress, performance or furnishing of the

Conditions; and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by CONTRACTOR for such purposes.

- (d) This Space is intentionally left blank.
 - (e) CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
 - (f) CONTRACTOR has given Owner written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Owner is acceptable to CONTRACTOR.
 - (g) This Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; CONTRACTOR has not directly or indirectly induced or solicited any other CONTRACTOR to submit a false or sham Proposal; CONTRACTOR has not solicited or induced any person, firm or corporation to refrain from submitting; and CONTRACTOR has not sought by collusion to obtain for itself any advantage over any other CONTRACTOR or over OWNER.
 - (h) All costs associated with permit fees as a result of this work will be paid for by the Owner.
4. CONTRACTOR will complete Work for the following price(s): CONTRACTOR agrees to perform all the Work described in Contract Documents, subject to adjustments as provided therein or as negotiated, for either the prices CONTRACTOR provides on future Pricing Proposal Requests or as thereafter negotiated.
 5. Each CONTRACTOR agrees to waive any claim it has or may have against the Owner, District Engineer and their respective employees and/or consultants that may arise out of or in connection with the administration, evaluation or recommendation of any Proposal or proposal for this Project.
 6. The term of this Contract (or Agreement) shall commence upon completion and final execution of contract manual and conclude when terminated at either party's option, with or without cause, following a sixty (60) day advance written notice by one party to the other.

CONTRACTOR accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work on time.

7. The following documents are attached to, incorporated herein, and made a condition of this Proposal:

(a) CONTRACTOR's Qualification Form (Page(s) BQF 1-10).

(b) Executed Ethics Statement (ES)

(c) Executed Illicit Discharge Agreement (IDA-1)

(d) Schedule of Subcontractors (Page(s) SUB-1).

8. Communications concerning this Proposal shall be telephoned or addressed to:
The phone number and address of CONTRACTOR indicated below.

9. The terms used in this Proposal which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents have the meanings assigned to them in the General Conditions.

10. CONTRACTOR's Florida Contractor's License No. _____.

11. CONTRACTOR covenants that it is qualified to do business in the State of Florida and has attached evidence of CONTRACTOR's qualification to do business in the State of Florida, or if not attached, CONTRACTOR covenants to obtain such evidence within five days of request by OWNER to provide evidence.

12. CONTRACTOR covenants that it is qualified to do business in Palm Beach County, Florida and has attached evidence of CONTRACTOR's authorization to do business in Palm Beach County, Florida, together with appropriate State of Florida licenses and/or appropriate Palm Beach County Certificates of Competency as required to complete the Work.

13. If CONTRACTOR is:

An Individual

By _____ (SEAL)
(Individual's Name)

(Signature)

doing business as _____

Business address: _____

Phone No.: _____

A Partnership/ LLP

By _____ (SEAL)
(Firm Name)

(General Partner) (Signature)

Business address: _____

Phone No.: _____

A Corporation/ LLC

By _____ (SEAL)
(Name)

(State of Formation)

By _____
(Name of Person Authorized to Sign)

(Title)

(Signature)

(Seal)

Attest

Business address:

Phone No.:

PROJECT: Minor Services Qualifications Proposal
Northern Palm Beach County
Improvement District

QUALIFICATION AFFIDAVIT

Name of Bidder _____

Address of Bidder _____

To: Northern Palm Beach County Improvement District
359 Hiatt Drive
Palm Beach Gardens, Florida 33418

Gentlemen:

The signer of this affidavit guarantees the truth and accuracy of all statements and information submitted herein in support of its bid proposal to furnish all materials, equipment, and labor, and to perform all work in accordance with the Contract Documents for the Minor Services Contract for Northern Palm Beach County Improvement District.

The undersigned hereby authorizes and requests any public official, engineer, architect, surety company, bank depository, material or equipment manufacturer or distributor or any person, firm or corporation to furnish any pertinent information requested by the District or its Engineer, ARCADIS US, Inc. 2081 Vista Parkway, Suite 305, West Palm Beach, Florida 33411, deemed necessary to verify the statements made, information submitted, or regarding the standing and general reputation of the applicant.

The undersigned has not been disqualified by any public agency in Florida except as is explained as follows:
_____.

The undersigned further affirms that, if false information is furnished in support of its bid proposal, it can and will be prosecuted to the fullest extent of the law for perjury.

Name of Organization

Sworn to and subscribed before
me this _____ day of _____, 20____.

BY: _____

Notary Public - State of _____

Title of Person Signing
(If Corporation, Affix Seal)

My commission expires _____

(Printed, typed, or stamped
commissioned name of notary public)
Personally known _____
OR Produced identification _____
(Type of identification)

PART I - STATEMENT OF EXPERIENCE:

1) Legal Name, Address, and Telephone Number:

2) Check one: Corporation ___; Partnership ___; Individual ___

3) If a Corporation, state:

Date of Incorporation _____

State in which incorporated: _____

Date of Assuming
Position

Name and Title of Principal Officers

Name and Title of Principal Officers	Date of Assuming Position
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If an Out-of-State Corporation, currently authorized to do business in Florida, give date of such authorization:

4) If Partnership:

Date of organization: _____

Nature of Partnership (General, Limited, or Association): _____

Names and Addresses of Partners

Age of Partner

Names and Addresses of Partners	Age of Partner
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

5) If an Individual, state -- Name & Address of Owner:

6) Enumerate State, County, or other Public Agencies in which your organization is qualified to perform work by some means of pre-qualification:

<u>Agency</u>	<u>Trade in Which Qualified</u>	<u>Expiration Date</u>	<u>Approved Amount</u>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

7) Describe your organizational structure, including the number of permanent employees engaged in cost estimating, purchasing, expediting, detailing, and engineering, field supervision, field engineering, and layout:

(Use extension sheet if necessary)

8) Give names & data about any construction projects you have failed to complete:

(Use extension sheet if necessary)

9) Has any officer or partner of your organization ever been an officer or partner of some other organization that failed to complete a construction contract? _____. If within the last five (5) years, state name of individual, other organization, and reason therefor:

- 10) Has any officer or partner of your organization ever failed to complete a construction contract handled in his own name? _____. If within the last five (5) years, state name of individual, name of owner, and reason therefor:

- 11) Has your organization, or any officer or partner thereof, ever been party to any criminal litigation as a result of construction methods, costs, etc? ____.

If yes, state case number, case name, and provide pertinent details, including judgment:

(Attach extension sheet if necessary)

- 12) Has your organization, or any officer or partner thereof, ever been party to any civil litigation as result of construction methods, costs, etc? ____.

If yes, state case number, case name, and provide pertinent details, including judgment:

(Attach extension sheet if necessary)

13) Name all persons with whom you have been associated in the construction business, either as partners or as general business associates in a construction firm, for each of the last five (5) years:

14) Indicate type of contracting undertaken by your Organization and number of years experience:

As Prime Contractor:	Type:_____	No. of Years_____
	Type:_____	No. of Years_____
As Subcontractor:	Type:_____	No. of Years_____
	Type:_____	No. of Years_____

15) Give any special qualifications of firm members (Registered Engineer, Surveyor, etc.)

(Use extension sheet if necessary)

19) Identify each type of construction/service your firm is qualified to complete by marking Yes/No in the box adjacent to the type of work. Identify the manpower and equipment available to perform such activities along with years of experience performing this type of work and other considerations you feel should be noted.

Construction / Service Type	Qualified Yes/No	Manpower	Equipment	Yrs of Exp. (each type)	Other Considerations
Roadway Repairs including Basecoat & Asphalt					
Signage Installation/Repair, Striping					
Curbing & Sidewalk					
Swale Construction, Sodding, Seed & Mulch					
Lake/Canal Bank Restoration					
Landscaping (Pruning, Bracing, Installation, Fertilization, etc.)					
Drainage System Construction & Repairs					
Trash Removal (Animals, Carts, Trash, etc.)					
Painting					
Electrical					
Roofing					
Structural					

(Use extension sheet if necessary)

PART II - GENERAL FINANCIAL INFORMATION:

- 1) Give total contract value of work accomplished by your organization in each of the last three (3) years:

- 2) Give contract value of work now pending award to your organization:
\$ _____
State amount requiring bond if awarded: \$ _____
- 3) Give the value of any judgments or liens outstanding against your organization:
\$ _____
Explain: _____

- 4) Give names of Surety Companies & Agent under which you have functioned within the last three (3) years:

- 5) Estimate your maximum bonding capacity: \$ _____
How much is unencumbered and available as of this date?
\$ _____

END OF FORM

SCHEDULE OF SUBCONTRACTORS

List Proposed Subcontractors

Category of Work

PROJECT: Minor Services Qualifications Proposal
Northern Palm Beach County
Improvement District

**TSA
TRENCH SAFETY AFFIDAVIT**

(FAILURE TO COMPLETE THIS FORM MAY RESULT IN THE BID BEING DECLARED NON-RESPONSIVE)

_____ (NAME OF CONTRACTOR) hereby provides written assurance that compliance with applicable Trench Safety Standards identified in the Occupational Safety & Health Administration's Excavation Safety Standards, (OSHA) 29 C.F.R.S. 1926.650 Subpart P will be adhered to during trench excavation in accordance with Florida Statutes 553.60 through 553.64, inclusive, "Trench Safety Act".

The undersigned acknowledges that included in the various items of the proposal for work requiring excavation includes compliance with the Florida "Trench Safety Act".

STATE OF _____ (Signature) _____ (Date)

COUNTY OF _____

Subscribed and Sworn to (or affirmed) before me on _____ (date) by _____ (name). He/she

is personally known to me or has presented _____ type of identification) as identification.

Notary Public Signature and Seal

Print Notary Name and Commission No.

**Northern Palm Beach County Improvement District
NPDES Illicit Discharge Agreement**

I, _____, certify that I am an authorized agent of _____
(PRINT First and Last) (PRINT Company Name)

responsible for the overview and satisfactory completion of the Minor Services Contract.

I acknowledge and agree to:

- Inform my field operators and other representatives to be observant and notify me of any Illicit Discharges discovered on Northern owned property or waterways while my staff or representatives are performing work as related to the specific contract noted above.
- Train my field operators and other representatives on the conditions to be particularly observant of and if necessary, request Northern Palm Beach County Improvement District to hold additional training classes.
- Forward to Northern, with each billing cycle, a completed Illicit Discharge Detection Form.
- Upon discovery of an illicit discharge, complete and forward to Northern and Illicit Discharge Detection Report. (all forms available upon request to Northern)

(Signed)

(Print Name)

(Date)

(Company Name)

11/2008

**Northern Palm Beach County Improvement District
NPDES Illicit Discharge Detection Form**

I, _____, certify that I am an authorized agent of _____
(PRINT First and Last) (PRINT Company Name)

responsible for the overview and satisfactory completion of the, _____
(PRINT Northern Contract Title)

I acknowledge that while in the course of performing contractual maintenance activities for Northern Palm Beach County Improvement District, my staff or representatives were diligent in observing and detecting any Illicit Discharges occurring on Northern owned property or waterways for the period covering _____ to _____.

Any Illicit Discharges that were detected were reported on the approved Northern Report, with dates of notification to Northern listed below:

1. _____ (Enter date of notification to Northern and location)

2. _____ (Enter date of notification to Northern and location)

3. _____ (Enter date of notification to Northern and location)

4. _____ (Enter date of notification to Northern and location)

5. _____ (Enter date of notification to Northern and location)

OR

Check box **IF** NO ILLICITS were detected for the reporting cycle.

(Signed)

(Print Name)

(Date)

(Company Name)

TO BE COMPLETED AND SUBMITTED WITH ALL INVOICES

11/2008

**Northern Palm Beach County Improvement District
NPDES Illicit Discharge Detection Report
FAX to Northern at 561-624-7839**

Date of Detection: _____

Company Name: _____

Person Reporting Illicit
Discharge: _____

Location Description:

General Description of Illicit
Discharge:

Date Forwarded to
Northern: _____
Nov-08

Northern Staff to Report Action Taken on
Reverse Side

SECTION 00500

AGREEMENT

THIS AGREEMENT is dated and will be effective on the _____ day of _____ in the year 20____, by and between Northern Palm Beach County Improvement District (herein called OWNER) and _____ (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK.

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

Minor Services Contract
Northern Palm Beach County Improvement District

ARTICLE 2. ENGINEER.

The OWNER and CONTRACTOR acknowledge that the OWNER will not be engaging an engineer to act as the OWNER'S representative regarding the completion of the Works in accordance with the Contract Documents. Rather, the OWNER shall be responsible for all administrative and ministerial activities that an engineer would otherwise be responsible for under the terms of this Agreement and the Contract Documents. Therefore, any reference in the Contract Documents relating to administrative and ministerial activities by an engineer shall be construed and interpreted as being the duties of the OWNER.

ARTICLE 3. CONTRACT TIME.

3.1. The term of this Contract (or Agreement) shall commence upon completion and final execution of contract manual and conclude when terminated at either party's option, with or without cause, following a sixty (60) day advance written notice by one party to the other.

ARTICLE 4. CONTRACT PRICE.

Owner shall pay Contractor for completion of the work in accordance with the Contract Documents, subject to adjustments as provided therein, in current funds as follows:

4.1. In accordance with the Owner's Purchase Orders issued based on proposals submitted by the Contractor at the request of Owner's staff. Said proposal shall be based on the scope/ description of work provided by staff.

If OWNER elects to extend the Contract Time, OWNER may in conjunction with such extension, consider reasonable increases in CONTRACTOR'S prices to reflect increases in CONTRACTOR'S costs.

ARTICLE 5. PAYMENT PROCEDURES.

5.1. For projects taking more than 30 calendar days to complete OWNER shall make progress payments in accordance with the Schedule of Values based on the Unit Price Schedule in response to CONTRACTOR'S Applications for Payment (doc 680.a) on a monthly basis as directed by OWNER. All progress payments will be on the basis of the number of units completed less 7.5% from each of the CONTRACTOR'S

monthly billing per each project term as retainage, or if the CONTRACTOR should default, as liquidated damages. If there is no default, the retainage amount, less the settlement amount of any claims, will be paid to the CONTRACTOR following the conclusion of the subject project as defined by an issued Northern Purchase Order.

For Projects taking less than 30 days to complete OWNER shall make payment in full and in accordance with the subject Owner issued Purchase Order based on the Unit Price Schedule in response to CONTRACTOR'S completed Applications for Payment (doc 680.b) submitted on or before the 5th day of the month.

All invoices must be submitted to OWNER within 60 days following final completion and acceptance by OWNER and will be paid within 60 days of the receipt of the completed Application for Payment.

ARTICLE 6. (This Article left blank intentionally)

ARTICLE 7. CONTRACTOR'S REPRESENTATIONS.

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

7.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents. CONTRACTOR hereby agrees to familiarize itself with the Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work prior to submitting a pricing proposal for specific work assignment

7.2. This space intentionally left blank.

7.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the subsurface of physical conditions at or contiguous to the site or which otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.2 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

7.4. This space intentionally left blank

7.5. CONTRACTOR has or will correlate the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

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

ARTICLE 8. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

8.1. This Agreement consisting of 5 pages.

8.2. Exhibits to this Agreement identified as: Contractor's Corporate Resolution (00502); Contractor's Certificate of Insurance; Ethics Statement (ES), Trench Safety Affidavit (TSA), NPDES Illicit Discharge Agreement, Form and Report (IDA), inclusive.

8.3. Notice of Award.

8.4. General Conditions consisting of 33 pages.

8.5. Supplementary Conditions consisting of 16 pages.

8.6. Specifications consisting of 29 pages.

8.7. This space intentionally left blank.

8.8. CONTRACTOR's Bid Proposal consisting of pages.

8.9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraphs 3.4 and 3.5 of the General Conditions.

8.10. The documents listed under Article 8 above are attached to this Agreement (except as expressly noted otherwise above).

8.11. Notice of Compliance with Chapter 556, Florida Statutes consisting of 1 page.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.4 and 3.5 of the General Conditions.

ARTICLE 9. MISCELLANEOUS.

9.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

9.2. Except as set forth in the following subparagraph to this Section 9.2, no assignment by a party hereto of any rights under or interests in the Contract Documents 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.

The aforementioned prohibition against assignment shall not be applicable to the assignment by the Owner to other governmental entities or agencies of any or all of the Contractor's warranties and guarantees as set forth in Article 13 of the Standard General Conditions of the Construction Contract, as amended by the applicable Supplementary Conditions, which are incorporated as Contract Documents in this Agreement.

9.3. 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 of all covenants, agreements and obligations contained in the Contract Documents.

9.4. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Bid on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public work, may not be awarded or perform Work as a Contractor, Supplier, Subcontractor, or Consultant under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

9.5. The Contractor does hereby agree to the non-disclosure provisions of Chapter 119, Florida Statutes, for any building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure being constructed pursuant to this Agreement for the Owner.

9.6. If acting on behalf of the Owner as provided under §119.011(2), Florida Statutes, the Contractor shall comply with the applicable provisions of §119.701, Florida Statutes (Public Records). Specifically, Contractor shall:

9.6.1 Keep and maintain Public Records required by the Owner to perform the services provided for in this Agreement.

9.6.2 Upon request from the District's Custodian of Public Records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

9.6.3 Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Owner.

9.6.4 Upon completion of the contract, transfer, at no cost, to the Owner all Public Records in possession of the Contractor or keep and maintain Public Records required by the Owner to perform the service. If the contractor transfers all Public Records to the Owner upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the Contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All records stored electronically must be provided to the Owner, upon request from the Owner's custodian of Public Records, in a format that is compatible with the Owner's information technology system.

9.6.5 Promptly notify the Owner upon receipt of a Public Records request.

9.6.6 Failure by the Contractor to retain and provide Public Records as required by law may result in termination of this Agreement by District.

9.7. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (624-7830, OFFICE@NPBCID.ORG AND 359 HIATT DRIVE PALM BEACH GARDENS, FL. 33418).

ARTICLE 10. INDEMNIFICATION.

10.1. The parties agree that 1% of the total compensation paid to the Contractor for performance of this Agreement shall represent the specific consideration for the Contractor's indemnification of the Owner and Engineer as is set forth in Paragraphs 6.30 and 6.31 of the General Conditions.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement.

OWNER Northern Palm Beach County
Improvement District

CONTRACTOR _____

By _____
As President (SEAL)

By _____
(CORPORATE SEAL)

Attest: _____

Attest: _____

Address for giving notices

Address for giving notices

359 Hiatt Drive

Palm Beach Gardens, FL 33418

License No. _____

Agent for service of process:

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

END OF SECTION

ETHICS STATEMENT

WHEREAS, the Owner and Contractor intend by this Ethics Statement (Statement) to address certain ethical understandings as to the Contractor's award or selection for its past, present or future provision of services or material pursuant to this Agreement.

NOW, THEREFORE, the Owner and Contractor for and in consideration of the mutual understandings and covenants set forth in the Agreement together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct to the best of the knowledge of the parties hereto and are incorporated herein by this reference.

SECTION 2. STATEMENT. The Contractor does hereby warrant, covenant, represent and state as follows:

(a) It has not, nor will it employ or retain any person, other than a bona fide employee working solely for the Contractor, to solicit or secure the Owner's award or selection of the Contractor for the provision of services or materials pursuant to Agreement.

(b) It has not, nor will it pay or agree to pay any person, other than a bona fide employee working for said Contractor, any fee, commission, percentage, gift or other consideration that was or is contingent upon or resulting from the Owner's award or selection of the Contractor for the provision of services or materials pursuant to the Agreement.

(c) It has not, nor will it pay any money or contribution to any officer, employee or consultant of the Owner as a fee, commission, kickback, reward or gift directly or indirectly by any employee, consultant, officer, manager, member or director of the Contractor in the obtaining of the Owner's award or selection of the Second Party for the provision of services or materials pursuant to the Agreement.

(d) It has not, nor will it collude, conspire, connive or agree directly or indirectly with any person or firm in the submission of a collusive or sham proposal in connection with the Owner's award or selection of the Contractor for the provision of services or materials pursuant to the Agreement.

SECTION 3. ENFORCEMENT. If the Owner should determine that the Contractor has violated any of its warranties, covenants, representations and statements as set forth in this Statement, then in such event the Owner may terminate the Agreement with the Contractor without liability and, at its discretion, the Owner shall be entitled to deduct or otherwise recover from the Contractor the full amount of any fee, commission, percentage, gift or other consideration that the Contractor paid in order to obtain the Owner's award or selection of the Contractor for the provision of services or materials pursuant to the Agreement.

SECTION 4. CONFLICTS. To the extent there is any conflict between the provisions of this Statement and the Agreement, the terms and provisions of this Statement shall prevail.

EXECUTED by the Owner this _____ day of _____, 20_____.

[DISTRICT SEAL]

NORTHERN PALM BEACH COUNTY
IMPROVEMENT DISTRICT

Attest:

By: _____

Print Name: _____

By: _____

Title: _____

EXECUTED by the Contractor this _____ day of _____, 20_____.

(SEAL)

(Name of Contractor)

Attest:

By: _____

Print Name: _____

By: _____

Title: _____

PROJECT: Minor Services Qualifications Proposal
Northern Palm Beach County
Improvement District

SECTION 00501

OPINION OF ATTORNEY

This is to certify that I have examined the attached Contract Documents and that after such examination I am of the opinion that the Agreement is in due and proper form.

Attorney for Owner

This the _____ day of _____, 20__.

SECTION 00502

CONTRACTOR'S CORPORATE RESOLUTION

OF _____
(Name of Corporation)

WHEREAS, NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT, a Political Subdivision of the State of Florida, has requested bid to do certain work as further set out in its Bid Documents; and

WHEREAS, this corporation has submitted a bid in accordance with the aforementioned Bid Documents; and

WHEREAS, a proposed Agreement has been presented to this corporation by NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT for carrying out the work as set forth in this corporation's bid; and

WHEREAS, this corporation desires to enter into said Agreement with NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT;

THEREFORE, be it resolved, that _____
the _____ (title) of this corporation be, and is hereby authorized and directed to execute and deliver for, on behalf of, and in the name of this corporation and under its corporate seal the aforementioned Agreement, in the form of the copy submitted at this meeting or as thereafter negotiated with said copy being attached to and made a part of the Minutes of this meeting; and

IT IS FURTHER RESOLVED, that the officers of this corporation be and they are hereby authorized, empowered, and directed in the name and for the account of this corporation to take or cause to be taken any and all such other and further action and to execute, acknowledge, and deliver any and all such other instruments as, in the judgment of such officers, may be necessary, proper, or convenient in order to carry out the intention of this Resolution.

I certify that the foregoing is a true copy of a Resolution of the Board of Directors of _____ (name of corporation) a corporation duly organized and existing under the laws of the State of _____, having its principal place of business at _____, duly adopted in accordance with the By-Laws, and recorded in the Minutes of the meeting of said Board held on the _____ day of _____, 20____, and now in full force and effect;

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the said corporation this _____ day of _____, 20_____.

Secretary

(CORPORATE SEAL)

END OF SECTION

00680.a

APPLICATION FOR PAYMENT NO.: _____ PURCHASE ORDER NO: _____
PROJECT: _____

Application is made for payment, as hereafter shown, in connection with this Agreement:

Total Work to Date – see attached schedule	\$ _____
Total Material Suitably Stored – see attached schedule	\$ _____
Gross Amount Due	\$ _____
Less 7.5% Retainage	\$ _____
Amount Due to Date	\$ _____
Less Previous Applications	\$ _____
FINAL PAYMENT ONLY: plus retainage to date	\$ _____
Amount Due This Application	\$ _____

FINAL PAYMENT: Contractors Affidavit to Owner attached Y () N()

Original Contract Price	\$ _____
Net Change Orders	\$ _____
Current Contract Price	\$ _____
Value of Work Remaining to Be Done	\$ _____

Contractor's Certification:

The undersigned Contractor certifies that (1) all previous progress payments received from Owner on account of Work done under the Agreement referred to above have been applied to discharge in full all obligations of Contractor incurred in connection with Work covered by prior Applications for Payment numbered 1 through ____, inclusive; and (2) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to Owner).

Dated _____, 20____

Contractor Mailing Address

By, _____
(name and title)

State of _____)
County of _____)

Subscribed and Sworn to (or affirmed) before me on _____ (date) personally appeared _____ (name). He/She is personally known to me or has presented _____ (type of identification) as identification. Who being so duly sworn, did depose and say that he/she is _____ of the Contractor above mentioned; that he/she executed the above Application for Payment and statement on behalf of said Contractor; and that all of the statements contained therein are true, correct and complete.

Notary Public Signature & Seal

Print Notary Name and Commission No.

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Date: _____

By: _____
Contract Coordinator

Work has been Completed and Accepted Y () N()

APPLICATION FOR PAYMENT
00680.a

00680.b
APPLICATION FOR PAYMENT NO.

CONTRACT: _____

Application is made for payment, as hereafter shown, in connection with this Agreement:

Northern Purchase Order No. _____

Project Description: _____

Northern Contact Name: _____

Date Work Completed: _____

Amount Due: \$ _____

Completed "CONTRACTOR'S AFFIDAVIT TO OWNER" attached Y () N ()

Contractors invoice for payment attached Y () N ()

Contractor's Certification:

The undersigned Contractor certifies that all works performed under the referenced Purchase Order have been completed in full compliance with all contract Guidelines and Specifications.

Date: _____

Contractor Signature

Name Printed

CHANGE OF MAILING ADDRESS: _____

FOR OFFICE USE ONLY:

All works performed under the referenced Purchase Order have been completed and accepted as of this date. Payment of the above AMOUNT DUE is recommended.

Date: _____

By: _____
Contract Coordinator

APPLICATION FOR PAYMENT
00680.b

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

05/02/86
GC-1

00700
STANDARD

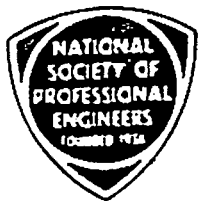
GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT

Prepared by

Engineers' Joint Contract Documents Committee

and

Issued and Published Jointly By



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

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

CONSTRUCTION SPECIFICATIONS INSTITUTE

This document has been approved and endorsed by

The Associated General  Contractors of America

These General Conditions have been prepared for use with the Owner-Contractor Agreements (No. 1910-8-A-1 or 1910-8-A-2, 1983 editions). Their provisions are interrelated and a change in one may necessitate a change in the others. Comments concerning their usage are contained in the Commentary on Agreements for Engineering Services and Contract Documents, No. 1910-9, 1981 edition. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17, 1983 edition). When bidding is involved, the Standard Form of Instructions to Bidders (No. 1910-12, 1983 edition) may be used.

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

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

Construction Specifications Institute
601 Madison St., Alexandria, VA 22314

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GENERAL CONDITIONS

ARTICLE I—DEFINITIONS

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

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

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

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

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

* *BIDDER*—(see 1SC-1 of Supplementary Conditions)

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

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 Time, issued on or after the Effective Date of the Agreement.

* *Construction*—(See 1SC-1 of the Supplementary Conditions)

Contract Documents—The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR'S Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all amendments, modifications and supplements issued pursuant to paragraphs 3.4 and 3.5 on or after the Effective Date of the Agreement.

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

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

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

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

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

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

ENGINEER—The person, firm or corporation named as such in the Agreement.

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

General Requirements—Sections of Division 1 of the Specifications.

Laws and Regulations; Laws or Regulations—Laws, rules, regulations, ordinances, codes and/or orders.

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

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

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

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

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

Resident Project Representative—The authorized representative of ENGINEER who is assigned to the site or any part thereof. (see 1SC-1 of Supplementary Conditions) *

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

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

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

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

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

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

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

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

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

Work Directive Change—A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER,

ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in paragraph 4.2 or 4.3 or to emergencies under paragraph 6.22. A Work Directive Change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Time as provided in paragraph 10.2.

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

ARTICLE 2—PRELIMINARY MATTERS

Delivery of Bonds:

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

Copies of Documents:

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

Commencement of Contract Time; Notice to Proceed:

2.3. ~~The Contract Time will commence to run on the thirtieth day after the Effective Date of the Agreement, or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the Effective Date of the Agreement. In no event will the Contract Time commence to run later than the seventy fifth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier. (See §5C-2.3 of Supplementary Conditions)~~ *

Starting the Project:

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

Before Starting Construction: (See §5C-2.5 through 2.6.3 of the Supplementary Condition)
~~2.5. Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown~~

person and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error 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 or discrepancy in the Contract Documents, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

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

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

2.6.2. a preliminary schedule of Shop Drawing submissions; and

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

2.7. Before any Work at the site is started, CONTRACTOR shall deliver to OWNER, with a copy to ENGINEER, certificates (and other evidence of insurance requested by OWNER) which CONTRACTOR is required to purchase and maintain in accordance with paragraphs 5.3 and 5.4, and OWNER shall deliver to CONTRACTOR certificates (and other evidence of insurance requested by CONTRACTOR) which OWNER is required to purchase and maintain in accordance with paragraphs 5.5 and 5.7. (See 1Sc-2.7 of the Supplementary Conditions)

* **Preconstruction Conference:** (See 1Sc-2.8 of Supplementary Conditions)

2.8. Within twenty days after the Effective Date of the Agreement, but before CONTRACTOR starts the Work at the site, a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to discuss the schedules referred to in paragraph 2.6, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work.

* **Finalizing Schedules:** (See 1Sc-2.9 of the Supplementary Conditions)

2.9. 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 finalize the schedules submitted in accordance with para-

graph 2.6. The finalized progress schedule will be acceptable to ENGINEER as providing an orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on ENGINEER responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility therefor. The finalized schedule of Shop Drawing submissions will be acceptable to ENGINEER as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to ENGINEER as to form and substance.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

Intent:

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

* (See 1Sc-3.2 of the Supplementary Conditions)

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

* (See 1Sc-3.3 of the Supplementary Conditions)

3.3. If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to ENGINEER in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification

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

Amending and Supplementing Contract Documents:

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

- 3.4.1. a formal Written Amendment.
- 3.4.2. a Change Order (pursuant to paragraph 10.4), or
- 3.4.3. a Work Directive Change (pursuant to paragraph 10.1).

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

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

- 3.5.1. a Field Order (pursuant to paragraph 9.5).
- * (See §SC-3.5.2 of the Supplementary Conditions)
- 3.5.2. ENGINEER's approval of a Shop Drawing or sample (pursuant to paragraphs 6.26 and 6.27), or
- 3.5.3. ENGINEER's written interpretation or clarification (pursuant to paragraph 9.4).

Reuse of Documents:

3.6. Neither CONTRACTOR nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaptation by ENGINEER.

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

Availability of Lands: * (See §SC-4.1 of the Supplementary Conditions)
~~4.1. OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and~~

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

Physical Conditions: (see §SC 4.2.1, of the Supplementary Conditions)

~~4.2.1. Explorations and Reports: Reference is made to the Supplementary Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports, but not upon non-technical data, interpretations or opinions contained therein or for the completeness thereof for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.~~

~~4.2.2. Existing Structures: Reference is made to the Supplementary Conditions for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in paragraph 1.1) which are at or contiguous to the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such drawings, but not for the completeness thereof for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.~~

~~4.2.3. Report of Differing Conditions: If CONTRACTOR believes that:~~

- * (See §SC-4.2.3.1 of the Supplementary Conditions)
- ~~4.2.3.1. any technical data on which CONTRACTOR is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is inaccurate, or~~

~~4.2.3.2. any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the Contract Documents.~~

CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted by paragraph 6.22), notify OWNER and ENGINEER in writing about the inaccuracy or difference.

* (See §SC-4.2.4 of the Supplementary Conditions)

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

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

* (See §SC-4.2.6 of the Supplementary Conditions)

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

* (See §SC-4.3.1 through 4.4 of the Supplementary Conditions)
Physical Conditions—Underground Facilities:

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

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

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

~~4.3.2. *Not Shown or Indicated.* If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 6.22), identify the owner of such Underground Facility and give written notice thereof to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility to~~

~~determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.20. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of. If the parties are unable to agree as to the amount or length thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.~~

Reference Points:

~~4.4. OWNER shall provide 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 (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.~~

ARTICLE 5—BONDS AND INSURANCE

Performance and Other Bonds: * (See §SC-5.1 of the Supplementary Conditions)

~~5.1. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by Law or Regulation or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and 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 370 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.~~

~~5.2. If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of~~

~~The Project is located or it ceases to meet the requirements of paragraph 5.1. CONTRACTOR shall within five days hereafter substitute another Bond and Surety, both of which must be acceptable to OWNER.~~

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

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

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

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

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

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

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

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

The insurance required by this paragraph 5.3 shall include the specific coverages and be written for not less than the limits of liability and coverages provided in the Supplementary Conditions, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least

thirty days' prior written notice has been given to OWNER and ENGINEER by certified mail. All such insurance shall remain in effect until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing defective Work in accordance with paragraph 13.12. In addition, CONTRACTOR shall maintain such completed operations insurance for at least two years after final payment and furnish OWNER with evidence of continuation of such insurance at final payment and one year thereafter.

* *Contractual Liability Insurance:* (See §SC-5.4 of the Supplementary Conditions)
5.4. The comprehensive general liability insurance required by paragraph 5.3 will include contractual liability insurance applicable to CONTRACTOR's obligations under paragraphs 6.30 and 6.31.

* *Owner's Liability Insurance:* (See §SC-5.5 of the Supplementary Conditions)
~~5.5. OWNER shall be responsible for purchasing and maintaining OWNER's own liability insurance and, at OWNER's option, may purchase and maintain such insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.~~

* *Property Insurance:* (See §SC-5.6 thru 5.10 of the Supplementary Conditions)
~~5.6. Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property insurance upon the Work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER and ENGINEER's consultants in the Work, all of whom shall be listed as insureds or additional insured parties, shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided in the Supplementary Conditions, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance or otherwise provided in the Supplementary Conditions, CONTRACTOR shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.~~

5.7. OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER AND ENGINEER's consultants in the Work, all of whom shall be listed as insured or additional insured parties.

~~5.8. All the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by OWNER in accordance with paragraphs 5.6 and 5.7 will contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least thirty days' prior written notice has been given to CONTRACTOR by certified mail and will contain waiver provisions in accordance with paragraph 5.11.2.~~

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

~~5.10. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policy, 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.~~

Waiver of Rights:

5.11.1. OWNER and CONTRACTOR waive all rights against each other for all losses and damages caused by any of the perils covered by the policies of insurance provided in response to paragraphs 5.6 and 5.7 and any other property insurance applicable to the Work, and also waive all such rights against the Subcontractors, ENGINEER, ENGINEER's consultants and all other parties named as insureds in such policies for losses and damages so caused. As required by paragraph 6.11, each subcontract between CONTRACTOR and a Subcontractor will contain similar waiver provisions by the Subcontractor in favor of OWNER, CONTRACTOR, ENGINEER, ENGINEER's consultants and all other parties named as insureds. None of the above waivers shall extend to the rights that any of the insured parties may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

5.11.2. OWNER and CONTRACTOR intend that any policies provided in response to paragraphs 5.6 and 5.7 shall protect all of the parties insured and provide primary coverage for all losses and damages caused by the perils covered thereby. Accordingly, all such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any of the parties named as insureds or additional insureds, and if the insurers require separate waiver forms to be signed by ENGINEER or ENGINEER's consultant OWNER will obtain the same, and if

such waiver forms are required of any Subcontractor, CONTRACTOR will obtain the same.

Receipt and Application of Proceeds:

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

5.13. OWNER as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as trustee shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If required in writing by any party in interest, OWNER as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of such duties.

Acceptance of Insurance: (See 95C-5.14 of the Supplementary Conditions)

~~5.14. If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with paragraphs 5.6 and 5.7 on the basis of its not complying with the Contract Documents, OWNER shall notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates to OWNER in accordance with paragraph 3.7. If CONTRACTOR has any objection to the coverage afforded by or other provisions of the policies of insurance required to be purchased and maintained by OWNER in accordance with paragraphs 5.6 and 5.7 on the basis of their not complying with the Contract Documents, CONTRACTOR shall notify OWNER in writing thereof within ten days of the date of delivery of such certificates to CONTRACTOR in accordance with paragraph 3.7. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided by each as the other may reasonably request. Failure by OWNER or CONTRACTOR to give any such notice of objection within the time provided shall constitute acceptance of such insurance purchased by the other as complying with the Contract Documents.~~

Partial Utilization—Property Insurance: (See 95C-5.15 of the Supplementary Conditions)

~~5.15. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with paragraph 14.19, provided that no~~

~~such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.~~

ARTICLE 6—CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence:

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

* (See §SC-6.2 of the Supplementary Conditions)

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

* (See §SC-6.3 of the Supplementary Conditions)

Labor, Materials and Equipment:

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

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

* (See §SC-6.5 of the Supplementary Conditions)

~~6.5. All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to ENGINEER, or any of ENGINEER's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 7.15 or 7.16.~~

* (See §SC-6.6 of the Supplementary Conditions)

Adjusting Progress Schedule:

~~6.6. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 7.9) adjustments in the progress schedule to reflect the impact thereof of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.~~

* (See §SC-6.7.1 through 6.7.3 of the Supplementary Conditions)

Substitutes or "Or-Equal" Items:

~~6.7.1. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by ENGINEER if sufficient information is submitted by CONTRACTOR to allow ENGINEER to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by ENGINEER will include the following as supplemented in the General Requirements. Requests for review of substitute items of material and equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee.~~

...ability. All substitutions of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change. All of which shall be considered by ENGINEER in evaluating the proposed substitute. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR's expense additional data about the proposed substitute.

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

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

Concerning Subcontractors, Suppliers and Others:

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

6.8.2. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by

OWNER and ENGINEER and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions. OWNER's or ENGINEER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute, the Contract Price will be increased by the difference in the cost occasioned by such substitution and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER or ENGINEER of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

6.8.3. (See 1SC-6.8.3 of the Supplementary Conditions) *

6.9. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations. (See 1SC-6.9 of the Supplementary Conditions) *

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

6.11. All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER and contains waiver provisions as required by paragraph 5.11. CONTRACTOR shall pay each Subcontractor a just share of any insurance moneys received by CONTRACTOR on account of losses under policies issued pursuant to paragraphs 5.6 and 5.7.

Patent Fees and Royalties:

6.12. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER

or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits: * (See §SC-6.13 of the Supplementary Conditions)

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

Laws and Regulations:

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

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

Taxes:

6.15. CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the

place of the Project which are applicable during the performance of the Work.

Use of Premises:

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

* (See §SC-6.17 through 6.19 of the Supplementary Conditions)

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

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

Record Documents:

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

~~pletion of the Work, these record documents, samples and Shop Drawings will be delivered to ENGINEER for OWNER.~~

Safety and Protection:

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

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

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

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

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

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

Emergencies:

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

* (See §SC-6.23 through 6.28 of the Supplemental Conditions)

Shop Drawings and Samples:

~~6.23. After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, CONTRACTOR shall submit to ENGINEER for review and approval in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 3.9), or for other appropriate action if so indicated in the Supplementary Conditions, five copies (unless otherwise specified in the General Requirements) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as ENGINEER may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable ENGINEER to review the information as required.~~

6.24. CONTRACTOR shall also submit to ENGINEER for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

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

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

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

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

~~6.27. ENGINEER's review and approval of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission as required by paragraph 6.25.2 and ENGINEER has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 6.25.1.~~

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

Continuing the Work:

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

Indemnification:

6.30. To the fullest extent permitted by Laws and Regulations CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of the Work,

provided that any such claim, damage, loss or expense (a) 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 (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

6.31. In any and all claims against OWNER or ENGINEER or any of their consultants, agents or employees by any employee of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.30 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

* (See 15C-6.32 of the Supplementary Conditions)
6.32. ~~The obligations of CONTRACTOR under paragraph 6.30 shall not extend to the liability of ENGINEER, ENGINEER's consultants, agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications.~~

ARTICLE 7—OTHER WORK

Related Work at Site: * (See 15C-7.0 of the Supplement Conditions)

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

~~7.2. CONTRACTOR shall afford each utility owner and other contractor who is a party to such a direct contract (or OWNER, if OWNER is performing the additional work with OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. CO-~~

~~CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.~~

~~7.3. If any part of CONTRACTOR's Work depends for proper execution or results upon the work of any such other contractor or utility owner (or OWNER), CONTRACTOR shall inspect and promptly report to ENGINEER in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR's failure so to report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's Work except for latent or non-apparent defects and deficiencies in the other work.~~

Coordination:

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

ARTICLE 8—OWNER'S RESPONSIBILITIES

* (See 1SC-8.1 of the Supplementary Conditions)
8.1. ~~OWNER shall issue all communications to CONTRACTOR through ENGINEER.~~

* (See 1SC-8.2 of the Supplementary Conditions)
8.2. ~~In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer against whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER. Any dispute in connection with such appointment shall be subject to arbitration.~~

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

* (See 1SC-8.4 of the Supplementary Conditions)
8.4. ~~OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 1.1 and 1.1. Paragraph 1.2 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and in existing struc-~~

~~(ures which have been utilized by ENGINEER in preparing the Drawings and Specifications.~~

8.5. OWNER's responsibilities in respect of purchasing and maintaining liability and property insurance are set forth in paragraphs 5.5 through 5.8.

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

* (See 1SC-8.7 of the Supplementary Conditions)
8.7. ~~OWNER's responsibility in respect of certain inspections, tests and approvals is set forth in paragraph 12.1.~~

8.8. In connection with OWNER's right to stop Work or suspend Work, see paragraphs 13.10 and 13.1. Paragraph 13.2 deals with OWNER's right to terminate services of CONTRACTOR under certain circumstances.

ARTICLE 9—ENGINEER'S STATUS DURING CONSTRUCTION

Owner's Representative: * (See 1SC-9.1 through 9.9 of the Supplementary Conditions)

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

Visits to Site:

9.2. ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ~~ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations as an experienced and qualified design professional, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.~~

Project Representation:

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

9.3.1. (See 1SC-9.3.1 of the Supplementary Conditions) *

Clarifications and Interpretations:

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

Authorized Variations in Work:

9.5. 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 Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER, and also on CONTRACTOR who shall perform the Work involved promptly. ~~IF CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 11 or 12.~~

Rejecting Defective Work:

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

Shop Drawings, Change Orders and Payments:

~~9.7. In connection with ENGINEER's responsibility for Shop Drawings and samples, see paragraphs 6.23 through 6.29 inclusive.~~

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

~~9.9. In connection with ENGINEER's responsibilities in respect of Applications for Payment, etc., see Article 14.~~

Determinations for Unit Prices:

9.10. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR 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 decisions thereon will be final and binding upon OWNER and CONTRACTOR, unless, within ten days after the date of any such decision, either OWNER or CONTRACTOR delivers to the other party to the Agreement and

to ENGINEER written notice of intention to appeal from such a decision.

Decisions on Disputes: * (See ISC-9.11 through 9.12 of the Supplementary Condition:

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

9.12. When functioning as interpreter and judge under paragraphs 9.10 and 9.11, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to paragraphs 9.10 and 9.11 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.16) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

Limitations on ENGINEER's Responsibilities:

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

9.14. Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be

* (See §10.4.3 of the Supplementary Conditions)

effective to assign to ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16.

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

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

ARTICLE 10—CHANGES IN THE WORK

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

* (See §10.2 through 10.3 of the Supplementary Conditions)
10.2. ~~IF OWNER and CONTRACTOR are unable to agree as to the extent of any increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Work Directive Change, a claim may be made therefor as provided in Article 11 or Article 13.~~

10.3. ~~CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 3.4 and 3.5, except in the case of an emergency as provided in paragraph 5.22 and except in the case of uncovering Work as provided in paragraph 13.9.~~

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

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

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

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

~~provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 9.29.~~

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

ARTICLE 11—CHANGE OF CONTRACT PRICE

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

* (See §11.2 of the Supplementary Conditions)

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

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

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

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

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

Cost of the Work:

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

11.4.1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by OWNER.

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

11.4.3. Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of ENGINEER, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as CONTRACTOR's Cost of the Work. All subcontracts shall be subject

to the other provisions of the Contract Documents insofar as applicable.

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

11.4.5. Supplemental costs including the following:

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

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

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

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

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

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

requires reconstruction and CONTRACTOR is placed in charge thereof. CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraph 11.6.2.

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

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

11.4.5.9. Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by OWNER in accordance with paragraph 5.9.

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

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

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

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

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

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

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

CONTRACTOR's Fee:

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

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

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

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

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

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

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

11.6.2.5. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's Fee shall be computed on the basis of the net change in accordance with paragraphs 11.6.2.1 through 11.6.2.4, inclusive.

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

* (See 1SC-11.8 of the Supplementary Conditions)

Cash Allowances:

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

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

11.8.2. CONTRACTOR's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the

~~allowances. No demand for additional payment on account of any thereof will be valid.~~

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

Unit Price Work:

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

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

~~11.9.3. Where 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 there is no corresponding adjustment with respect to any other item of Work and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the amount of any such increase.~~

* (See §SC-11.9.3 of the Supplementary Conditions)

ARTICLE 12—CHANGE OF CONTRACT TIME

* (See §SC-12.1 through 12.3 of the Supplementary Conditions)

~~12.1. The Contract Time may only be changed by a Change Order or a Written Amendment. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time~~

~~shall be determined by ENGINEER in accordance with paragraph 9.11 if OWNER and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph 12.1.~~

~~12.2. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefor as provided in paragraph 12.1. Such delays shall include, but not be limited to, acts or neglect by OWNER or others performing additional work as contemplated by Article 7, or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.~~

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

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

Warranty and Guarantee:

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

Access to Work:

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

Tests and Inspections:

13.3. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests or approvals. See §SC-13.3 of the Supplementary Conditions.

~~13.4. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish ENGINEER the required certificates of inspection, testing or approval. CONTRACTOR shall also~~

* (See §SC-13.4 through 13.6 of the Supplementary Conditions)

~~be responsible for and shall pay all costs in connection with any inspection or testing required in connection with OWNER's or ENGINEER's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by OWNER (unless otherwise specified).~~

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

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

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

Uncovering Work:

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

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

thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

Owner May Stop the Work:

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

Correction or Removal of Defective Work:

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

One Year Correction Period:

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

Acceptance of Defective Work:

13.13. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, also ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall bear all direct, indirect and consequential

costs attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

OWNER May Correct Defective Work:

13.14. If CONTRACTOR fails within a reasonable time after written notice of ENGINEER to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.11, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees such access to the site as may be necessary to enable OWNER to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of OWNER in exercising such rights and remedies will be charged against CONTRACTOR in an amount approved as to reasonableness by ENGINEER, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

ARTICLE 14—PAYMENTS TO CONTRACTOR AND COMPLETION

**(See SC-14.1 through 14.2 of the Schedule of Values: Supplementary Conditions)*

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

Application for Progress Payment:

~~14.2. At least twenty days before each progress payment is scheduled (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, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER's interest therein, all of which will be satisfactory to OWNER. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.~~

CONTRACTOR's Warranty of Title:

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

Review of Applications for Progress Payment:

14.4. ENGINEER will, within ten 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. Ten days after presentation of the Application for Payment with ENGINEER's recommendation, the amount recommended will (subject to the provisions of the last sentence of paragraph 14.7) become due and when due will be paid by OWNER to CONTRACTOR.

14.5. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a

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

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

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

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

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

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

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

OWNER may refuse to make payment of the full amount recommended by ENGINEER because claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling

OWNER to a set-off against the amount recommended, but OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action.

* (See §SC-14.8 and 14.9 of the Substantial Completion: Supplementary Conditions)

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

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

* (See §SC14.10 through 14.10.3 of the Partial Utilization: Supplementary Conditions)

~~14.10. Use by OWNER of any finished part of the Work, which has specifically been identified in the Contract Documents,~~

parts of which OWNER, ENGINEER and CONTRACTOR agree constitutes a separately functioning and useable part of the Work that can be used by OWNER without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

14.10.1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees, CONTRACTOR will certify to OWNER and ENGINEER that said 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 paragraphs 14.8 and 14.9 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

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

~~14.10.3. No occupancy or separate operation of any of the Work will be accomplished prior to compliance with the requirements of paragraph 5.15 in respect of property insurance.~~

Final Inspection:

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

Final Application for Payment:

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

Final Payment and Acceptance:

14.13. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation—all as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application to OWNER for payment. Thereupon ENGINEER will give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.16.

Otherwise, ENGINEER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after presentation to OWNER of the Application and accompanying documentation, in appropriate form and substance, and with ENGINEER's recommendation and notice of acceptability, the amount recommended by ENGINEER will become due and will be paid by OWNER to CONTRACTOR.

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

Contractor's Continuing Obligation: * (See 15C14.15 of the Supplementary Conditions)

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

Waiver of Claims:

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

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

CONTRACTOR's continuing obligations under the Contract Documents; and

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

ARTICLE 15—SUSPENSION OF WORK AND TERMINATION

Owner May Suspend Work: *(See 15C-15.1 of the Supplementary Conditions)

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

Owner May Terminate:

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

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

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

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

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

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

15.2.6. if CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents

(including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.9 as revised from time to time):

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

15.2.8. if CONTRACTOR disregards the authority of ENGINEER; or

15.2.9. if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents:

OWNER may, after giving CONTRACTOR (and the surety, if there be one) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) such excess will be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER will be approved as to reasonableness by ENGINEER and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

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

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

Contractor May Stop Work or Terminate:

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

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ARTICLE 16—ARBITRATION

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

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

16.3. Notice of the demand for arbitration will be filed in writing with the other party to the Agreement and with the

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

16.4. No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder or in any other manner any other person or entity (including ENGINEER, ENGINEER's agents, employees or consultants) who is not a party to this contract unless:

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

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

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

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

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SECTION 00800

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (EJCDC No. 1910-8, 1983 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 General Conditions may also be supplemented elsewhere in the Contract Documents.

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (EJCDC No. 1910-8, 1983, edition) have the meanings assigned to them in the General Conditions.

PART 1 - MODIFICATIONS AND SUPPLEMENTS TO GENERAL CONDITIONS

SC-1.

Add the following to Article 1 - Definitions of the General Conditions:

Bidder - Any individual, partnership, corporation or joint venture submitting a Bid for the Work to be performed.

Resident Project Representative - The Resident Project Representative (RPR) may be assigned to the site or any part thereof on a full time basis or only on a part-time basis. This will be determined by Engineer's Agreement with Owner.

COMMENCEMENT OF CONTRACT TIME; NOTICE TO PROCEED:

SC-2.3.

Delete paragraph 2.3 of the General Conditions and insert the following in its place:

The term of this Contract (or Agreement) shall commence upon completion and final execution of contract manual and conclude when terminated at either party's option, with or without cause, following a sixty (60) day advance written notice by one party to the other.

BEFORE STARTING CONSTRUCTION:

SC-2.5, 2.6, 2.61, 2.6.2 and 2.6.3

Delete paragraphs 2.5, 2.6, 2.61, 2.62 and 2.6.3 in their entirety.

SC-2.7.

Delete Paragraph 2.7. of the General Conditions in its entirety and insert the following in its place:

Before any Work at the site is started, Contractor shall deliver to Owner certificates of insurance (and other evidence of insurance requested by Owner) which Contractor is required to purchase and maintain in accordance with the Contract Documents.

PRECONSTRUCTION CONFERENCE:

SC-2.8

Delete Paragraph 2.8 in its entirety

FINALIZING SCHEDULES:

SC-2.9

Delete Paragraph 2.9 in its entirety

INTENT:

SC-3.2.

Delete the first sentence in Paragraph 3.2 of the General Conditions and insert the following in its place:

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

Delete the last sentence in Paragraph 3.2.

SC-3.3

Delete Paragraph 3.3 in its entirety

SC-3.5.2

Delete Paragraph 3.5.2 in its entirety

AVAILABILITY OF LANDS:

SC-4.1

Delete Paragraph 4.1 in its entirety

PHYSICAL CONDITIONS:

SC-4.2.1.

Delete paragraphs 4.2.1. and 4.2.2. of the General Conditions in their entirety.

REPORT OF DIFFERING CONDITIONS:

SC-4.2.3.1

Delete Paragraph 4.2.3.1 in its entirety

SC-4.2.4

Delete Paragraph 4.2.4 in its entirety

SC-4.2.6

Delete Paragraph 4.2.6 in its entirety

PHYSICAL CONDITIONS-UNDERGROUND UTILITIES:

SC-4.3.1, 4.3.2 and 4.4

Delete Paragraphs 4.3.1, 4.3.2 and 4.4 in their entirety.

PERFORMANCE AND OTHER BONDS:

SC-5.1

Delete Paragraph 5.1 in its entirety

SC-5.2

Delete Paragraph 5.2 in its entirety

CONTRACTOR'S LIABILITY INSURANCE:

SC-5.3.

The limits of liability for the insurance required by paragraph 5.3. of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

5.3.1. and 5.3.2. Worker's Compensation, etc. under paragraphs 5.3.1. and 5.3.2. of the General Conditions:

- | | |
|--|-------------------|
| (1) State: | Statutory |
| (2) Applicable Federal (e.g. Longshoreman's and Harbour Workers' Compensation, Maritime, Jones Act, etc.): | Statutory |
| (3) Employer's Liability: | \$ <u>300,000</u> |

5.3.3., 5.3.4., 5.3.5., 5.3.6. Occurrence Coverage - Comprehensive General Liability (under paragraphs 5.3.3. through 5.3.6. of the General Conditions):

- | | |
|--|------------------|
| (1) Bodily Injury (including completed operations and products liability): | |
| \$ <u>300,000</u> | Each Occurrence |
| \$ <u>300,000</u> | Annual Aggregate |

Property Damage:	
\$ <u>300,000</u>	Each Occurrence
\$ <u>300,000</u>	Annual Aggregate
or a combined single limit of	<u>\$300,000.00</u>

(2) Property Damage liability insurance will provide Explosion, Collapse and Underground coverage where applicable.

(3) Personal Injury, with employee exclusion deleted	
\$ <u>300,000</u>	Annual Aggregate

5.3.7. Comprehensive Automobile Liability:

Bodily Injury:	
\$ <u>500,000</u>	Each Person
\$ <u>1,000,000</u>	Each Occurrence

Property Damage:	
\$ <u>500,000</u>	Each Occurrence
or a combined single limit of	<u>\$1,000,000.00</u>

Add new Paragraphs immediately after paragraph 5.3.7. of the General Conditions which are to read as follows:

5.3.8. Occurrence Coverage - Umbrella Excess Liability Insurance:

(1) \$ <u>300,000</u>	Each Occurrence
\$ <u>300,000</u>	Annual Aggregate

(2) The umbrella coverage shall be Following-Form being no more restrictive than coverage required for the underlying policies.

5.3.9. **The comprehensive general liability insurance and umbrella insurance required under paragraph 5.3. of the General Conditions shall include by endorsement, Owner, and Engineer (when applicable), as additional insured.**

CONTRACTUAL LIABILITY INSURANCE:

SC-5.4.

The Contractual Liability Insurance required by paragraphs 5.4. of the General Conditions shall provide coverage for not less than the following amounts:

5.4.1. Bodily Injury:	
\$ <u>300,000</u>	Each Occurrence

5.4.2. Property Damage:	
\$ <u>300,000</u>	Each Occurrence
\$ <u>300,000</u>	Annual Aggregate

OWNER'S LIABILITY INSURANCE:

SC-5.5.

Delete Paragraph 5.5. of the General Conditions in its entirety.

PROPERTY INSURANCE:

SC-5.6.

Delete Paragraph 5.6. of the General Conditions in its entirety and insert the following in its place:

Contractor shall purchase and maintain on Projects with above ground structures, property insurance upon the Work at the site to the full insurable value thereof (subject to deductible amounts as may be provided in these Supplementary Conditions or required by Laws and Regulations). **This insurance shall include the interests of Owner, Contractor, Subcontractors and when applicable, Owner's Engineer in the Work (all of whom shall be listed as insured or additional insured parties)**, shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided in these Supplementary Conditions, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance or otherwise provided in these Supplementary Conditions, Contractor shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by Contractor in accordance with this paragraph 5.6. shall comply with the requirements of SC-5.8. and SC-5.9.

5.6.1. For all other Projects and portions of Projects not classified as above ground structures, Contractor shall add to the property insurance and/or maintain an Installation Floater with aggregate coverage of the total value of the Work.

5.6.2. When the Work includes the handling and installation of Owner furnished equipment, Contractor shall provide additional Property insurance or Installation Floater coverage in the amount of \$0.00 which is the total value of the Owner furnished items.

SC-5.7.

Delete Paragraph 5.7. of the General Conditions in its entirety and insert the following in its place:

5.7. Contractor shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by these Supplementary Conditions or Laws and Regulations which shall include the interests of Owner, Contractor, Subcontractors and Engineer in the Work, all of whom shall be listed as insured or additional insured parties.

5.7.1. Boiler and Machinery Policy Required. (None required by Owner for this Project)

5.7.2. Additional Property Insurance Required. (None required by Owner for this Project)

SC-5.8.

Delete Paragraph 5.8. of the General Conditions in its entirety and insert the following in its place:

5.8. All policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by Contractor in accordance with paragraphs 5.6. and 5.7. shall contain the following provision or endorsements:

5.8.1. The Owner shall be the trustee of all monies received as an insured loss and shall be so named.

5.8.2. That the coverage afforded will not be cancelled or materially changed or renewal refused until at least thirty days' prior written notice has been given to Owner by certified mail and shall contain waiver provisions in accordance with paragraph 5.11.2.

SC-5.9.

Delete Paragraph 5.9 of the General Conditions in its entirety and insert the following in its place:

5.9. The maximum deductible amount for the insurance provided in response to paragraphs SC-5.6. and SC-5.7. shall be \$5,000.00. The risk of loss within the deductible amount shall be borne by Contractor, Subcontractor or others suffering any such loss and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

SC-5.10.

Delete Paragraph 5.10. of the General Conditions in its entirety.

ACCEPTANCE OF INSURANCE:

SC-5.14.

Delete Paragraph 5.14. of the General Conditions in its entirety and insert the following in its place:

5.14. Owner shall review the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor after delivery of insurance certificates to Owner in accordance with paragraph 2.7. of the General Conditions. Contractor shall furnish to the Owner such additional information in respect of insurance provided by Contractor as the Owner may reasonably request.

5.14.1. Review of Insurance Policies or Insurance Certificates by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

5.14.2. In case of the breach by Contractor of any insurance provision stated in the Contract Documents, the Owner, at his option, may take out and maintain, at the expense of the Contractor, such insurance as the Owner may deem proper and Owner may deduct the cost of such insurance from any monies which may be due or become due the Contractor under this Contract.

5.14.3. All the policies of insurance (or the certificates or other evidence thereof) required to be purchased and maintained by Contractor shall contain the name of the Project.

PARTIAL UTILIZATION-PROPERTY INSURANCE:

SC-5.15

Delete Paragraph 5.15 in its entirety

SUPERVISION AND SUPERINTENDENCE:

SC-6.2

Delete Paragraph 6.2 and insert the following in its place:

Contractor shall keep on the Work Site at all times during its progress a competent superintendent who shall not be replaced without written notice to the OWNER. The superintendent will be the Contractor's representative and shall have authority to act on behalf of the CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

LABOR, MATERIALS AND EQUIPMENT:

SC-6.3

Delete the first sentence in Paragraph 6.3. In the last sentence of Paragraph 6.3, delete "given after prior written notice to ENGINEER".

SC-6.5

Delete Paragraph 6.5 in its entirety

ADJUSTING PROGRESS SCHEDULE:

SC-6.6

Delete Paragraph 6.6 in its entirety

SUBSTITUTES OR "OR-EQUAL" ITEMS:

SC-6.7.1, 6.7.2, 6.7.3

Delete Paragraphs 6.7.1, 6.7.2 and 6.7.3 in their entirety.

CONCERNING SUBCONTRACTORS, SUPPLIERS AND OTHERS:

SC-6.8.3.

Add the following paragraph to the General Conditions:

6.8.3. If the Bid Form or Specifications require (or if requested by Owner prior to the Notice of Award) the apparent Successful Bidder and any other Bidder so requested, shall submit a list of all Subcontractors, Suppliers and other persons or organizations (including those who are to furnish the principal items of material and equipment) in accordance with requirements of paragraph 10 of the Instructions to Bidders and Article 6.8.2. of the General Conditions.

SC-6.9.

Add the following language at the end of paragraph 6.9. of the General Conditions:

Owner may furnish to any such Subcontractor, Supplier or other person or organization, to the extent practicable, evidence of amounts paid to Contractor in accordance with Contractor's Applications for Payment.

PERMITS

SC-6.13.

Delete Paragraph 6.13 in its entirety.

USE OF PREMISES:

SC-6.17

Delete the last two sentences of Paragraph 6.17.

SC-6.18

Delete Paragraph 6.18 in its entirety

RECORD DOCUMENTS:

SC-6.19

Delete Paragraph 6.19 in its entirety

SHOP DRAWINGS AND SAMPLES:

SC-6.23, 6.24, 6.25.1, 6.25.2, 6.26, 6.27, 6.28

Delete Paragraphs 6.23, 6.24, 6.25.1, 6.25.2., 6.26, 6.27 and 6.28 in their entirety

INDEMNIFICATION:

SC-6.32

Delete Paragraph 6.32 in its entirety

ARTICLE 7-OTHER WORK:

Delete ARTICLE 7 in its entirety

OWNER'S RESPONSIBILITY:

SC-8.1

Delete Paragraph 8.1 and insert the following:

Owner shall issue all communications directly to CONTRACTOR.

SC-8.2

Delete Paragraph 8.2 in its entirety

SC-8.4

Delete Paragraph 8.4 in its entirety

SC-8.7

Delete Paragraph 8.7 in its entirety

OWNER'S REPRESENTATIVE:

SC-9.1

Delete Paragraph 9.1 and insert the following:

ENGINEER may act as OWNER's representative during construction period. The duties and responsibilities and the limitation of the authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents.

VISITS TO SITE:

SC-9.2

Delete all of Paragraph 9.2 except first sentence.

PROJECT REPRESENTATION:

SC-9.3

Delete Paragraph 9.3 in its entirety

SC-9.3.1.

Add the following paragraph to the General Conditions:

9.3.1. If the Engineer furnishes a Resident Project Representative as per Article 9.3. of the General Conditions, the duties, etc. of the representative shall be as provided in the LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF THE RESIDENT

PROJECT REPRESENTATIVE as included in the Project Manual. If Owner designates another agent to represent Owner at the site who is not Engineer's agent or employee, the duties, responsibilities and limitations of authority of such other agent will be as presented at the Pre-construction Conference.

CLARIFICATIONS AND INTERPRETATIONS:

SC-9.4

Delete last sentence in Paragraph 9.4

AUTHORIZED VARIATIONS IN WORK:

SC-9.5

Delete last sentence in Paragraph 9.5

SC-9.6

Delete Paragraph 9.6 and insert the following:

OWNER will have authority to disapprove or reject work which OWNER believes to be defective.

SHOP DRAWINGS, CHANGE ORDERS AND PAYMENTS:

SC- 9.7, 9.8 and 9.9

DECISIONS ON DISPUTES

SC-9.11 and 9.12

Delete Paragraph 9.11 and 9.12 in their entirety

CHANGES IN THE WORK:

SC-10.2

Delete Paragraph 10.2 and insert the following:

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

SC-10.3

Delete Paragraph 10.3 and insert the following:

CONTRACTOR shall not be entitled to an increase in the Contract Price with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented

as provided in paragraphs 3.4 and 3.5 except in the case of an emergency as provided in paragraph 6.22.

SC-10.4.3

Delete Paragraph 10.4.3 in its entirety

CHANGE IN CONTRACT PRICE

SC-11.2.

Delete paragraph 11.2 and insert the following:

A Contract Price may only be changed by Change Order or by a Written Amendment. Regardless of any language contained in these General Conditions or the Contract Documents to the contrary, the CONTRACTOR shall not be entitled to payment for indirect, special or consequential amounts or damages.

CASH ALLOWNACES

SC-11.8

Delete paragraph 11.8 in its entirety

UNIT PRICE WORK

SC-11.9.3.

Delete paragraph 11.9.3 of the General Conditions in its entirety and substitute the following in its place:

11.9.3. Contractor may not make a claim for additional expenses incurred as a result of a difference between final quantity of any item(s) of Unit Price Work and the estimated quantity of such items(s) in the Contract Documents, unless specifically allowed in the Bid Form. Any adjustments specifically allowed shall be made in accordance with directions in the Bid Form.

CHANGE OF CONTRACT TIME:

SC-12.1

Delete Paragraph 12.1 and insert the following:

The Contract Time may only be changed by a Change Order or a Written Amendment

SC-12.2, 12.3

Delete Paragraph 12.2 and 12.3 in their entirety

SC-12.4

Contractor shall not be entitled to increases in the Contract Price if the Owner modifies the work start and completion dates.

WARRANTY AND GUARANTEE:

SC-13.1.

Change the second sentence of paragraph 13.1. of the General Conditions to read as follows:

Prompt notice of all observed defects shall be given to the Contractor.

TESTS AND INSPECTIONS:

SC-13.3.

Delete paragraph 13.3. of the General Conditions in its entirety and insert the following in its place:

Contractor shall give twenty-four hour notice to Owner for all required inspections, tests or approvals, except as otherwise provided.

SC-13.4, 13.5, 13.6

Delete Paragraphs 13.4, 13.5 and 13.6 in their entirety

UNCOVERING WORK:

SC-13.8, 13.9

Delete Paragraphs 13.8 and 13.9 in their entirety

ONE YEAR CORRECTION PERIOD

SC-13.12

Delete Paragraph 13.12 in its entirety

SCHEDULE OF VALUES:

SC-14.1

Delete Paragraph 14.1 and insert the following:

For projects taking more than 30 calendar days to complete OWNER shall make progress payments in accordance with the Schedule of Values based on the Unit Price Schedule in response to CONTRACTOR'S Applications for Payment (doc 680.a) on a monthly basis as directed by OWNER. All progress payments will be on the basis of the number of units completed less 7.5% from each of the CONTRACTOR'S monthly billing per each project term as retainage, or if the CONTRACTOR should default, as liquidated damages. If there is no default, the retainage amount, less the settlement amount of any claims, will be paid to the CONTRACTOR following the conclusion of the subject project as defined by an issued Northern Purchase Order.

For Projects taking less than 30 days to complete OWNER shall make payment in full and in accordance with the subject Owner issued Purchase Order based on the Unit Price Schedule in response to CONTRACTOR'S completed Applications for Payment (doc 680.b) submitted on or before the 5th day of the month.

All invoices must be submitted to OWNER within 60 days following final completion and acceptance by OWNER and will be paid within 60 days of the receipt of the completed Application for Payment.

APPLICATION FOR PROGRESS PAYMENT:

SC-14.2

Delete paragraph 14.2 and insert the following:

On a monthly basis, CONTRACTOR shall submit 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.

CONTRACTOR'S WARRANTY OF TITLE:

SC-14.3

Delete Paragraph 14.3 in its entirety

SC-14.4, 14.5 14.6

Delete paragraphs 14.4, 14.5 and 14.6 in their entirety

SC-14.7

Delete Paragraph 14.7 and insert the following:

Owner may refuse the whole or any part of any payment if:

SC-14.7.4

Delete Paragraph 14.7.4 and insert the following:

OWNER'S actual knowledge of the occurrence of any events enumerated in paragraphs 15.2.1 through 15.2.9 inclusive.

SUBSTANTIAL COMPLETION:

SC-14.8 and 14.9

Delete Paragraphs 14.8 and 14.9 in their entirety

PARTIAL UTILIZATION:

SC-14.10

Delete Paragraph 14.10 in its entirety

FINAL INSPECTION:

SC-14.11

Delete Paragraph 14.11 in its entirety

SC-14.12

Delete Paragraph 14.12 in its entirety

FINAL PAYMENT AND ACCEPTANCE:

SC-14.13, 14.14

Delete Paragraphs 14.13 and 14.14 in their entirety

CONTRACTOR'S CONTINUING OBLIGATION:

SC-14.15

Delete Paragraph 14.15 and insert the following:

CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use of the Work or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor any correction of defective work by OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's Obligation to perform the Work in accordance with Contract Documents.

WAIVER OF CLAIMS:

SC-14.16

Delete Paragraphs 14.16 in its entirety:

OWNER MAY SUSPEND:

SC-15.1

Delete Paragraph 15.1 and insert the following:

OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR.

SUSPENSION OF WORK AND TERMINATION:

SC-15.4

Add the following at the end of paragraph 15.4 of the General Conditions:

Reasonable termination expenses shall only include direct costs and expenses and in no event shall they exceed 2 ½ percent (2.5%) of the remaining non-executed Work.

SC-15.5.

Add the following at the end of paragraph 15.5 of the General Conditions.

Regardless of any language to the contrary contained in this Article or the Agreement, if the Owner, following the issuance of a Notice of Award to the Contractor, is unable to obtain all necessary permits for the Work prior to the issuance of a Notice to Proceed, the Owner, upon giving seven (7) days written notice to the Contractor, may terminate the Agreement. Upon said termination, the Contractor shall only be entitled to reimbursement for the actual cost incurred by the Contractor for: (a) purchase of Contract Documents in the amount set forth in the Invitation to Bid and (b) actual out-of-pocket expenses incurred for the acquisition of the Payment and Performance Bonds required under the terms of this Agreement.

SC-16.1.

Delete Article 16-ARBITRATION of the General Conditions in its entirety and insert in lieu thereof the following:

16.1 All controversies, claims, disputes and matters in question (together the "Dispute") by and between the Owner and Contractor that arise out of, relate to or pertain to the Contract Documents or a breach thereof which are not resolved through informal negotiations shall be decided in accordance with the provisions of this Article.

16.2 It is required that prior to the commencement of any litigation, that a party who seeks resolution of a Dispute between the Owner and Contractor shall first notify the other party, plus Engineer, in writing of the existence and subject matter of the Dispute in question. Such notice shall designate the names of three (3) impartial and prospective mediators, each of whom shall be registered with an office of the American Arbitration Association located in either Miami, Florida or Atlanta, Georgia. The recipient party shall be entitled to select from such list one individual to act as mediator for the Dispute described in the notice sent by the issuing party. The parties shall meet with the mediator in the administrative offices of the Owner within fifteen (15) business days after the recipient party has received notice of the Dispute and the parties agree to use their best efforts to resolve the matters in Dispute at the mediation. The mediation herein shall not continue longer than one (1) day without the further written approval of both parties. Neither party shall be bound by any recommendation of the mediator; however, any agreement reached between the Owner and Contractor during mediation shall be final and conclusive as between them.

16.3 If the parties are unable to resolve the Dispute by mediation, then in only those instances where the Dispute is for an amount of less than \$100,000.00, either party may request that binding arbitration be held and governed pursuant to the Florida Arbitration Code, by submitting such demand in writing to the other party and the Engineer. Such written demand shall be made within fifteen (15) business days after conclusion of the unsuccessful mediation and during said fifteen (15) business day request period no litigation may be initiated by either party regarding the Dispute.

If the Owner and Contractor agree on selection, there shall be one (1) arbitrator. If no agreement as to the selection of an arbitrator can be reached within 30 days after receipt of the demand for arbitration, there shall be three (3) arbitrators. One arbitrator is to be named in writing by the Owner, the second by the Contractor and the third arbitrator chosen by the other two (2) arbitrators who have been appointed. If there is one (1) arbitrator, said arbitrator's decision shall be binding and if there are three arbitrators, the decision by any two of them shall be binding. No one shall act as an arbitrator who is in any way financially interested in the work or in the business affairs of either the Owner or the Contractor.

Should either party refuse or neglect to select or appoint an arbitrator in accordance with the preceding paragraph, then in that event a neutral arbitrator shall be selected by the American Arbitration Association upon request of the other party.

The award rendered by the arbitrator(s) shall be final and subject to judicial enforcement.

16.4 All expenses of mediation and/or arbitration, including the fees and costs of the mediator and arbitrator(s), shall be shared equally by the parties, but each party shall be responsible for their own respective legal fees or other professional fees incurred in the mediation or arbitration.

16.5 All Disputes in excess of \$100,000.00 may be resolved in arbitration if the parties so agree in writing, otherwise either party may bring an action for relief and /or damages in the appropriate judicial forum in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

PART 2 - ADDITIONAL SUPPLEMENTARY CONDITIONS

1. ATTACHMENTS:

The following forms included in the Project Manual shall be used by Contractor for submittals required by the Contract Documents (unless Owner accepts other form):

- a. Contractor's Corporate Resolution if any, (00502).
- b. Notice of Compliance with Chapter 556, Florida Statutes (00630).
- c. Contractor's Affidavit to Owner (00670).
- d. Form of Application for Payment (00680.a and 000680.b).
- e. NPDES Illicit Discharge Agreement (IDA)

2. This Space Intentionally left blank.

END OF SECTION