

# **BID DOCUMENTS**

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

## **DISTRIBUTION SYSTEM VOLTAGE CONVERSION PHASE 6 CONSTRUCTION**

**BID No. 918127-04 - WMED W.O. 4614**

**MARCH 2021**



**ELECTRIC POWER ENGINEERING**

**46 LIZOTTE DRIVE, STE 201, MARLBOROUGH, MA TEL: (508) 435-0200 [WWW.PLMNET.COM](http://WWW.PLMNET.COM)**

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

**TABLE OF CONTENTS**

<b>SECTION</b>	<b>NO. OF PAGES</b>
Advertisement to Bid .....	1
Instruction to Bidders .....	3
<b>*Bid Form .....</b>	<b>10</b>
<b>*Bid Schedule .....</b>	<b>13</b>
<b>*Bid Bond .....</b>	<b>1</b>
<b>*Bid Review Certificate .....</b>	<b>1</b>
<b>*Non-Collusive Bid Certificate .....</b>	<b>2</b>
Notice of Award .....	1
Owner Contractor Agreement .....	4
Signature Authorization Form .....	1
Form of Performance Bond .....	2
Form of Payment Bond .....	2
Notice to Proceed .....	1
Acknowledgment of Satisfaction and Release .....	1
Standard General Conditions .....	42
Supplementary General Terms and Conditions .....	16
 <b>*Documents to be completed and submitted with bid</b>	
 <b>DIVISION 1</b>	
Section 01 11 00 - Summary of Work .....	6
Section 01 26 00 - Contract Modification Procedures .....	3
Section 01 29 00 – Payment Procedures .....	1
Section 01 29 73 - Schedule of Values .....	2
Section 01 29 77 – Progress Payment Procedures .....	2
Section 01 31 13 – Project Coordination .....	2
Section 01 31 19 - Project Meetings .....	3
Section 01 32 13 – Scheduling of Work .....	3
Section 01 33 23 – Shop Drawings, Product Data and Samples .....	3
Section 01 33 23A – Shop Drawings Transmittal Form .....	1
Section 01 42 13 – Abbreviations and Acronyms .....	2
Section 01 43 23 – Installer Qualifications .....	2
Section 01 45 00 – Quality Control .....	1
Section 01 50 00 – Temporary Facilities and Controls .....	2
Section 01 66 00 – Product Storage and Handling Requirements .....	2
Section 01 71 23 – Field Engineering .....	1
Section 01 77 00 – Closeout Procedures .....	3

SECTION	NO. OF PAGES
---------	--------------

**DIVISION 2**

02 41 19 Selective Demolition .....	3
-------------------------------------	---

**DIVISION 31**

Section 31 23 16 – Excavation .....	3
Section 31 23 23 – Backfilling .....	5

**DIVISION 33**

Section 33 71 16.33 – Wood Electrical Utility Poles .....	4
Section 33 71 49.13 – Overhead Medium Voltage Wiring .....	12
Section 33 79 19.13 – Electrical Utilities Grounding .....	3

**PROJECT DRAWINGS**

918108-Key-3	Distribution Feeder Map, One Line Diagram, Key
918108-SH18-3	Distribution Feeder Map, One Line Diagram, Sheet 18 of 57
918108-SH19-3	Distribution Feeder Map, One Line Diagram, Sheet 19 of 57
918108-SH25-3	Distribution Feeder Map, One Line Diagram, Sheet 25 of 57
918108-SH26-3	Distribution Feeder Map, One Line Diagram, Sheet 26 of 57
918108-SH27-4	Distribution Feeder Map, One Line Diagram, Sheet 27 of 57
918108-SH32-3	Distribution Feeder Map, One Line Diagram, Sheet 32 of 57
918108-SH33-4	Distribution Feeder Map, One Line Diagram, Sheet 33 of 57
918108-SH39-3	Distribution Feeder Map, One Line Diagram, Sheet 39 of 57
918108-SH40-4	Distribution Feeder Map, One Line Diagram, Sheet 40 of 57

**ATTACHMENTS AND REFERENCE DOCUMENTS**

918127-04 Pole Detail Sheets
918127-04 Construction Standards
918127-04 Contractor-Furnished Material Calculation Worksheet

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

**ADVERTISEMENT TO BID**

Notice is hereby given that sealed bids for **WMED Bid 918127-04, Distribution System Voltage Conversion, Phase 6 Construction**, will be received at the **Wolfeboro Municipal Electric Department, 133 Middleton Rd., Wolfeboro, NH 03894** until **2:00 p.m. local time on Thursday, April 15, 2021** at which place and time said bids will be opened publicly and read aloud. Bids must be received in duplicate in a sealed opaque envelope marked **"WMED Bid No. 918127-04 for Distribution System Voltage Conversion, Phase 6 Construction"** on the outside.

This project provides for upgrades and voltage conversion from 4.16 kV to 12.47 kV for a portion of the existing electrical distribution system within the town. Bidder shall furnish and install approximately 13,800 circuit ft. of new 15 kV 336.4 kcmil aluminum spacer cable, 5900 feet of 1/0 AWG ACSR 15 kV Tree Wire, 283 wood poles, and miscellaneous related equipment. Bidder shall install approximately 137 overhead and 5 single-phase padmounted distribution transformers. Distribution transformers will be furnished by Owner and distribution transformers that are removed will be returned to Owner. Additional work includes the installation of underground conduit, one precast distribution transformer base and 900 ft. of single-phase underground URD primary underground cable. Contractor shall be responsible for removal and disposal of existing conductors, poles, brackets and equipment unless noted. Additional work includes selective demolition of an existing 34.5 to 4.16 kV electrical substation, including disposal of a 3.75 MVA substation transformer and all equipment and structures being removed. Bidder shall be responsible for completing the distribution system voltage conversion (with assistance from Owner). Bidder shall supply all installation labor, material, supervision, and traffic control as required by the Contract Documents and Drawings.

The Contract Documents may be obtained on or after March 11, 2021 by contacting PLM, Inc. (Owner's Engineer) at 508-435-0200 Ext. 111. The Contract Documents will be furnished in electronic format only, by email attachment.

A pre-bid conference and field review of the project has been scheduled for **Tuesday March 30, 2021 at 10:00 a.m.** at the WMED Operations Center, 133 Middleton Rd., Wolfeboro, NH 03894. Prospective contractors are strongly encouraged to attend.

Bids shall be accompanied by a Bid Bond payable to the OWNER for five percent (5%) of the total amount of the BID. The bond shall be furnished by a corporate surety licensed to do business in the State of New Hampshire. At least one set of the Bid Documents shall incorporate original signatures.

Prior to final execution of the contract, the successful bidder shall furnish evidence of the required insurance coverage, plus a 100% Performance Bond and a 100% Labor and Materials Bond. No Bidder may withdraw a bid within sixty (60) days after the opening thereof. If the successful bidder fails to enter into a contract in accordance with the bidding documents, the bidder may forfeit the bid surety, at the option of WMED.

Bids shall be prepared, considered and the contract awarded in accordance with all statutes governing such contracts. Every bid shall be on forms furnished by WMED. Bids submitted on other forms may be rejected.

The WMED specifically reserves the right to reject any or all bids, waive irregularities or informalities or to accept any bid which they deem to be in the best interest of the WMED.

Barry Muccio, Director of Operations  
Wolfeboro Municipal Electric Department

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION – PHASE 6 CONSTRUCTION  
BID NO. 918127-04 - WMED W.O. 4614  
MARCH 2021**

---

**INSTRUCTION TO BIDDERS**

---

Sealed bids for the Wolfeboro Municipal Electric Department (WMED, OWNER) **Bid 918127-04, WMED W.O. 4614, Distribution System Voltage Conversion, Phase 6 Construction**, will be received at the **Wolfeboro Municipal Electric Department, 133 Middleton Rd., Wolfeboro, NH 03894** until **2:00 p.m. local time on Thursday, April 15, 2021** at which place and time said bids will be opened publicly and read aloud.

Each BID must be submitted in duplicate in a sealed envelope, attention: Mr. Barry Muccio, Director of Operations, at the location noted above. Each sealed envelope containing a BID must be plainly marked on the outside as **BID No. 918127-04 – WMED W.O.4614 for Distribution System Voltage Conversion, Phase 6 Construction** and the envelope should bear on the outside the name of the BIDDER, his address and his license number if applicable. If forwarded by mail or delivery service, the sealed envelope containing the BID must be enclosed in another envelope addressed to the OWNER at the above address.

All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. **Provide one executed original and one complete copy of the BID form, BID BOND and other required bid documents when submitting a BID.**

A **pre-bid conference** and field review of the project will be conducted on **Tuesday, March 30, 2021 at 10:00 a.m.** at the Wolfeboro Municipal Electric Department Operations Center, 133 Middleton Rd., **Wolfeboro, NH 03894**. Prospective bidders are strongly encouraged to attend.

The OWNER may waive any informalities or minor defects or reject any and all BIDS. Any BID may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof. Any BID received after the time and date specified shall not be considered. No BIDDER may withdraw a BID within 60 days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID schedule by examination of the site and a review of the DRAWINGS and SPECIFICATIONS including ADDENDA. After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done.

The OWNER shall provide to BIDDERS prior to BIDDING, all information which is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.

Each BID must be accompanied by a BID BOND payable to the OWNER for five percent (5%) of the total amount of the BID. The bond shall be furnished by a corporate surety licensed to do business in the State of New Hampshire. As soon as the BID prices have been compared, the OWNER will return the BONDS of all except the three lowest responsible BIDDERS. When the AGREEMENT is executed the bonds of the two remaining unsuccessful BIDDERS will be returned. The BID BOND of the successful BIDDER will be retained until the payment BOND and performance BOND have been executed and approved, after which it will be returned. A certified check may be used in lieu of a BID BOND.

A performance BOND and payment BOND, each in the amount of 100 percent of the CONTRACT PRICE, with a corporate surety approved by the OWNER, will be required for the faithful performance of the contract.

Attorneys-in-fact who sign BID BONDS or payment BONDS and performance BONDS must file with each BOND a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the AGREEMENT and obtain the performance BOND and payment BOND within ten (10) business days from the date when NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD shall be accompanied by the necessary AGREEMENT and BOND forms. In case of failure of the BIDDER to execute the AGREEMENT, the OWNER may at his option consider the BIDDER in default, in which case the BID BOND accompanying the proposal shall become the property of the OWNER.

The NOTICE TO PROCEED shall be issued within ten (10) business days of the execution of the AGREEMENT by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the AGREEMENT without further liability on the part of either party.

The OWNER may make such investigations as he deems necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the AGREEMENT and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted. Award will be made to the lowest responsible BIDDER.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT shall apply to the contract throughout.

Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to his BID.

Further, the BIDDER agrees to abide by the requirements under Executive Order No. 11246, as

amended, including specifically the provisions of the equal opportunity clause set forth in the SUPPLEMENTARY CONDITIONS.

The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUBCONTRACTORS when requested to do so by the OWNER.

The Engineer is PLM Electric Power Engineering, 46 Lizotte Dr., Suite 201, Marlborough, MA 01752.

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 - WMED W.O. 4614  
MARCH 2021**

---

**BID FORM**

---

The undersigned do or does, hereby declare that the Bidder is: (Strike out Subsection 1.1 or 1.2, whichever does not apply.)

1.1 A company duly incorporated under the laws of

\_\_\_\_\_  
(Insert Authorizing Jurisdiction)  
*or*

1.2 A partnership, joint venture or consortium carrying on business under the firm name and style below stated, the names, addresses and places of incorporation, if any, of all the partners or members of the firm being the following:

---

---

---

2. This Bid is made by the Bidder without any collusion, comparison of figures, or arrangement with any other person or persons making a bid for the same Work.
3. The Bidder has carefully examined the Contract Documents and acknowledges receipt of the following addenda:

ADDENDUM NUMBER	DATE OF ADDENDUM



4. The Bidder hereby bids and offers to enter into a Contract, substantially in the form of the Agreement included, to do all the Work called for in the Contract Documents on the terms and conditions and under the provisions as outlined in the Contract Documents at the lump sum prices and unit prices hereunder entered in the Bid Form.
5. The Bidder agrees to carry out extra work, if required, as provided for in the Contract Documents.
6. The Bidder agrees that this Bid or any part thereof shall be continued valid and open to acceptance by the Owner and is to be irrevocable for sixty (60) business days. The Owner may accept or reject this bid or any part thereof during the sixty (60) business days period after the date and time specified for receipt of this bid.
7. The Bidder agrees that, upon receipt of a Notice of Award, the Bidder will provide a Performance and Payment Bond in accordance with the terms of this Contract and will execute a Contract, all within five (5) days (Saturdays, Sundays and legal holidays excluded) of such notice.
8. The Bidder agrees to allow the Owner unlimited rights to alter the scope of work, including adding to, deleting from the total work. Such changes will alter the Bid amount accordingly. All such work shall be executed under the conditions of the contract except that any claims for extension or reduction of time caused thereby shall be adjusted at the time of authorizing such changes.
9. The Bidder agrees that the prices set forth in the Bid Form include all applicable labor, material, equipment, overhead, profit, duties, taxes, licenses, freight, tolls, permits, accommodations, mobilization, demobilization and all such like costs and charges whatsoever necessary for a complete job in respect to carrying out the Work.
10. The **"UNIT PRICE IN WORDS"** shall govern if a discrepancy exists or an error is made in extending the unit prices.
11. Technical or contractual exceptions to the Specification documents are hereby waived, except as follows:

---

---

---

---

---

---

---

(If none, state "No Exceptions." Attach supplemental sheet(s) if necessary.)

(Note: Properly identified alternate materials, as allowed by the Drawings and Specification, are not considered to be exceptions.)



\_\_\_\_\_

16. **EXPERIENCE**

The bidder shall indicate below his experience during the last five (5) years in construction (completed contracts) of similar work as described in Section 01 11 00 of the specifications. This experience will be considered in evaluating the bids.

<b>NAMES, LOCATION</b>	<b>PERSON TO CONTACT PHONE NUMBER NAME AND ADDRESS OF OWNER</b>	<b>YEAR OF COMPLETION</b>	<b>SIZE OF PROJECT</b>

If applicable, the civil sub-contractor shall indicate below his experience during the last five (5) years in construction (5 completed contracts, as a general contractor or as a sub-contractor) of similar work as described in Section 01 11 00 of the specifications. This experience will be considered in evaluating the bids.

WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID FORM

---

<b>NAMES, LOCATION</b>	<b>PERSON TO CONTACT PHONE NUMBER NAME AND ADDRESS OF OWNER</b>	<b>YEAR OF COMPLETION</b>	<b>SIZE OF PROJECT</b>

17. CONSTRUCTION PROPOSAL

The undersigned Bidder agrees to furnish, deliver, construct and erect the facilities described in the Plans and Specifications including accompanying forms and documents attached hereto and made a part hereof for the following Contract Sum (Bidder to fill in blanks):

DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION		
BID ITEM	DESCRIPTION	CONTRACT SUM (IN FIGURES)
1.	Distribution system upgrades and voltage conversion, as provided for in these Contract Documents and associated drawings, in the quantities indicated and for the costs provided on the Bid Schedule, for the Contract Sum of:  _____ and \$ _____ _____/ 100 dollars.	
2.	Selective demolition of the Pine Hill Substation No. 2, as provided for in these Contract Documents, as further described in the technical specifications:  _____ and \$ _____ _____/ 100 dollars.	
	<b>Total Bid (Sum of Bid Items 1 and 2)</b>  _____ and \$ _____ _____/ 100 dollars.	

Bidder to enter contract pricing in words and figures in the spaces above. Where a discrepancy occurs between the price in words and the price in figures, the price in words shall take precedence.

**To be considered for award of the Contract, Bidders must include pricing for Bid Items 1 and 2.**

18. BID SCHEDULE AND UNIT PRICES

1. As applicable, Bidder shall enter the Unit Price for each item or assembly associated with the distribution system upgrades and voltage conversion on the attached Bid Schedule. Costs for mobilization, voltage conversion, traffic control, and demobilization shall be entered separately in the spaces provided.
2. OWNER reserves the right to increase or decrease the scope of work (not to exceed 25% of the quantity shown). Contract price adjustments shall be based on the Unit Prices, where applicable.
3. Where items listed on the Bid Schedule are per assembly, the Unit Price shall include all necessary labor and material to furnish and install or remove and dispose of the complete assembly.
4. Quantities on the Bid Schedule are summed from the individual Pole Detail Sheets. OWNER's Engineer conducted a pole-by-pole review in the field to determine the necessary work. Minor changes to the distribution system may have occurred since the field review was completed.
5. Where applicable, conductor quantities on the Bid Schedule are based on the sum of the backspans and this measurement shall be the basis for compensation. Bidder shall make a sufficient allowance for mid-span sags, pulling operations, etc. when estimating actual conductor requirements.
6. For items covered by the Unit Prices, Progress Payments will be based on the quantities installed during the billing period multiplied by the applicable Unit Price.
7. The Unit Prices shall provide the basis for additions to or deductions from the project scope to where applicable. Compensation for any work that is outside of what is provided for by the Unit Prices shall be per mutual agreement between Owner, Engineer and Contractor.
8. Bid shall include all applicable taxes and fees.
9. The Bidder has made a careful examination of the construction site, has become informed to the kind of facilities required before and during the construction.
10. This Proposal is made pursuant to the provisions of the Plan(s), Drawings and Specification Documents attached hereto, and the Bidder agrees to the terms and conditions thereof.
11. The Bidder warrants the accuracy of all statements contained in the Bidder's qualifications, if any, and agrees that the Owner shall rely upon such accuracy as a condition of the Contract in the event that this Proposal is accepted.
12. The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any other person bidding for the same work.
13. The Bidder agrees that, in the event this Proposal is accepted, it will execute a contract in the Owner-Contractor Agreement form attached hereto.
14. The Bidder agrees that it is subject to Engineer's Review Costs and Plan Changes Costs associated with any offering of alternate materials. Such cost shall be back charged against any monies due Contractor when such costs are billed.

15. If, in submitting this Proposal, the Bidder attempts to make any change in the form of Proposal or Contract furnished by the Owner, the Bidder understands that the Owner and the Engineer may evaluate the effect of such change as they see fit or may exclude the Proposal from consideration in determining the award of the Contract.



---

---

## PROPOSAL

---

---

The party by whom this Proposal is submitted and by whom the contract will be entered into, in case this Proposal is accepted is a \_\_\_\_\_  
("Corporation," "Partnership," or "Individual")

doing business at \_\_\_\_\_,  
(Street) (City)

\_\_\_\_\_, to which address Notice of Acceptance of Proposal  
(State) (Zip)

and all other written notices may be mailed or delivered until further written notice is given the Owner.

\_\_\_\_\_  
(Legal Name of Bidding Organization))

By:

\_\_\_\_\_  
(Signature of Authorized Person)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Phone No.)

\_\_\_\_\_  
(Fax. No.)

The undersigned hereby certifies and represents to the Owner that the person signing this Proposal on behalf of the Bidder is authorized to do so.

\_\_\_\_\_  
(Partner of Partnership or Official of Corporation)

Required Attachments: Bid Bond or Security  
Bid Review Certificate  
Certificate of Non-Collusion

**BID SCHEDULE FOR DISTRIBUTION SYSTEM WORK**  
**PLM 918127-04 WMED W.O. 4614**  
**Distribution Feeder Voltage Conversion Phase 6**

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
<b>1. OVERHEAD SYSTEM INSTALLATION SECTION</b>				
I. <u>Install Wood Pole</u> Install poles including excavation, pole butt grounds, backfill and restoration of excavated area; attach pole numbers and reflectors as required. New poles to be set within two (2) feet of the existing pole unless noted. Poles may be set in concrete sidewalks or other hardtop areas. Sidewalk surfaces broken up and removed are to be included in pole setting price, not in linear feet of jackhammered material.		* A pole set within two (2) feet of an existing pole is considered as set in the same hole. Pole butt shall be removed and paid for as Item I, Unit 2b, Page 16 of the Bid Schedule.		
1. 50 foot Class 2	Each	1		Do Not Extend
2. 45 foot Class 1	Each	1		Do Not Extend
3. 45 foot Class 2	Each	57		
4. 45 foot Class 3	Each	1		Do Not Extend
5. 40 foot Class 3	Each	191		
6. 35 foot Class 5	Each	30		
7. Push brace/pole & hardware.	Each	5		
8. Restoring sidewalk/surface around pole-concrete, brick or blacktop.	Each	1	N/A	Do Not Extend
9. Pole numbering with 3" numbers (on existing poles).	Each	1		Do Not Extend
10. Blasting - When blasting is required and authorized by the Owner.	Each	1	N/A	Do Not Extend
11. Drill /jackhammer ledge from new pole hole.	Vertical Foot	1		Do Not Extend
II. <u>Install Anchors</u> Install anchors including excavation, placement of anchor and anchor rod, backfilling, and surface restoration.				
1. Install plank anchor.	Each	1		Do Not Extend
2. Install screw anchor - all Helix and rod sizes.	Each	156		
3. Install rock anchor, all sizes.	Each	1		Do Not Extend
III. <u>Install Guys</u> Install guys including all required hardware to properly bond guys, and installation of a Guy Guard where required.				

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
1. Install 10M down guy.	Each	170		
2. (not used)	Each	1	N/A	Do Not Extend
3. Install 10M pole to pole or pole to tree guy	Each	17		
4. Install 10M pole to building guy.	Each	1	N/A	Do Not Extend
5. Install 10M sidewalk guy.	Each	1	N/A	Do Not Extend
6. (not used)	Each	1	N/A	Do Not Extend
7. Install fiberglass rod in new or existing guy.	Each	172		
8. (not used)	Each	1	N/A	Do Not Extend
9. (not used)	Each	1	N/A	Do Not Extend
<b>IV. Install Crossarms</b> Install crossarms including all required hardware and eye bolts on dead end structures, pins and insulators.				
1. Install single crossarm, all sizes.	Each	29		
2. Install single semi-outrigged crossarm, all sizes.	Each	1		Do Not Extend
3. Install double crossarm, all sizes.	Each	11		
4. Install double semi-outrigged crossarm.	Each	3		
5. Install double full outrigged crossarm.	Each	1		Do Not Extend
<b>V. Install Pole Top Pins and Brackets</b> Install pole top pins and armless brackets, all required hardware and installation of insulators.				
1. Install pole top pin.	Each	134		
2. Install combination support bracket, all sizes.	Each	172		
3. Install Hendrix XPT-60 pole top extension	Each	1		Do Not Extend
4. Install Hendrix XPT-75 pole top extension	Each	1		Do Not Extend
<b>VI. Install Cutouts</b> Install line and/or transformer cutouts including all required hardware, fuse links, and all required taps, connections, and current limiting fuses (if specified).				
1. Install line cutouts.	Each	51		
2. Install transformer cutouts.	Each	187		
<b>VII. Install Surge Arresters</b> Install surge arresters including all required hardware, taps, connections and all grounding.				
1. Install 9 kV surge arrester	Each	19		
1. Install 3 kV surge arrester.	Each	1	N/A	Do Not Extend
<b>VIII. Spacer Cable Support Brackets</b> Including bracket, hardware, insulators and ground connection.				

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
1. Install 14" or 24" tangent bracket, complete	Each	30		
2. Install angle "E" or "C" bracket, complete	Each	30		
<u>IX. Install Secondary Cable</u> Install secondary cable and related hardware including sagging, neutral pole clamp, aluminum ribbon, dead ending, or sleeving thru. Unit includes any and all taps required to make the cable work, including brackets and reconnection of services.				
1. Install 3/c - ACSR secondary cable (all sizes).	Circuit Feet	50		
2. Install 4/c - ACSR secondary cable (all sizes).	Circuit Feet	1		Do Not Extend
<u>X. (Not Used)</u>				
<u>XI. Install Triplexed Cable Secondary Services</u> Install cable services including all required brackets, hardware and connections to make the service work.				
1. Install 3/c - #2 ACSR cable service.	Each	115		
2. Install 3/c - 1/0 ACSR cable service.	Each	88		
3. Install 4/c - ACSR cable service (all sizes).	Each	6		
4. (not used)	Each	1	N/A	Do Not Extend
<u>XII. Install Neutral Conductor</u> Install 1/c - 1/0 ACSR bare neutral conductor complete, including all required brackets, hardware and taps to make it work.				
1. Install 1/c - 1/0 ACSR neutral conductor	Linear Feet	5612		
<u>XIII. Install Primary Conductor</u> Install one primary conductor complete, including all required Hardware. Unit includes all taps required to energize the new wire and all dead ends.				
1. Install 1/c - 1/0 ACSR covered primary conductor ("tree wire").	Linear Feet	5612		
2. Install 1/c - 336.4 Al. covered primary conductor.	Linear Feet	1	N/A	Do Not Extend
<u>XIV. Install Spacer Cable</u> Install three-phase 15 kV spacer cable including .052 bare messenger, all three phases, 15 kV spacers and all required hardware, complete and energized. Includes all taps and deadends to make the spacer cable work.				
1. Install 336.4 kcmil spacer cable.	Circuit Feet	13048		
2. Install 15 kV spacer in existing spacer cable circuit.	Each	1		Do Not Extend
NOTE: When installing conductor(s), either single-phase or three-phase open wire, cable or spacer cable, primary or secondary, all make-ready work required to make room on the pole, crossarm, or bracket which is necessary to install				

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
the new conductor will be part of the unit price of installation and not an additional cost to the Owner. When installing any new conductor(s) and when dead ends are called for, the deadend hardware shall be part of the per-foot cost of installing new conductor and are not to be considered an additional cost unit. Insulators are accounted for separately.				
<u>XV. Install 15 kV Insulators</u> Install primary insulators in existing conductor where not part of other equipment installation, including resag where required.				
1. Install primary pin insulator, including pin and all required hardware.	Each Phase	331		
2. Install primary deadend or pull-off, including all required hardware.	Each Phase	163		
<u>XVI. Install Gang-Operated Loadbreak Switch</u> Install 15 kV three-phase preassembled loadbreak switch complete, including all required hardware, driven grounds, ground grid, taps, tag holder and operating handle. Check switch alignment.				
1. Install horizontal loadbreak.	Each	1	N/A	Do Not Extend
2. Install vertical loadbreak.	Each	1	N/A	Do Not Extend
<u>XVII. Install Pole-Mounted Circuit Recloser</u> Install pole-mounted 15 kV circuit recloser, including isolation and bypass 15 kV disconnects, control cabinet & interconnecting cables. (Circuit recloser, ctrl. cabinet and cables furnished by Owner)				
1. Install 15 kV circuit recloser, including all required components.	Each	1		
2. (not used)	Each	1	N/A	Do Not Extend
<u>XVIII. Install Pole-Mounted Voltage Regulator</u> Install pole mounted single-phase voltage regulator, all sizes, with stick operated regulator bypass switch, complete.				
1. Install pole-mounted voltage regulator	Each	1	N/A	Do Not Extend
<u>XIX. Install Primary Metering Equipment</u> 1. Install primary metering CT's, PT's and bracket, including all hardware, taps, grounding and secondary connections to meter.	Each	1	N/A	Do Not Extend
2. Install primary metering CT or PT only, including all connections	Each	1	N/A	Do Not Extend
<u>XX. Install Pole-mounted Capacitor Bank or Unit</u> Install three-phase capacitor bank, all sizes, complete, including all required hardware, rack, controls, all wiring, and grounds.				
1. Capacitor bank, fixed, three-phase, complete.	Each	1	N/A	Do Not Extend
2. Capacitor bank, switched, three-phase, complete.	Each	1	N/A	Do Not Extend
3. Capacitor unit, two bushing, install in existing rack (on pole).	Each	6		
<u>XXI. Install Pole-mounted Transformers</u> Install various size single-phase and three-phase transformers, including all hardware, grounding provisions, primary taps, and				

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
secondary voltage connections, check of rotation and voltage before connecting to the customer.				
1. Install single-phase transformer	Each	168		
2. Install three-phase transformer bank, including cluster mount.	Each	1	N/A	Do Not Extend
3. Install single-phase stepdown transformer, whether single or banked.	Each	10		

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
<b>2. OVERHEAD SYSTEM TRANSFER SECTION</b>				
<u>I. Transfer Open Wire Primary Conductor</u>				
Transfer primary conductor, including all required hardware to new pole or pin position. Unit is one conductor, properly sagged and tied in.				
1. Transfer primary conductor to new or different pin insulator.	Each	180		
2. Transfer existing primary deadend, including insulator if not replaced.	Each	104		
3. Sleeve or splice through existing primary conductor.	Each	4		
<u>II. Primary Conductor - Cut in Slack or Dead End</u>				
1. Cut slack in or out of existing primary conductor. Unit is one wire in one section, all sizes.	Each	11		
2. Cut in new dead end into existing spacer cable complete, including messenger and all 3 phases.	Each	1	N/A	Do Not Extend
<u>III. Transfer Spacer Cable</u>				
Transfer three-phase spacer cable including all required hardware, messenger, all three phases, spacers, bonding wire, and brackets.				
1. Transfer spacer cable, one tangent or angle pole complete.	Each	10		
2. Transfer three-phase spacer cable dead end, one direction, complete.	Each	5		
<u>IV. Transfer Secondary Cable or Neutral Conductor</u>				
Transfer secondaries or neutrals, open wire or cable including all required mounting hardware and all bonding.				
1. Transfer secondary cable or neutral - all sizes.	Each	151		
2. Transfer secondary open wire each conductor. A. Transfer secondary open wire conductor.	Each	1	N/A	Do Not Extend
3. Sleeve through secondary conductors or neutral, unit is 3/c or 4/c secondary cable or neutral in one section.	Each	1		
4. Cut slack in/out of secondary cable or neutral. Unit is 3/c or 4/c secondary cable or neutral in one section.	Each	8		
5. Transfer existing secondary deadend including pulling to proper sag. Unit is 3/c or 4/c secondary cable or neutral.	Each	171		
<u>V. Reconnect Secondary Equipment</u>				
Transfer secondary connection to third-party pole mounted equipment.				
1. Reconnect secondary equipment	Each	5		
<u>VI. Transfer Overhead Service</u>				
Transfer overhead service to new pole or to secondary messenger.				
1. Transfer overhead service.	Each	1		Do Not Extend
<u>VII. Transfer Street/Flood Lights</u>				

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
Transfer street/flood lights complete to new poles, all sizes. Includes all wiring, new connectors and bonding.				
1. Transfer street lights.	Each	33		
2. Replace street light head & photo cell with LED type during transfer	Each	1		Do Not Extend
3. Transfer flood lights.	Each	1		Do Not Extend
4. Replace floodlight head & photo cell with LED type during transfer	Each	1		Do Not Extend
VIII. <u>Transfer Underground Cable &amp; Riser</u> Transfer cable and riser to new pole, including all required hardware, grounds, and bonding.				
1. Transfer primary underground cable and riser, single-phase or three-phase as shown on drawings.	Each	5		
2. Transfer secondary underground cable and riser, 600 volts or under.	Each	26		
IX. <u>Transfer Primary Tap to Alternate Phase</u> where not part of any other work, typically to improve phase balance on circuit, as noted on the Drawings				
1. Transfer primary tap, one connection, complete	Each	1		
X. <u>Replace Bolted Service, Neutral and Bonding Connectors</u> where not part of conductor replacement, typically to eliminate older connectors that may fail due to bad electrical connections.				
1. Replace Bolted Service, Neut. and Bond Connectors	Per Pole	1		Do Not Extend



ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
<b>3. OVERHEAD SYSTEM REMOVAL SECTION</b>				
I. <u>Remove Wood Poles</u> Removal and disposal of existing poles and backfilling where needed, all sizes, including push braces.				
1.a. Remove line pole, complete.	Each	3		
1.b. Remove push brace pole, complete	Each	4		
2.a. Remove old poles from ground up (when authorized by Owner). *	Each	1		Do Not Extend
2.b. Remove pole butt (when authorized by Owner) *	Each	1		Do Not Extend
2.c. Cut top off old pole (above other utility attachments) and dispose of old pole top. (This practice will be generally be followed unless specifically directed to do otherwise by Owner.)	Each	275		
*NOTE: Select Item 1 if removing remainder of pole after transfer of all equipment. Do not combine items 2a and 2b.				
II. <u>Remove Anchors</u> 1. Removal and disposal of existing anchors, all types and sizes. Rods to be cut off and driven at least 1 foot below finish grade.	Each	23		
III. <u>Remove Guys</u> 1. Removal and disposal of existing guys, all types and sizes.	Each	181		
2. Remove fiberglass insulating rods (as part of guy removal)	Each	10		
IV. <u>Remove Crossarms</u> 1. Removal and disposal of existing crossarms, braces and related hardware. Double crossarm counts as two crossarms.	Each	70		
V. <u>Remove Pole Top Pins and Primary Device Support Brackets</u> 1. Removal of existing pole top pins, armless brackets, primary device support brackets, and related hardware.	Each	198		
VI. <u>Remove Cutouts/Disconnects</u> 1. Removal of existing fuse cutouts and hardware, all sizes.	Each	134		
2. Removal of existing single-phase disconnects and hardware, all sizes.	Each	1	N/A	Do Not Extend
VII. <u>Remove Surge Arresters</u> 1. Removal of surge arresters and hardware, all sizes.	Each	48		
VIII. <u>Remove Spacer Cane Support Brackets</u> Including bracket, hardware, insulators and ground connection.				
1. Removal of 14" and 24" tangent brackets, complete.	Each	34		
2. Remove "E" and "C" type angle brackets and clamps, complete.	Each	29		
IX. <u>Remove Secondary Rack or Spool</u> 1. Remove and dispose of secondary rack or spool, typically single conductor, including hardware and insulator(s).	Each	119		

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
<u>X. Remove Primary Conductors</u>				
Including all sizes and types, one phase, excluding spacer cable				
1. Remove primary conductors and deadend hardware.	Linear Feet	6984		
NOTE: Any work associated with removal of conductors will be part of the unit price of removing conductors. Associated work may include, but is not limited to, such items as temporary deadends, guys, crossarms, etc., that were installed by the contractor to facilitate the removal of existing wire.				
<u>XI. Remove Pole Top Extension Brackets</u>				
1. Removal and disposal of pole top extension brackets, all sizes	Each	2		
<u>XII. Remove Secondary and Neutral Conductor</u>				
Including associated deadends				
1. Single conductor, all sizes (each conductor).	Linear Feet	5667		
2. Secondary cable, all sizes 3/c or 4/c.	Circuit Feet	50		
<u>XIII. Remove Secondary Services</u>				
1. Removal and disposal of 3/c or 4/c overhead services, all sizes, including hardware and connections.	Each	209		
<u>XIV. Remove Spacer Cable</u>				
Remove three-phase spacer cable, including conductors, messenger spacers, insulators, bonding and misc. hardware.				
1. Remove spacer cable, all sizes.	Circuit Feet	13048		
<u>XV. Remove Insulators</u>				
Remove insulators, including crossarm or spacer cable bracket pins and mounting hardware associated with deadends.				
1. Remove pin insulator	Each	343		
2. Remove deadend insulator or pull-off	Each	235		
<u>XVI. Remove Loadbreak (Gang-Operated) Switches</u>				
Remove gang-operated switches, including all hardware to attach to pole including grounding, tag holder and operating handle.				
1. Remove loadbreak switch	Each	1		
<u>XVII. Remove Transformers</u>				
Including all wiring and hardware.				
1. Remove single-phase transformer	Each	168		
2. Remove three-phase transformers (bank of three or (1) three-phase)	Each	1	N/A	Do Not Extend
3. Remove stepdown transformer	Each	6		
4. (not used)	Each	1	N/A	Do Not Extend
5. (not used)	Each	1	N/A	Do Not Extend
<u>XVIII. Remove Pole-Mounted Capacitor Bank or Unit</u>				
Capacitor bank, various sizes, including all hardware, rack, controls				

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
and all wiring.				
1. Remove three-phase capacitor complete.	Each	1	N/A	Do Not Extend
2. Remove individual capacitor unit from existing rack (on pole)	Each	6		
XIX. <u>Remove Voltage Regulators</u>				
1. Remove voltage regulator, complete, including bypass switch.	Each	3		
XX. <u>Remove Primary Metering.</u>				
1. Remove primary metering complete, including rack, CT's PT's, socket	Each	1		
2. Remove primary metering CT or PT only	Each	1	N/A	Do Not Extend

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
<b>4. UNDERGROUND SYSTEM INSTALLATION SECTION</b>				
<b>I. Install 4" Schedule 80 Conduit and Risers</b>				
Install 4" schedule 80 PVC conduit, including all fittings and accessories. Units are per ft. for underground duct bank and per installation for riser pole conduits. Includes surface restoration.				
1. Install 1-4" conduit, direct buried.	Linear Foot	50		
2. Install 3-4" conduits, direct buried	Linear Foot	1	N/A	Do Not Extend
3. Install 2-4" riser, including brackets and grounding	Each	1	N/A	Do Not Extend
4. Install 3-4" riser, including brackets and grounding	Each	1	N/A	Do Not Extend
<b>II. Install Precast Vault Type Equipment Foundations</b>				
Install precast concrete vault type foundations for padmount equipment, including surface restoration and grounding provisions.				
2. Install precast vault for three-phase padmount transformer.	Each	1	N/A	Do Not Extend
3. Install precast vault for single-phase padmount transformer.	Each	1		
<b>III. Install Primary Cable and Accessories</b>				
Install primary cable and accessories to connect padmounted equipment. Units are per ft. for cable and per installation for accessories. Includes grounding, bonding and testing.				
1. One 1/c-1/0 AWG aluminum 15 kV conc. neut. jacketed URD cable	Ckt. Ft.	900		
2. Three 1/c-1/0 AWG aluminum 15 kV conc. neut. jacketed URD cable	Ckt. Ft.	425		
3. Install cold shrink outdoor cable termination, including mounting	Each	3		
4. Install 15 kV 200 ampere loadbreak elbow termination	Each	6		
5. Install 15 kV 200 ampere splice, #2 URD Cable	Each	1	N/A	Do Not Extend
<b>IV. Install Padmount Transformers and Equipment</b>				
Install dead front padmount transformers and equipment, including transportation from Owner's storage facility.				
1. Install single-phase padmount transformer, all sizes	Each	5		
2. Install three-phase padmount transformer, 300 kVA or smaller	Each	1		
3. Install three-phase padmount transformer 500 kVA or larger	Each	1	N/A	Do Not Extend
4. Install three-phase stepdown transformer, 750 or 1000 kVA	Each	1	N/A	Do Not Extend

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
<b>5. UNDERGROUND SYSTEM REMOVAL SECTION</b>				
<u>I. Remove Risers</u>				
Remove existing riser pole conduit, including all fittings and accessories. Units are per installation. per installation for riser pole conduits. Includes surface restoration.				
1. Remove riser pole conduits, complete.	Each	1	N/A	Do Not Extend
<u>II. Remove Equipment Foundations</u>				
Remove existing equipment foundations, all types				
1. Remove existing three-phase padmount transformer foundation.	Each	1	N/A	Do Not Extend
<u>III. Remove Primary Cable and Accessories</u>				
Remove primary cable and accessories connecting padmounted equipment. Units are per ft. for cable and per installation for accessories.				
1. Remove 1-1/c primary cable, all sizes, including terminations	Ckt. Ft.	1	N/A	Do Not Extend
2. Remove 3-1/c primary cable, all sizes, including terminations	Ckt. Ft.	425		
<u>IV. Remove Padmount Transformers and Equipment</u>				
Remove padmount transformers and equipment, including transportation back to Owner's storage facility.				
1. Remove single-phase padmount transformer, all sizes	Each	5		
2. Remove three-phase padmount transformer, 300 kVA or smaller	Each	1		
3. Remove three-phase padmount transformer 500 kVA or larger	Each	1	N/A	Do Not Extend

ITEM NUMBER	UNIT	QUANTITY	UNIT BID PRICE	TOTAL BID AMOUNT
-------------	------	----------	----------------	------------------

The above unit prices shall include all labor, material (unless specifically noted as furnished by OWNER), construction equipment, tools, transportation of OWNER and CONTRACTOR furnished material to the jobsite, plus any costs that are not part of Section B (see below).

<b>A. SUBTOTALS - DISTRIBUTION SYSTEM BID SCHEDULE SECTIONS</b>	
1. Overhead System Installation	\$
2. Overhead System Transfers	\$
3. Overhead System Removal	\$
4. Underground System Installation	\$
5. Underground System Removal	\$
<b>B. MOBILIZATION / CONVERSION / TRAFFIC CONTROL / DEMOLITION / DEMOBILIZATION</b>	
1. Mobilization (Lump Sum)	\$
2. Conversion Labor (Lump Sum)	\$
3. Traffic Control (Lump Sum)	\$
4. Demobilization (Lump Sum)	\$
<b>C. TOTAL VALUE FROM THIS BID SCHEDULE</b>	\$

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614**

**MARCH 2021**

**BID BOND**

**KNOWN ALL MEN BY THESE PRESENTS**, that we, the undersigned, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are hereby held and firmly bound unto the **Wolfeboro Municipal Electric Department**, as OWNER in the penal sum of \$ \_\_\_\_\_ (5% of base bid) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The Condition of the above obligation is such that whereas the Principal has submitted to \_\_\_\_\_, a certain BID, attached hereto and hereby made a part of hereof to enter into a contract in writing, for the **“Construction Bid – Distribution Construction Phase 6.”**

**NOW, THEREFORE,**

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

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

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

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

By: \_\_\_\_\_

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

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**BID REVIEW CERTIFICATE**

---

The BIDDER shall be completely familiar with and be experienced in all aspects of electrical distribution system installation, removal and voltage conversion, and shall ascertain the scope of the work from the Specifications and Drawings. It shall be the responsibility of the BIDDER to become familiar with the equipment being furnished by the OWNER.

Failure of the BIDDER to correctly interpret the scope of work necessary to properly install or connect the equipment furnished by the OWNER will not be considered as the basis of claim for extra compensation.

The undersigned hereby acknowledges and certifies that they have examined the Contract Documents, the project site, and the OWNER furnished equipment, and that they fully understand the scope of work required for this project.

NAME OF FIRM: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

DATE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_



**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**NON-COLLUSIVE BID CERTIFICATE**

---

- A. By submission of this bid each bidder and each person signing on behalf of any bidder certifies, and in case of a joint bid, each party thereto certifies, as to its own organization, under penalty of perjury, that to the best of knowledge and belief:
1. The prices in this bid have been arrived at independently without collusion, consultation, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any competitor;
  2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder directly or indirectly, to any other bidder or to any competitor; and
  3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

- B. A bid shall not be considered for award nor shall any award be made where (a), (1), (2), and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (A), (1), (2), and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the Political Subdivision, Public Department, Agency of Official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (A) has published price lists, rates, or tariffs covering items being procured, (B) has informed prospective customers or proposed or pending publications of new or revised

price lists for such items, or (C) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (A).

Any bid hereafter made to any Political Subdivision of the State or any Public Department, Agency, or Official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision (1) of this section, shall be deemed to have been authorized by the Board of Directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

**Resolution - for Corporate Bidders Only**

RESOLVED that \_\_\_\_\_ be  
(Name of Person)

authorized to sign and submit the bid or proposal of this corporation for the following project:

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614**

And to include in such bid or proposal, any certificates as to non-collusion required by applicable State or local statutes as the act and deed of such corporation, and for any inaccuracies or misstatements in such certificate this corporate bidder shall be liable under the penalties or perjury.

The foregoing is a true and correct copy of the resolution adopted by

\_\_\_\_\_  
(Name of Corporation)

at a meeting of its board of directors held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and is still in full force and effect on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Secretary

Printed Name: \_\_\_\_\_

Seal of the Corporation

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION – PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**NOTICE OF AWARD**

---

Dated \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
OWNER'S CONTRACT NO: 918127-04  
CONTRACT FOR: Distribution System Voltage Conversion, Phase 6 Construction

You are notified that your Bid dated \_\_\_\_\_ for the above Contract has been considered. You are the apparent successful bidder and have been awarded a contract for

The Contract Price of your contract, based on estimated quantities, is: \_\_\_\_\_ (\$ \_\_\_\_\_)

The proposed Contract Documents accompany this Notice of Award.

You must comply with the following conditions precedent within five (5) days (Saturdays, Sundays, and legal holidays excluded) of the date of this Notice of Award, that is by \_\_\_\_\_

1. You must deliver to the Owner the fully executed Owner Contractor Agreement.
2. You must deliver with the executed Agreement, the Contract Security (Bonds and Certificates of Insurance) as specified in the Instructions to Bidders, General Conditions and Supplementary Conditions.

Failure to comply with these conditions within the time specified will entitle Owner to consider your bid abandoned, to annul this Notice of award and to declare your Bid Security forfeited.

Within ten (10) days after you comply with those conditions, Owner will return to you one (1) fully signed counterpart of the Agreement with the Contract Documents attached.

Wolfeboro Municipal Electric Department (Owner)

By: Wolfeboro Municipal Electric Department

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Title)

Copy to Engineer

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**OWNER CONTRACTOR AGREEMENT**

---

This agreement is made and executed this \_\_\_\_\_ and between the **Wolfeboro Municipal Electric Department, Wolfeboro, New Hampshire**, hereinafter designated as Owner, and \_\_\_\_\_ (Contractor) having a principal place of business at \_\_\_\_\_ (Permanent Address), \_\_\_\_\_ (Mailing Address), hereinafter designated as Contractor.

**SECTION I**

A. General Description of Work

The Contractor is to complete all work as generally described in Section 01 11 00 – Summary of Work and as more specifically documented on the Bid Form, Bid Schedule, Technical Specifications, Drawings, etc. and as further required by all Addenda.

B. The Contractor shall commence work as soon as practical following Contract Award.

F. The Contractor shall reach substantial completion on or before \_\_\_\_\_, and final completion on or before \_\_\_\_\_.

G. The Contractor shall construct all appurtenances in exact accord with the Contract Documents which are made a part of this agreement and the Contractor shall make no deviations from or change in such Contract Documents without the written consent or direction of the Owner. The Contract Documents consist of:

1. Instructions to Bidders dated March 2021.
2. Contractor's Bid Form.
3. Specification Sections as listed in the Table of Contents thereof.
4. This Owner-Contractor Agreement dated \_\_\_\_\_, 20\_\_\_\_.
5. Addenda numbers \_\_\_\_ to \_\_\_\_ inclusive.
6. Bonds and Insurance Certificates.
7. Contract Drawings as more specifically identified in the Technical Specifications.
8. Notice of Award.
9. Notice to Proceed.
10. General Conditions.

11. Supplementary Conditions.
12. All amendments, modifications, and supplements issued on or after the Effective Date of the Agreement.
- F. The Contractor shall perform all work in good, substantial, and workmanlike manner.
- G. The Contractor shall act exclusively as an independent contractor in the performance of this Work.
- H. The Project has been designed by PLM, who is hereinafter called Engineer and who is to act as Owner's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.
- I. To the fullest extent permitted by law and regulations, the Contractor shall indemnify and hold harmless the Owner, any landowners on whose property the Work is to be performed, and their agents and employees from all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising directly, indirectly, or consequentially out of any act or omission, whether negligent or not, by Contractor or its agents or servants in connection with the performance of the Work.
- This defense, indemnification and hold harmless by the Contractor shall include any and all damage to property or injury to or death of any person, including employees of the Contractor or its agents, servants or Subcontractors.
- J. The Contractor shall furnish to the Owner, and maintain in continuous effect until the Owner's acceptance of the Work, performance and payment bonds as security for the faithful performance and payment of all of Contractor's obligations under the Contract Document. These bonds shall be in the amount of at least equal to the contract price and shall be in such form and with such sureties as are acceptable to the Owner. The Contractor shall also furnish a Maintenance Bond in the amount equal to 5% of the final contract price, for a period of one year from the date of completion and final acceptance of the Work. If any surety upon any bond furnished in connection with this Contract becomes unacceptable to the Owner, or if any such surety fails to furnish reports as to its financial condition from time to time, as requested by the Owner, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Owner and of persons supplying labor or materials in the execution of the Work contemplated by this Contract.

## SECTION II

- A. Owner shall pay Contractor for completion of the Work in accordance with Contract Documents in current funds as follows:

TOTAL LUMP SUM CONTRACT PRICE:

(\$ \_\_\_\_\_)

Contractor's Bid is attached to this Agreement as an exhibit.

- B. Contractor shall submit Application for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.
1. Progress Payments. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer and as provided in Article 14 of the General Conditions. All progress payments shall be subject to a 5% retention.
  2. Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by the Engineer as provided in said paragraph 14.13.
- C. The Owner agrees to pay and the Contractor agrees to accept the Contract Price as full compensation, satisfaction and discharge for all work done and all necessary materials properly furnished on site other than those furnished by the Owner whether mentioned in the Bid Form or not, and for all costs and expenses incurred, damages sustained and for each and every matter, thing or act performed, furnished or suffered in the full and complete performance and completion of the Work of this Agreement in accordance with the terms, conditions and provisions thereof, and of the instructions, orders and directions of the Owner thereunder, except changes or additions covered by the General Conditions and Supplementary Conditions, which shall be paid for as provided in the General Conditions and Supplementary Conditions.

It is the intent of this Agreement to provide for the construction as per the Specification and Drawings. The price bid under each item shall include all labor, equipment, materials other than those furnished by the Owner, expenses and costs which are not properly classified under any other item or items, and which may be necessary to completely perform the work to be done under said item in the manner herein set forth and specified. Contractor shall, without additional compensation, therefore, coordinate and join together all the various subdivisions of the Work.

### **SECTION III**

The Owner shall furnish the Project Site and access and certain materials as more specifically described in the Specifications and Drawings.

### **SECTION IV**

This Agreement is intended to secure the personal services of the Contractor because of its ability and reputation. Therefore, the Contractor is prohibited from assigning all or any of its duties hereunder without the express written consent of the Owner.

**IN WITNESS WHEREOF**, the parties hereunto set their hands and seals by their duly authorized officers on the date first above written.

**CONTRACTOR**

<hr/>	By	<hr/>
Witness		(Signature)
		<hr/>
		(Printed Name)
		<hr/>
		(Title)
		<hr/>
		(Date)

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT**

<hr/>	By	<hr/>
Witness		(Signature)
		<hr/>
		(Printed Name)
		<hr/>
		(Title)
		<hr/>
		(Date)

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**SIGNATURE AUTHORIZATION FORM**

---

If a corporation, complete below or attach to each signed copy of a contract a notarized copy of vote of corporation authorizing the signatory to sign this contract. If attesting clerk is same as individual executing contract, have signature notarized below.

At a duly authorized meeting of the Board of Directors of the

\_\_\_\_\_ held on \_\_\_\_\_  
(Name of Corporation) (Date)

at which all the Directors were present or waived notice, it was VOTED That,

\_\_\_\_\_ (Name) \_\_\_\_\_ (Officer)

of this company be and hereby is authorized to execute contract and bonds in the name and behalf of said company, and affix its corporate seal thereto, and such execution of any contract or obligation in this company's name and on its behalf by such \_\_\_\_\_  
(Officer)

of the company, shall be valid and binding upon this company.

I hereby certify that I am the Clerk of the \_\_\_\_\_,  
(Contractor)

that \_\_\_\_\_ is the duly elected \_\_\_\_\_ of  
(Name) (Officer)

said company, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.

a true copy,

ATTEST \_\_\_\_\_  
(Clerk)

Place of Business \_\_\_\_\_

Corporate Seal

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)



**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**FORM OF PERFORMANCE BOND**

---

***Known by all these presents,*** that I/We, the undersigned

\_\_\_\_\_  
A corporation, partnership, individual,  
organized under the laws of \_\_\_\_\_  
and having a usual place of business in \_\_\_\_\_  
in the County of \_\_\_\_\_ and in the State of \_\_\_\_\_  
as Principal, and \_\_\_\_\_ a Corporation organized under the laws of \_\_\_\_\_  
\_\_\_\_\_ and having a usual place of business in \_\_\_\_\_  
\_\_\_\_\_, as Surety, are held and firmly bound unto the **Wolfeboro Municipal Electric  
Department, of Wolfeboro, New Hampshire**, as Obligee, in the sum of:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_)  
lawful money in the United States of America, for payment of which, well and truly to be made, we hereby  
jointly and severally, bind ourselves and our respective heirs, executors, administrators, successors and  
assigns, firmly by these presents.

*Whereas*, the Principal has entered into a certain written contract with the Obligee,  
dated \_\_\_\_\_, 20\_\_\_\_ for \_\_\_\_\_  
\_\_\_\_\_ in the Town of Wolfeboro, New  
Hampshire, which contract in its entirety, including the General Conditions, plans and specifications  
thereof and any addenda thereto, is hereby referred to and made a part hereof as fully and to the same  
extent as if copied at length herein.

***Now, therefore,*** the condition of this obligation, is such that if the principal shall well and truly keep and  
perform all the undertakings, covenants, agreements, terms and conditions of said contract on its part to  
be kept and performed during the original term of said contract, any extensions thereof that may be  
granted by the Obligee, with or without notice to the Surety, and during the life of any guaranty required  
under the contract, (one year from date of acceptance), and shall also well and truly keep and perform all  
the undertakings, covenants, agreements, terms and conditions of any and all duly authorized  
modifications, alterations, changes or additions to said contract that may hereafter be made, notice to the

WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
FORM OF PERFORMANCE BOND

---

Surety of such modifications, alterations, change or additions or extensions of time being hereby waived, then this obligation shall become null and void, otherwise, it shall remain in full force and virtue.

In the event that the contract is abandoned by the Principal, or in the event that the Obligee, under the Provisions said Contract, terminates the employment of the Principal or the authority of the Principal to continue the work, said Surety hereby further agrees that said surety shall, if requested in writing by the Obligee, take such action as is necessary to complete said contract.

***In Witness Whereof***, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers or agents, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Principal)

By: \_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Surety)

By: \_\_\_\_\_  
(Attorney in Fact)

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**FORM OF PAYMENT BOND**

---

**Known by all these presents,** that I/We, the undersigned

A corporation, partnership, individual, organized under the laws of \_\_\_\_\_  
and having a usual place of business in \_\_\_\_\_  
in the County of \_\_\_\_\_ and in the State of \_\_\_\_\_  
as Principal, and \_\_\_\_\_ a Corporation organized under the laws of \_\_\_\_\_  
\_\_\_\_\_ and having a usual place of business in \_\_\_\_\_  
\_\_\_\_\_, as Surety, are held and firmly bound unto the **Wolfeboro Municipal Electric  
Department, of Wolfeboro, New Hampshire**, as Obligee, in the sum of:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )  
lawful money in the United States of America, for payment of which, well and truly to be made, I/We  
hereby jointly and severally, bind ourselves and our respective heirs, executors, administrators,  
successors and assigns, firmly by these presents.

**Whereas**, the Principal has entered into a certain written contract with the Obligee, dated  
\_\_\_\_\_, 20\_\_\_ for the construction \_\_\_\_\_ which contract  
in its entirety, including the General Conditions, plans and specifications, and any addenda thereof, is  
hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**Now, therefore**, the condition of this obligation is such that if the principal and each sub-  
contractor shall pay for labor performed or furnished and materials used or employed therein, including  
lumber so employed which is not incorporated therein and is not wholly or necessarily consumed or made  
so worthless as to lose its identity, but only to the extent of its purchase price less its fair case value, and  
including also any material specially fabricated at the order of the contractor or sub-contractor for use as  
a component part of said public building or other public work so as to be unsuitable for use elsewhere,  
even though such material has not been delivered and incorporated into the public building or public  
work, but only to the extent of its purchase price less its fair salvage value and only to the extent that such  
specially fabricated material is in conformity with the contract, plans, and specifications or any changes  
therein duly made; for payment of transportation charges for materials used or employed therein which  
are consigned to the contractor; for payment by such contractor and sub-contractors of any sums due for  
the rental or hire of vehicles, steam shovels, rollers propelled by steam or other power, concrete mixers,  
tools and other appliances and equipment employed in such construction, alteration, reconstruction,  
remodeling, repair, or demolition; for payment of transportation charges directly related to such rental or  
hire; and for payment by such contractor and sub-contractors of any sums due trustees or other persons  
authorized to collect such payments from the contractor or sub-contractors, based upon the labor  
performed or furnished as aforesaid, for health and welfare plans, supplementary unemployment benefit  
plans and other fringe benefits which are payable in cash and provided for in collective bargaining

WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
FORM OF PAYMENT BOND

---

agreements between organized labor and the contractor or sub-contractors; provided, that any such trustees or other persons authorized to collect such payments for health and welfare plans, supplementary unemployment benefit plans and other fringe benefits shall, subject to the provisions of Section 29 of Chapter 149 of the General Laws, as amended, be entitled to the benefit of the security only in an amount based upon labor performed or furnished as aforesaid for a maximum of two hundred and forty consecutive calendar days, all in accordance with the provisions of said Section 29 and other sections of said Chapter 149 and all acts amendatory thereof or supplementary thereto (this bond being in compliance with the requirements of said Chapter 149 to furnish security thereunder) then this obligation shall be null and void; otherwise it shall remain in full force and virtue.

***In Witness Whereof***, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers or agents, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
(Principal)

By: \_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Surety)

By: \_\_\_\_\_  
(Attorney in Fact)

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**NOTICE TO PROCEED**

---

Dated \_\_\_\_\_, 20\_\_

CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OWNER: \_\_\_\_\_ Wolfeboro Municipal Electric Department

OWNER'S CONTRACT NO: \_\_\_\_\_ 918127-04

CONTRACT FOR: \_\_\_\_\_ Distribution System Voltage Conversion, Phase 6 Construction

You are notified that the Contract Time under the above Contract will commence to run on \_\_\_\_\_, 20\_\_. By that date, you are to start performing your obligations under the Contract Documents. In accordance with Section I of the Owner Contractor Agreement, the dates of Substantial Completion and Final Completion are \_\_\_\_\_, 20\_\_ and \_\_\_\_\_, 20\_\_, respectively.

\_\_\_\_\_  
Wolfeboro Municipal Electric Department  
(Owner)

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_  
(Title)

Copy to Engineer

**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**ACKNOWLEDGMENT OF SATISFACTION AND RELEASE**

---

For good and valuable consideration paid and performed by the **Wolfeboro Municipal Electric Department** (hereinafter Owner), \_\_\_\_\_ (hereinafter Contractor), hereby acknowledges receipt and payment in full of all sums and the satisfaction of all duties due and owed to Contractor and its agents, servants and subcontractors by the Owner arising directly or indirectly under and pursuant to that certain Agreement dated \_\_\_\_\_, by and between the Owner and Contractor and does hereby remise, release and forever discharge the Owner and its successors and assigns, of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law or in equity, which (Contractor), it or its successors or assigns ever had, now has or hereafter can, shall or may have for upon or by reasons of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of these presents, against the Owner and its successors and assigns arising directly or indirectly under or pursuant to that certain Agreement, dated \_\_\_\_\_, 20\_\_\_\_, by or between the Owner and Contractor herein before mentioned.

**IN WITNESS WHEREOF** \_\_\_\_\_, Contractor, has hereunto set its hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**IN PRESENCE OF**

**CONTRACTOR**

\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
  
\_\_\_\_\_

# 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

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) (1990 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) (1986 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1990 Edition). When bidding is involved, the Standard Form of Instructions to Bidders (No. 1910-12) (1990 Edition) may be used.

© 1990 National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314

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

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



# TABLE OF CONTENTS OF GENERAL CONDITIONS

Article or Paragraph Number & Title	Page Number	Article or Paragraph Number & Title	Page Number
1. DEFINITIONS .....	13	2.5-2.7 Before Starting Construction; CONTRACTOR's Responsibility to Report: Preliminary Schedules; Delivery of Certificates of Insurance .....	15
1.1 Addenda .....	13	2.8 Preconstruction Conference .....	15
1.2 Agreement .....	13	2.9 Initially Acceptable Schedules .....	16
1.3 Application for Payment .....	13	3. CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE .....	16
1.4 Asbestos .....	13	3.1-3.2 Intent .....	16
1.5 Bid .....	13	3.3 Reference to Standards and Specifications of Technical Societies; Reporting and Resolving Discrepancies .....	16
1.6 Bidding Documents .....	13	3.4 Intent of Certain Terms or Adjectives ..	17
1.7 Bidding Requirements .....	13	3.5 Amending Contract Documents .....	17
1.8 Bonds .....	13	3.6 Supplementing Contract Documents ...	17
1.9 Change Order .....	13	3.7 Reuse of Documents .....	17
1.10 Contract Documents .....	13	4. AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS ..	17
1.11 Contract Price .....	13	4.1 Availability of Lands .....	17
1.12 Contract Times .....	13	4.2 Subsurface and Physical Conditions ...	17
1.13 CONTRACTOR .....	13	4.2.1 Reports and Drawings .....	17
1.14 defective .....	13	4.2.2 Limited Reliance by CONTRACTOR Authorized; Technical Data .....	18
1.15 Drawings .....	13	4.2.3 Notice of Differing Subsurface or Physical Conditions .....	18
1.16 Effective Date of the Agreement .....	13	4.2.4 ENGINEER's Review .....	18
1.17 ENGINEER .....	13	4.2.5 Possible Contract Documents Change ..	18
1.18 ENGINEER's Consultant .....	13	4.2.6 Possible Price and Times Adjustments ..	18
1.19 Field Order .....	13	4.3 Physical Conditions—Underground Facilities .....	18
1.20 General Requirements .....	14	4.3.1 Shown or Indicated .....	18
1.21 Hazardous Waste .....	14	4.3.2 Not Shown or Indicated .....	19
1.22 Laws and Regulations; Laws or Regulations .....	14	4.4 Reference Points .....	19
1.23 Liens .....	14	4.5 Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material .....	19
1.24 Milestone .....	14	5. BONDS AND INSURANCE .....	20
1.25 Notice of Award .....	14	5.1-5.2 Performance, Payment and Other Bonds ..	20
1.26 Notice to Proceed .....	14	5.3 Licensed Sureties and Insurers; Certificates of Insurance .....	20
1.27 OWNER .....	14	5.4 CONTRACTOR's Liability Insurance ..	20
1.28 Partial Utilization .....	14	5.5 OWNER's Liability Insurance .....	21
1.29 PCBs .....	14	5.6 Property Insurance .....	21
1.30 Petroleum .....	14	5.7 Boiler and Machinery or Additional Property Insurance .....	21
1.31 Project .....	14	5.8 Notice of Cancellation Provisions .....	21
1.32 Radioactive Material .....	14	5.9 CONTRACTOR's Responsibility for Deductible Amounts .....	22
1.33 Resident Project Representative .....	14	5.10 Other Special Insurance .....	22
1.34 Samples .....	14	5.11 Waiver of Rights .....	22
1.35 Shop Drawings .....	14		
1.36 Specifications .....	14		
1.37 Subcontractor .....	14		
1.38 Substantial Completion .....	14		
1.39 Supplementary Conditions .....	14		
1.40 Supplier .....	14		
1.41 Underground Facilities .....	14		
1.42 Unit Price Work .....	14		
1.43 Work .....	15		
1.44 Work Change Directive .....	15		
1.45 Written Amendment .....	15		
2. PRELIMINARY MATTERS .....	15		
2.1 Delivery of Bonds .....	15		
2.2 Copies of Documents .....	15		
2.3 Commencement of Contract Times; Notice to Proceed .....	15		
2.4 Starting the Work .....	15		

Article or Paragraph Number & Title	Page Number	Article or Paragraph Number & Title	Page Number
5.12-5.13 Receipt and Application of Insurance Proceeds .....	22	8.6 Change Orders .....	29
5.14 Acceptance of Bonds and Insurance; Option to Replace .....	22	8.7 Inspections, Tests and Approvals .....	29
5.15 Partial Utilization—Property Insurance .....	23	8.8 Stop or Suspend Work; Terminate CONTRACTOR's Services .....	29
6. CONTRACTOR'S RESPONSIBILITIES .....	23	8.9 Limitations on OWNER's Responsibilities .....	30
6.1-6.2 Supervision and Superintendence .....	23	8.10 Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material .....	30
6.3-6.5 Labor, Materials and Equipment .....	23	8.11 Evidence of Financial Arrangements ..	30
6.6 Progress Schedule .....	23	9. ENGINEER'S STATUS DURING CONSTRUCTION .....	30
6.7 Substitutes and "Or-Equal" Items; CONTRACTOR's Expense; Substitute Construction Methods or Procedures; ENGINEER's Evaluation .....	23	9.1 OWNER's Representative .....	30
6.8-6.11 Concerning Subcontractors, Suppliers and Others; Waiver of Rights .....	24	9.2 Visits to Site .....	30
6.12 Patent Fees and Royalties .....	25	9.3 Project Representative .....	30
6.13 Permits .....	25	9.4 Clarifications and Interpretations .....	30
6.14 Laws and Regulations .....	25	9.5 Authorized Variations in Work .....	30
6.15 Taxes .....	25	9.6 Rejecting Defective Work .....	30
6.16 Use of Premises .....	26	9.7-9.9 Shop Drawings, Change Orders and Payments .....	31
6.17 Site Cleanliness .....	26	9.10 Determinations for Unit Prices .....	31
6.18 Safe Structural Loading .....	26	9.11-9.12 Decisions on Disputes; ENGINEER as Initial Interpreter .....	31
6.19 Record Documents .....	26	9.13 Limitations on ENGINEER's Authority and Responsibilities .....	31
6.20 Safety and Protection .....	26	10. CHANGES IN THE WORK .....	32
6.21 Safety Representative .....	26	10.1 OWNER Ordered Change .....	32
6.22 Hazard Communication Programs .....	27	10.2 Claim for Adjustment .....	32
6.23 Emergencies .....	27	10.3 Work Not Required by Contract Documents .....	32
6.24 Shop Drawings and Samples .....	27	10.4 Change Orders .....	32
6.25 Submittal Procedures; CONTRACTOR's Review Prior to Shop Drawing or Sample Submittal ..	27	10.5 Notification of Surety .....	32
6.26 Shop Drawing & Sample Submittals Review by ENGINEER .....	27	11. CHANGE OF CONTRACT PRICE .....	32
6.27 Responsibility for Variation From Contract Documents .....	27	11.1-11.3 Contract Price; Claim for Adjustment; Value of the Work .....	32
6.28 Related Work Performed Prior to ENGINEER's Review and Approval of Required Submittals .....	27	11.4 Cost of the Work .....	33
6.29 Continuing the Work .....	28	11.5 Exclusions to Cost of the Work .....	34
6.30 CONTRACTOR's General Warranty and Guarantee .....	28	11.6 CONTRACTOR's Fee .....	34
6.31-6.33 Indemnification .....	28	11.7 Cost Records .....	34
6.34 Survival of Obligations .....	28	11.8 Cash Allowances .....	35
7. OTHER WORK .....	29	11.9 Unit Price Work .....	35
7.1-7.3 Related Work at Site .....	29	12. CHANGE OF CONTRACT TIMES .....	35
7.4 Coordination .....	29	12.1 Claim for Adjustment .....	35
8. OWNER'S RESPONSIBILITIES .....	29	12.2 Time of the Essence .....	35
8.1 Communications to Contractor .....	29	12.3 Delays Beyond CONTRACTOR's Control .....	35
8.2 Replacement of ENGINEER .....	29	12.4 Delays Beyond OWNER's and CONTRACTOR's Control .....	35
8.3 Furnish Data and Pay Promptly When Due .....	29	13. TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK .....	36
8.4 Lands and Easements; Reports and Tests .....	29	13.1 Notice of Defects .....	36
8.5 Insurance .....	29	13.2 Access to the Work .....	36
		13.3 Tests and Inspections; Contractor's Cooperation .....	36

<i>Article or Paragraph Number &amp; Title</i>	<i>Page Number</i>
13.4 OWNER's Responsibilities; Independent Testing Laboratory .....	36
13.5 CONTRACTOR's Responsibilities .....	36
13.6-13.7 Covering Work Prior to Inspection, Testing or Approval .....	36
13.8-13.9 Uncovering Work at ENGINEER's Request .....	36
13.10 OWNER May Stop the Work .....	36
13.11 Correction or Removal of Defective Work .....	37
13.12 Correction Period .....	37
13.13 Acceptance of Defective Work .....	37
13.14 OWNER May Correct Defective Work .....	37
<b>14. PAYMENTS TO CONTRACTOR AND COMPLETION .....</b>	<b>37</b>
14.1 Schedule of Values .....	37
14.2 Application for Progress Payment .....	38
14.3 CONTRACTOR's Warranty of Title ...	38
14.4-14.7 Review of Applications for Progress Payments .....	38
14.8-14.9 Substantial Completion .....	39
14.10 Partial Utilization .....	39
14.11 Final Inspection .....	39

<i>Article or Paragraph Number &amp; Title</i>	<i>Page Number</i>
14.12 Final Application for Payment .....	40
14.13-14.14 Final Payment and Acceptance .....	40
14.15 Waiver of Claims .....	40
<b>15. SUSPENSION OF WORK AND TERMINATION .....</b>	<b>40</b>
15.1 OWNER May Suspend Work .....	40
15.2-15.4 OWNER May Terminate .....	40
15.5 CONTRACTOR May Stop Work or Terminate .....	41
<b>16. DISPUTE RESOLUTION .....</b>	<b>41</b>
<b>17. MISCELLANEOUS .....</b>	<b>42</b>
17.1 Giving Notice .....	42
17.2 Computation of Times .....	42
17.3 Notice of Claim .....	42
17.4 Cumulative Remedies .....	42
17.5 Professional Fees and Court Costs Included .....	42
<b>EXHIBIT GC-A (Optional):</b>	
Dispute Resolution Agreement (Optional) .....	GC-A1
16.1-16.6 Arbitration .....	GC-A1
16.7 Mediation .....	GC-A2

# INDEX TO GENERAL CONDITIONS

	<i>Article or Paragraph Number</i>
Acceptance of—	
Bonds and Insurance .....	5.14
defective Work .....	10.4.1, 13.13, 13.15
final payment .....	9.12, 14.15
insurance .....	5.14
other Work, by CONTRACTOR .....	7.3
Substitutes and "Or-Equal" Items .....	6.7.1
Work by OWNER .....	2.5, 6.30, 6.34
Access to the—	
Lands, OWNER and CONTRACTOR	
responsibilities .....	4.1
site, related work .....	7.2
Work, .....	13.2, 13.14, 14.9
Acts or Omissions—, Acts and Omissions—	
CONTRACTOR .....	6.9.1, 9.13.3
ENGINEER .....	6.20, 9.13.3
OWNER .....	6.20, 8.9
Addenda—definition of (also see	
definition of Specifications) .....	(1.6, 1.10, 6.19) 1.1
Additional Property Insurances .....	5.7
Adjustments	
Contract Price or Contract	
Times .....	1.5, 3.5, 4.1, 4.3.2, 4.5.2, 4.5.3, 9.4, 9.5, 10.2-10.4, 11, 12, 14.8, 15.1
progress schedule .....	6.6
Agreement—	
definition of .....	1.2
All risk Insurance, policy form .....	5.6.2
Allowances, Cash .....	11.8
Amending Contract Documents .....	3.5
Amendment, Written—	
in general .... 1.10, 1.45, 3.5, 5.10, 5.12, 6.6.2, 6.8.2, 6.19,	
10.1, 10.4, 11.2, 12.1, 13.12.2, 14.7.2	
Appeal, OWNER or CONTRACTOR	
intent to .....	9.10, 9.11, 10.4, 16.2, 16.5
Application for Payment—	
definition of .....	1.3
ENGINEER's Responsibility .....	9.9
final payment .....	9.13.4, 9.13.5, 14.12-14.15
in general .....	2.8, 2.9, 5.6.4, 9.10, 15.5
progress payment .....	14.1, 14.7
review of .....	14.4-14.7
Arbitration (Optional) .....	16.1-16.6
Asbestos—	
claims pursuant thereto .....	4.5.2, 4.5.3
CONTRACTOR authorized to stop Work .....	4.5.2
definition of .....	1.4
OWNER responsibility for .....	4.5.1, 8.10
possible price and times change .....	4.5.2
Authorized Variations in Work .....	3.6, 6.25, 6.27, 9.5
Availability of Lands .....	4.1, 8.4
Award, Notice of—defined .....	1.25
Before Starting Construction .....	2.5-2.8
Bid—definition of .....	1.5
(1.1, 1.10, 2.3, 3.3, 4.2.6.4, 6.13, 11.4.3, 11.9.1)	

	<i>Article or Paragraph Number</i>
Bidding Documents—definition of .....	1.6 (6.8.2)
Bidding Requirements—definitions of .....	1.7 (1.1, 4.2.6.2)
Bonds—	
acceptance of .....	5.14
additional bonds .....	10.5, 11.4.5.9
Cost of the Work .....	11.5.4
definition of .....	1.8
delivery of .....	2.1, 5.1
final application for payment .....	14.12-14.14
general .....	1.10, 5.1-5.3, 5.13, 9.13, 10.5, 14.7.6
performance, Payment and Other .....	5.1-5.2
Bonds and Insurance—in general .....	5
Builder's risk "all risk" policy form .....	5.6.2
Cancellation Provisions, Insurance .....	5.4.11., 5.8, 5.15
Cash Allowances .....	11.8
Certificate of Substantial Completion .....	1.38, 6.30.2.3, 14.8, 14.10
Certificates of Inspection .....	9.13.4, 13.5, 14.12
Certificates of Insurance .. 2.7, 5.3, 5.4.11, 5.4.13, 5.6.5, 5.8,	
..... 5.14, 9.13.4, 14.12	
Change in Contract Price—	
Cash Allowances .....	11.8
claim for price adjustment .....	4.1, 4.2.6, 4.5, 5.15, 6.8.2, 9.4, 9.5, 9.11, 10.2, 10.5, 11.2, 13.9, 13.13, 13.14, 15.1, 15.5
CONTRACTOR's fee .....	11.6
Cost of the Work	
general .....	11.4-11.7
Exclusions to .....	11.5
Cost Records .....	11.7
in general .....	1.19, 1.44, 9.11, 10.4.2, 10.4.3, 11
Lump Sum Pricing .....	11.3.2
Notification of Surety .....	10.5
Scope of .....	10.3-10.4
Testing and Inspection, Uncovering the Work .....	13.9
Unit Price Work .....	11.9
Value of Work .....	11.3
Change in Contract Times—	
Claim for times adjustment .... 4.1, 4.2.6, 4.5, 5.15, 6.8.2,	
9.4, 9.5, 9.11, 10.2, 10.5, 12.1, 13.9, 13.13,	
13.14, 14.7, 15.1, 15.5	
Contractual time limits .....	12.2
Delays beyond CONTRACTOR's control .....	12.3
Delays beyond OWNER's and CONTRACTOR's con- trol .....	12.4
Notification of surety .....	10.5
Scope of change .....	10.3-10.4
Change Orders—	
Acceptance of Defective Work .....	13.13
Amending Contract Documents .....	3.5
Cash Allowances .....	11.8
Change of Contract Price .....	11
Change of Contract Times .....	12
Changes in the Work .....	10
CONTRACTOR's fee .....	11.6
Cost of the Work .....	11.4-11.7

	<i>Article or Paragraph Number</i>
Cost Records .....	11.7
definition of .....	1.9
emergencies .....	6.23
ENGINEER's responsibility .....	9.8, 10.4, 11.2, 12.1
execution of .....	10.4
Indemnification .....	6.12, 6.16, 6.31, 6.33
Insurance, Bonds and .....	5.10, 5.13, 10.5
OWNER may terminate .....	15.2-15.4
OWNER's Responsibility .....	8.6, 10.4
Physical Conditions—	
Subsurface and, .....	4.2
Underground Facilities .....	4.3.2
Record Documents .....	6.19
Scope of Change .....	10.3-10.4
Substitutes .....	6.7.3, 6.8.2
Unit Price Work .....	11.9
value of Work, covered by .....	11.3
Changes in the Work .....	10
Notification of surety .....	10.5
OWNER's and CONTRACTOR's responsibilities ....	10.4
Right to an adjustment .....	10.2
Scope of change .....	10.3-10.4
Claims—	
against CONTRACTOR .....	6.16
against ENGINEER .....	6.32
against OWNER .....	6.32
Change of Contract Price .....	9.4, 11.2
Change of Contract Times .....	9.4, 12.1
CONTRACTOR's 4, 7.1, 9.4, 9.5, 9.11, 10.2, 11.2, 11.9, 12.1, 14.8, 15.1, 15.5, 17.3	
CONTRACTOR's Fee .....	11.6
CONTRACTOR's liability .....	5.4, 6.12, 6.16, 6.31
Cost of the Work .....	11.4, 11.5
Decisions on Disputes .....	9.11, 9.12
Dispute Resolution .....	16.1
Dispute Resolution Agreement .....	16.1-16.6
ENGINEER as initial interpreter .....	9.11
Lump Sum Pricing .....	11.3.2
Notice of .....	17.3
OWNER's .....	9.4, 9.5, 9.11, 10.2, 11.2, 11.9, 12.1, 13.9, 13.13, 13.14, 17.3
OWNER's liability .....	5.5
OWNER may refuse to make payment .....	14.7
Professional Fees and Court Costs Included .....	17.5
request for formal decision on .....	9.11
Substitute items .....	6.7.1.2
Time Extension .....	12.1
Time requirements .....	9.11, 12.1
Unit Price Work .....	11.9.3
Value of .....	11.3
Waiver of—on Final Payment .....	14.14, 14.15
Work Change Directive .....	10.2
written notice required .....	9.11, 11.2, 12.1
Clarifications and Interpretations .....	3.6.3, 9.4, 9.11
Clean Site .....	6.17
Codes of Technical Society, Organization or Association .....	3.3.3
Commencement of Contract Times .....	2.3
Communications—	

	<i>Article or Paragraph Number</i>
general .....	6.2, 6.9.2, 8.1
Hazard Communication Programs .....	6.22
Completion—	
Final Application for Payment .....	14.12
Final Inspection .....	14.11
Final Payment and Acceptance .....	14.13-14.14
Partial Utilization .....	14.10
Substantial Completion .....	1.38, 14.8-14.9
Waiver of Claims .....	14.15
Computation of Times .....	17.2.1-17.2.2
Concerning Subcontractors, Suppliers and Others .....	6.8-6.11
Conferences—	
initially acceptable schedules .....	2.9
preconstruction .....	2.8
Conflict, Error, Ambiguity, Discrepancy—	
CONTRACTOR to Report .....	2.5, 3.3.2
Construction, before starting by CONTRACTOR ....	2.5-2.7
Construction Machinery, Equipment, etc. ....	6.4
Continuing the Work .....	6.29, 10.4
Contract Documents—	
Amending .....	3.5
Bonds .....	5.1
Cash Allowances .....	11.8
Change of Contract Price .....	11
Change of Contract Times .....	12
Changes in the Work .....	10.4-10.5
check and verify .....	2.5
Clarifications and Interpretations .....	3.2, 3.6, 9.4, 9.11
definition of .....	1.10
ENGINEER as initial interpreter of .....	9.11
ENGINEER as OWNER's representative .....	9.1
general .....	3
Insurance .....	5.3
Intent .....	3.1-3.4
minor variations in the Work .....	3.6
OWNER's responsibility to furnish data .....	8.3
OWNER's responsibility to make	
prompt payment .....	8.3, 14.4, 14.13
precedence .....	3.1, 3.3.3
Record Documents .....	6.19
Reference to Standards and Specifications	
of Technical Societies .....	3.3
Related Work .....	7.2
Reporting and Resolving Discrepancies .....	2.5, 3.3
Reuse of .....	3.7
Supplementing .....	3.6
Termination of ENGINEER's Employment .....	8.2
Unit Price Work .....	11.9
variations .....	3.6, 6.23, 6.27
Visits to Site, ENGINEER's .....	9.2
Contract Price—	
adjustment of .....	3.5, 4.1, 9.4, 10.3, 11.2-11.3
Change of .....	11
Decision on Disputes .....	9.11
definition of .....	1.11
Contract Times—	
adjustment of .....	3.5, 4.1, 9.4, 10.3, 12
Change of .....	12.1-12.4

	<i>Article or Paragraph Number</i>
Commencement of .....	2.3
definition of .....	1.12
CONTRACTOR—	
Acceptance of Insurance .....	5.14
Limited Reliance on Technical Data Authorized .....	4.2.2
Communications .....	6.2, 6.9.2
Continue Work .....	6.29, 10.4
coordination and scheduling .....	6.9.2
definition of .....	1.13
May Stop Work or Terminate .....	15.5
provide site access to others .....	7.2, 13.2
Safety and Protection .....	4.3.1.2, 6.16, 6.18, 6.21-6.23, 7.2, 13.2
Shop Drawing and Sample Review Prior to Submittal .....	6.25
Stop Work requirements .....	4.5.2
CONTRACTOR's—	
Compensation .....	11.1-11.2
Continuing Obligation .....	14.15
Defective Work .....	9.6, 13.10-13.14
Duty to correct defective Work .....	13.11
Duty to Report—	
Changes in the Work caused by	
Emergency .....	6.23
Defects in Work of Others .....	7.3
Differing conditions .....	4.2.3
Discrepancy in Documents .....	2.5, 3.3.2, 6.14.2
Underground Facilities not indicated .....	4.3.2
Emergencies .....	6.23
Equipment and Machinery Rental, Cost	
of the Work .....	11.4.5.3
Fee—Cost-Plus .....	11.4.5.6, 11.5.1, 11.6
General Warranty and Guarantee .....	6.30
Hazard Communication Programs .....	6.22
Indemnification .....	6.12, 6.16, 6.31-6.33
Inspection of the Work .....	7.3, 13.4,
Labor, Materials and Equipment .....	6.3-6.5
Laws and Regulations, Compliance by .....	6.14.1
Liability Insurance .....	5.4
Notice of Intent to Appeal .....	9.10, 10.4
obligation to perform and complete the Work .....	6.30
Patent Fees and Royalties, paid for by .....	6.12
Performance and Other Bonds .....	5.1
Permits, obtained and paid for by .....	6.13
Progress Schedule .....	2.6, 2.8, 2.9, 6.6, 6.29, 10.4, 15.2.1
Request for formal decision on disputes .....	9.11
Responsibilities—	
Changes in the Work .....	10.1
Concerning Subcontractors, Suppliers and Others .....	6.8-6.11
Continuing the Work .....	6.29, 10.4
CONTRACTOR's expense .....	6.7.1
CONTRACTOR's General Warranty and Guarantee .....	6.30
CONTRACTOR's review prior to Shop Drawing or Sample submittal .....	6.25
Coordination of Work .....	6.9.2
Emergencies .....	6.23
ENGINEER's evaluation, Substitutes	
or "Or-Equal" Items .....	6.7.3

	<i>Article or Paragraph Number</i>
For Acts and Omissions of Others .....	6.9.1-6.9.2, 9.13
for deductible amounts, insurance .....	5.9
general .....	6, 7.2, 7.3, 8.9
Hazardous Communication Programs .....	6.22
Indemnification .....	6.31-6.33
Labor, Materials and Equipment .....	6.3-6.5
Laws and Regulations .....	6.14
Liability Insurance .....	5.4
Notice of variation from Contract Documents .....	6.27
Patent Fees and Royalties .....	6.12
Permits .....	6.13
Progress Schedule .....	6.6
Record Documents .....	6.19
related Work performed prior to ENGINEER's	
approval of required submittals .....	6.28
safe structural loading .....	6.18
Safety and Protection .....	6.20, 7.2, 13.2
Safety Representative .....	6.21
Scheduling the Work .....	6.9.2
Shop Drawings and Samples .....	6.24
Shop Drawings and Samples Review	
by ENGINEER .....	6.26
Site Cleanliness .....	6.17
Submittal Procedures .....	6.25
Substitute Construction Methods and	
Procedures .....	6.7.2
Substitutes and "Or-Equal" Items .....	6.7.1
Superintendence .....	6.2
Supervision .....	6.1
Survival of Obligations .....	6.34
Taxes .....	6.15
Tests and Inspections .....	13.5
To Report .....	2.5
Use of Premises .....	6.16-6.18, 6.30.2.4
Review Prior to Shop Drawing or Sample Submittal .....	6.25
Right to adjustment for changes in the Work .....	10.2
right to claim .....	4, 7.1, 9.4, 9.5, 9.11, 10.2, 11.2, 11.9, 12.1, 13.9, 14.8, 15.1, 15.5, 17.3
Safety and Protection .....	6.20-6.22, 7.2, 13.2
Safety Representative .....	6.21
Shop Drawings and Samples Submittals .....	6.24-6.28
Special Consultants .....	11.4.4
Substitute Construction Methods and Procedures .....	6.7
Substitutes and "Or-Equal" Items, Expense .....	6.7.1, 6.7.2
Subcontractors, Suppliers and Others .....	6.8-6.11
Supervision and Superintendence .....	6.1, 6.2, 6.21
Taxes, Payment by .....	6.15
Use of Premises .....	6.16-6.18
Warranties and guarantees .....	6.30, 6.5
Warranty of Title .....	14.3
Written Notice Required—	
CONTRACTOR stop Work or terminate .....	15.5
Reports of Differing Subsurface and Physical Conditions .....	4.2.3
Substantial Completion .....	14.8
CONTRACTORS—other .....	7
Contractual Liability Insurance .....	5.4.10
Contractual Time Limits .....	12.2
Coordination	

	<i>Article or Paragraph Number</i>
CONTRACTOR's responsibility .....	6.9.2
Copies of Documents .....	2.2
Correction Period .....	13.12
Correction, Removal or Acceptance of Defective Work	
in general .....	10.4.1, 13.10-13.14
Acceptance of Defective Work .....	13.13
Correction or Removal of Defective Work .....	6.30, 13.11
Correction Period .....	13.12
OWNER May Correct Defective Work .....	13.14
OWNER May Stop Work .....	13.10
Cost—	
of Tests and Inspections .....	13.4
Records .....	11.7
Cost of the Work—	
Bonds and insurance, additional .....	11.4.5.9
Cash Discounts .....	11.4.2
CONTRACTOR's Fee .....	11.6
Employee Expenses .....	11.4.5.1
Exclusions to .....	11.5
General .....	11.4-11.5
Home office and overhead expenses .....	11.5
Losses and damages .....	11.4.5.6
Materials and equipment .....	11.4.2
Minor expenses .....	11.4.5.8
Payroll costs on changes .....	11.4.1
performed by Subcontractors .....	11.4.3
Records .....	11.7
Rentals of construction equipment and machinery .....	11.4.5.3
Royalty payments, permits and license fees .....	11.4.5.5
Site office and temporary facilities .....	11.4.5.2
Special Consultants, CONTRACTOR's .....	11.4.4
Supplemental .....	11.4.5
Taxes related to the Work .....	11.4.5.4
Tests and Inspection .....	13.4
Trade Discounts .....	11.4.2
Utilities, fuel and sanitary facilities .....	11.4.5.7
Work after regular hours .....	11.4.1
Covering Work .....	13.6-13.7
Cumulative Remedies .....	17.4-17.5
Cutting, fitting and patching .....	7.2
Data, to be furnished by OWNER .....	8.3
Day—definition of .....	17.2.2
Decisions on Disputes .....	9.11, 9.12
defective—definition of .....	1.14
defective Work—	
Acceptance of .....	10.4.1, 13.13
Correction or Removal of .....	10.4.1, 13.11
Correction Period .....	13.12
in general .....	13, 14.7, 14.11
Observation by ENGINEER .....	9.2
OWNER May Stop Work .....	13.10
Prompt Notice of Defects .....	13.1
Rejecting .....	9.6
Uncovering the Work .....	13.8
Definitions .....	1
Delays .....	4.1, 6.29, 12.3-12.4
Delivery of Bonds .....	2.1
Delivery of certificates of insurance .....	2.7

	<i>Article or Paragraph Number</i>
Determinations for Unit Prices .....	9.10
Differing Subsurface or Physical Conditions	
Notice of .....	4.2.3
ENGINEER's Review .....	4.2.4
Possible Contract Documents Change .....	4.2.5
Possible Price and Times Adjustments .....	4.2.6
Discrepancies-Reporting and Resolving .....	2.5, 3.3.2, 6.14.2
Dispute Resolution—	
Agreement .....	16.1-16.6
Arbitration .....	16.1-16.5
general .....	16
Mediation .....	16.6
Dispute Resolution Agreement .....	16.1-16.6
Disputes, Decisions by ENGINEER .....	9.11-9.12
Documents—	
Copies of .....	2.2
Record .....	6.19
Reuse of .....	3.7
Drawings—definition of .....	1.15
Easements .....	4.1
Effective date of Agreement—definition of .....	1.16
Emergencies .....	6.23
ENGINEER—	
as initial interpreter on disputes .....	9.11-9.12
definition of .....	1.17
Limitations on authority and responsibilities .....	9.13
Replacement of .....	8.2
Resident Project Representative .....	9.3
ENGINEER's Consultant—definition of .....	1.18
ENGINEER's—	
authority and responsibility, limitations on .....	9.13
Authorized Variations in the Work .....	9.5
Change Orders, responsibility for .....	9.7, 10, 11, 12
Clarifications and Interpretations .....	3.6.3, 9.4
Decisions on Disputes .....	9.11-9.12
defective Work, notice of .....	13.1
Evaluation of Substitute Items .....	6.7.3
Liability .....	6.32, 9.12
Notice Work is Acceptable .....	14.13
Observations .....	6.30.2, 9.2
OWNER's Representative .....	9.1
Payments to the CONTRACTOR,	
Responsibility for .....	9.9, 14
Recommendation of Payment .....	14.4, 14.13
Responsibilities—	
Limitations on .....	9.11-9.13
Review of Reports on Differing Subsurface and Physical Conditions .....	4.2.4
Shop Drawings and Samples, review responsibility .....	6.26
Status During Construction—	
authorized variations in the Work .....	9.5
Clarifications and Interpretations .....	9.4
Decisions on Disputes .....	9.11-9.12
Determinations on Unit Price .....	9.10
ENGINEER as Initial Interpreter .....	9.11-9.12
ENGINEER's Responsibilities .....	9.1-9.12

	Article or Paragraph Number
Limitations on ENGINEER's Authority and Responsibilities .....	9.13
OWNER's Representative .....	9.1
Project Representative .....	9.3
Rejecting Defective Work .....	9.6
Shop Drawings, Change Orders and Payments .....	9.7-9.9
Visits to Site .....	9.2
Unit Price Determinations .....	9.10
Visits to Site .....	9.2
Written consent required .....	7.2, 9.1
Equipment, Labor, Materials and .....	6.3-6.5
Equipment rental, Cost of the Work .....	11.4.5.3
Equivalent Materials and Equipment .....	6.7
Errors or omissions .....	6.33
Evidence of Financial Arrangements .....	8.11
Explorations of physical conditions .....	4.2.1
Fee, CONTRACTOR's—Costs-Plus .....	11.6
Field Order—	
definition of .....	1.19
issued by ENGINEER .....	3.6.1, 9.5
Final Application for Payment .....	14.12
Final Inspection .....	14.11
Final Payment—	
and Acceptance .....	14.13-14.14
Prior to, for cash allowances .....	11.8
General Provisions .....	17.3-17.4
General Requirements—	
definition of .....	1.20
principal references to .....	2.6, 6.4, 6.6-6.7, 6.24
Giving Notice .....	17.1
Guarantee of Work—by	
CONTRACTOR .....	6.30, 14.12
Hazard Communication Programs .....	6.22
Hazardous Waste—	
definition of .....	1.21
general .....	4.5
OWNER's responsibility for .....	8.10
Indemnification .....	6.12, 6.16, 6.31-6.33
Initially Acceptable Schedules .....	2.9
CONTRACTOR'S Inspection—	
Certificates of .....	9.13.4, 13.5, 14.12
Final .....	14.11
Special, required by ENGINEER .....	9.6
Tests and Approval .....	8.7, 13.3-13.4
Insurance—	
Acceptance of, by OWNER .....	5.14
Additional, required by changes	
in the Work .....	11.4.5.9
Before starting the Work .....	2.7
Bonds and—in general .....	5
Cancellation Provisions .....	5.8
Certificates of .. 2.7, 5, 5.3, 5.4.11, 5.4.13, 5.6.5, 5.8, 5.14,	
9.13.4, 14.12	
completed operations .....	5.4.13
CONTRACTOR's Liability .....	5.4
CONTRACTOR's objection to coverage .....	5.14
Contractual Liability .....	5.4.10

	Article or Paragraph Number
deductible amounts, CONTRACTOR's	
responsibility .....	5.9
Final Application for Payment .....	14.12
Licensed Insurers .....	5.3
Notice requirements, material	
changes .....	5.8, 10.50
Option to Replace .....	5.14
other special insurances .....	5.10
OWNER as fiduciary for insureds .....	5.12-5.13
OWNER's Liability .....	5.5
OWNER's Responsibility .....	8.5
Partial Utilization, Property Insurance .....	5.15
Property .....	5.6-5.10
Receipt and Application of Insurance Proceeds .. 5.12-5.13	
Special Insurance .....	5.10
Waiver of Rights .....	5.11
Intent of Contract Documents .....	3.1-3.4
Interpretations and Clarifications .....	3.6.3, 9.4
Investigations of physical conditions .....	4.2
Labor, Materials and Equipment .....	6.3-6.5
Lands—	
and Easements .....	8.4
Availability of .....	4.1, 8.4
Reports & Tests .....	8.4
Laws and Regulations—Laws or Regulations—	
Bonds .....	5.1-5.2
Changes in the Work .....	10.4
Contract Documents .....	3.1
CONTRACTOR's Responsibilities .....	6.14
Correction Period, defective Work .....	13.12
Cost of the Work, taxes .....	11.4.5.4
definition of .....	1.22
general .....	6.14
Indemnification .....	6.31-6.33
Insurance .....	5.3
Precedence .....	3.1, 3.3.3
Reference to .....	3.3.1
Safety and Protection .....	6.20, 13.2
Subcontractors, Suppliers and Others .....	6.8-6.11
Tests and Inspections .....	13.5
Use of Premises .....	6.16
Visits to Site .....	9.2
Liability Insurance—	
CONTRACTOR's .....	5.4
OWNER's .....	5.5
Licensed Sureties and Insurers .....	5.3
Liens—	
Application for Progress Payment .....	14.2
Contractor's Warranty of Title .....	14.3
Final Application for Payment .....	14.12
definition of .....	1.23
Waiver of Claims .....	14.15
Limitations on ENGINEER's authority and responsibilities .....	9.13
Limited Reliance by CONTRACTOR Authorized .....	4.2.2
Maintenance and Operating Manuals—	
Final Application for Payment .....	14.12
Manuals (of others)—	
Precedence .....	3.3.3.1



	<i>Article or Paragraph Number</i>
Reference to in Contract Documents .....	3.3.1
Materials and equipment—	
furnished by CONTRACTOR .....	6.3
not incorporated in Work .....	14.2
Materials or equipment—equivalent .....	6.7
Mediation (Optional) .....	16.7
Milestones—definition of .....	1.24
Miscellaneous—	
Computation of Times .....	17.2
Cumulative Remedies .....	17.4
Giving Notice .....	17.1
Notice of Claim .....	17.3
Professional Fees and Court Costs Included .....	17.5
Multi-prime contracts .....	7
Not Shown or Indicated .....	4.3.2
Notice of—	
Acceptability of Project .....	14.13
Award, definition of .....	1.25
Claim .....	17.3
Defects, .....	13.1
Differing Subsurface or Physical Conditions .....	4.2.3
Giving .....	17.1
Tests and Inspections .....	13.3
Variation, Shop Drawing and Sample .....	6.27
Notice to Proceed—	
definition of .....	1.26
giving of .....	2.3
Notification to Surety .....	10.5
Observations, by ENGINEER .....	6.30, 9.2
Occupancy of the Work .....	5.15, 6.30.2.4, 14.10
Omissions or acts by CONTRACTOR .....	6.9, 9.13
“Open peril” policy form, Insurance .....	5.6.2
Option to Replace .....	5.14
“Or Equal” Items .....	6.7
Other work .....	7
Overtime Work—prohibition of .....	6.3
OWNER—	
Acceptance of defective Work .....	13.13
appoint an ENGINEER .....	8.2
as fiduciary .....	5.12-5.13
Availability of Lands, responsibility .....	4.1
definition of .....	1.27
data, furnish .....	8.3
May Correct Defective Work .....	13.14
May refuse to make payment .....	14.7
May Stop the Work .....	13.10
may suspend work,	
terminate .....	8.8, 13.10, 15.1-15.4
Payment, make prompt .....	8.3, 14.4, 14.13
performance of other Work .....	7.1
permits and licenses, requirements .....	6.13
purchased insurance requirements .....	5.6-5.10
OWNER's—	
Acceptance of the Work .....	6.30.2.5
Change Orders, obligation to	
execute .....	8.6, 10.4
Communications .....	8.1
Coordination of the Work .....	7.4
Disputes, request for decision .....	9.11

	<i>Article or Paragraph Number</i>
Inspections, tests and approvals .....	8.7, 13.4
Liability Insurance .....	5.5
Notice of Defects .....	13.1
Representative—During Construction,	
ENGINEER's Status .....	9.1
Responsibilities—	
Asbestos, PCB's, Petroleum, Hazardous	
Waste on Radioactive Material .....	8.10
Change Orders .....	8.6
Changes in the Work .....	10.1
communications .....	8.1
CONTRACTOR's responsibilities .....	8.9
evidence of financial arrangements .....	8.11
inspections, tests and approvals .....	8.7
Insurance .....	8.5
lands and easements .....	8.4
prompt payment by .....	8.3
replacement of ENGINEER .....	8.2
reports and tests .....	8.4
stop or suspend Work .....	8.8, 13.10, 15.1
terminate CONTRACTOR's services .....	8.8, 15.2
separate representative at site .....	9.3
independent testing .....	13.4
use or occupancy of the	
Work .....	5.15, 14.10
written consent or approval	
required .....	9.1, 6.3, 11.4
written notice	
required .....	7.1, 9.4, 9.11, 11.2, 11.9, 14.7, 15.4
PCBs—	
definition of .....	1.29
general .....	4.5
OWNER's responsibility for .....	8.10
Partial Utilization—	
definition of .....	1.28
general .....	6.30.2.4, 14.10
Property Insurance .....	5.15
Patent Fees and Royalties .....	6.12
Payment Bonds .....	5.1-5.2
Payments, Recommendation of .....	14.4-14.7, 14.13
Payments to CONTRACTOR and Completion—	
Application for Progress Payments .....	14.2
CONTRACTOR's Warranty of Title .....	14.3
Final Application for Payment .....	14.12
Final Inspection .....	14.11
Final Payment and Acceptance .....	14.13-14.14
general .....	8.3, 14
Partial Utilization .....	14.10
Retainage .....	14.2
Review of Applications for Progress	
Payments .....	14.4-14.7
prompt payment .....	8.3
Schedule of Values .....	14.1
Substantial Completion .....	14.8-14.9
Waiver of Claims .....	14.15
when payments due .....	14.4, 14.13
withholding payment .....	14.7
Performance Bonds .....	5.1-5.2
Permits .....	6.13

	<i>Article or Paragraph Number</i>
Petroleum—	
definition of .....	1.30
general .....	4.5
OWNER's responsibility for .....	8.10
Physical Conditions—	
Drawings of, in or relating to .....	4.2.1.2
ENGINEER's review .....	4.2.4
existing structures .....	4.2.2
general .....	4.2.1.2
Subsurface and, .....	4.2
Underground Facilities .....	4.3
Possible Contract Documents Change .....	4.2.5
Possible Price and Times Adjustments .....	4.2.6
Reports and Drawings .....	4.2.1
Notice of Differing Subsurface or, .....	4.2.3
Subsurface and .....	4.2
Subsurface Conditions .....	4.2.1.1
Technical Data, Limited Reliance by CONTRACTOR Authorized .....	4.2.2
Underground Facilities—	
general .....	4.3
Not Shown or Indicated .....	4.3.2
Protection of .....	4.3, 6.20
Shown or Indicated .....	4.3.1
Technical Data .....	4.2.2
Preconstruction Conference .....	2.8
Preliminary Matters .....	2
Preliminary Schedules .....	2.6
Premises, Use of .....	6.16-6.18
Price, Change of Contract .....	11
Price, Contract—definition of .....	1.11
Progress Payment, Applications for .....	14.2
Progress payment—retainage .....	14.2
Progress schedule, CONTRACTOR's .....	2.6, 2.8, 2.9, 6.6, 6.29, 10.4, 15.2.1
Project—definition of .....	1.31
Project Representative—	
ENGINEER's Status During Construction .....	9.3
Project Representative, Resident	
—definition of .....	1.33
prompt payment by OWNER .....	8.3
Property Insurance	
Additional .....	5.7
general .....	5.6-5.10
Partial Utilization .....	5.15, 14.10.2
receipt and application of proceeds .....	5.12-5.13
Protection, Safety and .....	6.20-6.21, 13.2
Punch list .....	14.11
Radioactive Material—	
definition .....	1.32
general .....	4.5
OWNER's responsibility for .....	8.10
Recommendation of Payment .....	14.4, 14.5, 14.13
Record Documents .....	6.19, 14.12
Records, procedures for maintaining .....	2.8
Reference Points .....	4.4
Reference to Standards and Specifications of Technical Societies .....	3.3

	<i>Article or Paragraph Number</i>
Regulations, Laws and (or) .....	6.14
Rejecting Defective Work .....	9.6
Related Work—	
at Site .....	7.1-7.3
Performed prior to Shop Drawings and Samples submittals review .....	6.28
Remedies, cumulative .....	17.4, 17.5
Removal or Correction of Defective Work .....	13.11
rental agreements, OWNER approval required .....	11.4.5.3
replacement of ENGINEER, by OWNER .....	8.2
Reporting and Resolving Discrepancies ....	2.5, 3.3.2, 6.14.2
Reports—	
and Drawings .....	4.2.1
and Tests, OWNER's responsibility .....	8.4
Resident Project Representative—	
definition of .....	1.33
provision for .....	9.3
Resident Superintendent, CONTRACTOR's .....	6.2
Responsibilities—	
CONTRACTOR's-in general .....	6
ENGINEER's-in general .....	9
Limitations on .....	9.13
OWNER's-in general .....	8
Retainage .....	14.2
Reuse of Documents .....	3.7
Review by CONTRACTOR: Shop Drawings and Samples Prior to Submittal .....	6.25
Review of Applications for Progress Payments .....	14.4-14.7
Right to an adjustment .....	10.2
Rights of Way .....	4.1
Royalties, Patent Fees and .....	6.12
Safe Structural Loading .....	6.18
Safety—	
and Protection .....	4.3.2, 6.16, 6.18, 6.20-6.21, 7.2, 13.2
general .....	6.20-6.23
Representative, CONTRACTOR's .....	6.21
Samples—	
definition of .....	1.34
general .....	6.24-6.28
Review by CONTRACTOR .....	6.25
Review by ENGINEER .....	6.26, 6.27
related Work .....	6.28
submittal of .....	6.24.2
submittal procedures .....	6.25
Schedule of progress ....	2.6, 2.8-2.9, 6.6, 6.29, 10.4, 15.2.1
Schedule of Shop Drawing and Sample Submittals .....	2.6, 2.8-2.9, 6.24-6.28
Schedule of Values .....	2.6, 2.8-2.9, 14.1
Schedules—	
Adherence to .....	15.2.1
Adjusting .....	6.6
Change of Contract Times .....	10.4
Initially Acceptable .....	2.8-2.9
Preliminary .....	2.6
Scope of Changes .....	10.3-10.4
Subsurface Conditions .....	4.2.1.1

	<i>Article or Paragraph Number</i>
Shop Drawings—	
and Samples, general .....	6.24-6.28
Change Orders & Applications for	
Payments, and .....	9.7-9.9
definition of .....	1.35
ENGINEER's approval of .....	3.6.2
ENGINEER's responsibility	
for review .....	9.7, 6.24-6.28
related Work .....	6.28
review procedures .....	2.8, 6.24-6.28
submittal required .....	6.24.1
Submittal Procedures .....	6.25
use to approve substitutions .....	6.7.3
Shown or Indicated .....	4.3.1
Site Access .....	7.2, 13.2
Site Cleanliness .....	6.17
Site, Visits to—	
by ENGINEER .....	9.2, 13.2
by others .....	13.2
“Special causes of loss” policy form, insurance .....	5.6.2
Specifications—	
definition of .....	1.36
of Technical Societies, reference to .....	3.3.1
precedence .....	3.3.3
Standards and Specifications of Technical	
Societies .....	3.3
Starting Construction, Before .....	2.5-2.8
Starting the Work .....	2.4
Stop or Suspend Work—	
by CONTRACTOR .....	15.5
by OWNER .....	8.8, 13.10, 15.1
Storage of materials and equipment .....	4.1, 7.2
Structural Loading, Safety .....	6.18
Subcontractor—	
Concerning, .....	6.8-6.11
definition of .....	1.37
delays .....	12.3
waiver of rights .....	6.11
Subcontractors—in general .....	6.8-6.11
Subcontracts—required provisions .....	5.11, 6.11, 11.4.3
Submittals—	
Applications for Payment .....	14.2
Maintenance and Operation Manuals .....	14.12
Procedures .....	6.25
Progress Schedules .....	2.6, 2.9
Samples .....	6.24-6.28
Schedule of Values .....	2.6, 14.1
Schedule of Shop Drawings and	
Samples Submissions .....	2.6, 2.8-2.9
Shop Drawings .....	6.24-6.28
Substantial Completion—	
certification of .....	6.30.2.3, 14.8-14.9
definition of .....	1.38
Substitute Construction Methods or Procedures .....	6.7.2
Substitutes and “Or Equal” Items .....	6.7
CONTRACTOR's Expense .....	6.7.1.3
ENGINEER's Evaluation .....	6.7.3
“Or-Equal” .....	6.7.1
Substitute Construction Methods of Procedures .....	6.7.2

	<i>Article or Paragraph Number</i>
Substitute Items .....	6.7.1.2
Subsurface and Physical Conditions—	
Drawings of, in or relating to .....	4.2.1.2
ENGINEER's Review .....	4.2.4
general .....	4.2
Limited Reliance by CONTRACTOR	
Authorized .....	4.2.2
Notice of Differing Subsurface or	
Physical Conditions .....	4.2.3
Physical Conditions .....	4.2.1.2
Possible Contract Documents Change .....	4.2.5
Possible Price and Times Adjustments .....	4.2.6
Reports and Drawings .....	4.2.1
Subsurface and .....	4.2
Subsurface Conditions at the Site .....	4.2.1.1
Technical Data .....	4.2.2
Supervision—	
CONTRACTOR's responsibility .....	6.1
OWNER shall not supervise .....	8.9
ENGINEER shall not supervise .....	9.2, 9.13.2
Superintendence .....	6.2
Superintendent, CONTRACTOR's resident .....	6.2
Supplemental costs .....	11.4.5
Supplementary Conditions—	
definition of .....	1.39
principal reference to .... 1.10, 1.18, 2.2, 2.7, 4.2, 4.3, 5.1,	
5.3, 5.4, 5.6-5.9, 5.11, 6.8, 6.13, 7.4, 8.11, 9.3, 9.10	
Supplementing Contract Documents .....	3.6
Supplier—	
definition of .....	1.40
principal references to .....	3.7, 6.5, 6.8-6.11,
6.20, 6.24, 9.13, 14.12	
Waiver of Rights .....	6.11
Surety—	
consent to final payment .....	14.12, 14.14
ENGINEER has no duty to .....	9.13
Notification of .....	10.1, 10.5, 15.2
qualification of .....	5.1-5.3
Survival of Obligations .....	6.34
Suspend Work, OWNER May .....	13.10, 15.1
Suspension of Work and Termination—	15
CONTRACTOR May Stop Work or	
Terminate .....	15.5
OWNER May Suspend Work .....	15.1
OWNER May Terminate .....	15.2-15.4
Taxes-Payment by CONTRACTOR .....	6.15
Technical Data—	
Limited Reliance by CONTRACTOR .....	4.2.2
Possible Price and Times Adjustments .....	4.2.6
Reports of Differing Subsurface and	
Physical Conditions .....	4.2.3
Temporary construction facilities .....	4.1
Termination—	
by CONTRACTOR .....	15.5
by OWNER .....	8.8, 15.1-15.4
of ENGINEER's employment .....	8.2
Suspension of Work-in general .....	15
Terms and Adjectives .....	3.4
Tests and Inspections—	

<i>Article or Paragraph Number</i>	
Access to the Work, by others	13.2
CONTRACTOR's responsibilities	13.5
cost of	13.4
covering Work prior to	13.6-13.7
Laws and Regulations (or)	13.5
Notice of Defects	13.1
OWNER May Stop Work	13.10
OWNER's independent testing	13.4
special, required by ENGINEER	9.6
timely notice required	13.4
Uncovering the Work, at ENGINEER's request	13.8-13.9
Times—	
Adjusting	6.6
Change of Contract	12
Adjusting	6.6
Computation of	17.2
Contract Times—definition of	1.12
day	17.72
Milestones	12
Requirements—	
appeals	16
clarifications, claims and disputes	9.11, 11.2, 12
commencement of contract times	2.3
preconstruction conference	2.8
schedules	2.6, 2.9, 6.6
starting the Work	2.4
Title, Warranty of	14.3
Uncovering Work	13.8-13.9
Underground Facilities, Physical Conditions—	
definition of	1.41
Not Shown or Indicated	4.3.2
protection of	4.3, 6.20
Shown or Indicated	4.3.1
Unit Price Work—	
claims	11.9.3
definition of	1.42
general	11.9, 14.1, 14.5
Unit Prices—	
general	11.3.1
Determination for	9.10
Use of Premises	6.16, 6.18, 6.30.2.4
Utility owners	6.13, 6.20, 7.1-7.3, 13.2

<i>Article or Paragraph Number</i>	
Utilization, Partial	1.28, 5.15, 6.30, 2.4, 14.10
Value of the Work	11.3
Values, Schedule of	2.6, 2.8-2.9, 14.1
Variations in Work—Minor	
Authorized	6.25, 6.27, 9.5
Visits of Site—by ENGINEER	9.2
Waiver of Claims-on Final	
Payment	14.15
Waiver of Rights by insured parties	5.11, 6.11
Warranty and Guarantee, General—by	
CONTRACTOR	6.30
Warranty of Title, CONTRACTOR's	14.3
Work—	
Access to	13.2
by others,	7
Changes in the	10
Continuing the,	6.29
CONTRACTOR May Stop Work or Terminate	15.5
Coordination of	7.4
Cost of the	11.4-11.5
definition of	1.43
neglected by CONTRACTOR	13.14
other Work	7
OWNER May Stop Work	13.10
OWNER May Suspend Work	13.10, 15.1
Related, Work at Site	7.1-7.3
Starting the	2.4
Stopping by CONTRACTOR	15.5
Stopping by OWNER	15.1-15.4
Variation and deviation authorized, minor	3.6
Work Change Directive—	
claims pursuant to	10.2
definition of	1.44
principal references to	3.5.3, 10.1-10.2
Written Amendment—	
definition of	1.45
principal references to	1.10, 3.5, 5.10, 5.12, 6.6.2, 6.8.2, 6.19, 10.1, 10.4, 11.2, 12.1, 13.12.2, 14.7.2
Written Clarifications and Interpretations	3.6.3, 9.4, 9.11
Written Notice Required—	
by CONTRACTOR	7.1, 9.10-9.11, 10.4, 11.2, 12.1
by OWNER	9.10-9.11, 10.4, 11.2, 13.14

# GENERAL CONDITIONS

## ARTICLE 1—DEFINITIONS

---

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

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

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

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

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

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

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

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

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

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

1.10. *Contract Documents*—The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agree-

ment, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders and ENGINEER's written interpretations and clarifications issued pursuant to paragraphs 3.5, 3.6.1, and 3.6.3 on or after the Effective Date of the Agreement. Shop Drawing submittals approved pursuant to paragraphs 6.26 and 6.27 and the reports and drawings referred to in paragraphs 4.2.1.1 and 4.2.2.2 are not Contract Documents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.29. *PCBs*—Polychlorinated biphenyls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE 2—PRELIMINARY MATTERS

---

### *Delivery of Bonds:*

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

### *Copies of Documents:*

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

### *Commencement of Contract Times; Notice to Proceed:*

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

Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

### *Starting the Work:*

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

### *Before Starting Construction:*

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

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

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

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

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

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

### *Preconstruction Conference:*

2.8. Within twenty days after the Contract Times start to run, but before any Work at the site is started, a conference

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

#### *Initially Acceptable Schedules:*

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

### ARTICLE 3—CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

---

#### *Intent:*

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

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

cations and interpretations of the Contract Documents shall be issued by ENGINEER as provided in paragraph 9.4.

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

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

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

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

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

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

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



performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of paragraph 9.13 or any other provision of the Contract Documents.

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

#### *Amending and Supplementing Contract Documents:*

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

3.5.1. a formal Written Amendment,

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

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

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

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

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

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

#### *Reuse of Documents:*

3.7. CONTRACTOR, and any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER (i) shall not have or acquire any title to or ownership rights in any

of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, and (ii) shall not reuse any of such Drawings, Specifications, other documents or copies on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER.

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

### *Availability of Lands:*

4.1. OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a correct statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's lien against such lands in accordance with applicable Laws and Regulations. OWNER shall identify any encumbrances or restrictions not of general application but specifically related to use of lands so furnished with which CONTRACTOR will have to comply in performing the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR and OWNER are unable to agree on entitlement to or the amount or extent of any adjustments in the Contract Price or the Contract Times as a result of any delay in OWNER's furnishing these lands, rights-of-way or easements, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### *4.2. Subsurface and Physical Conditions:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Reference Points:**

4.4. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and shall make no changes or relocations

without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

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

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

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

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

4.5.4. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's

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

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

## ARTICLE 5—BONDS AND INSURANCE

---

### *Performance, Payment and Other Bonds:*

5.1. CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR'S obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Financial Management Service, Surety Bond Branch, U.S. Treasury Department. (Phone 202-874-6850). All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

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

### *5.3. Licensed Sureties and Insurers; Certificates of Insurance:*

5.3.1. All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR shall be obtained from surety or insurance

companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

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

### *CONTRACTOR's Liability Insurance:*

5.4. CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and furnished and as will 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, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

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

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

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

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

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

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

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

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

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

5.4.9. include completed operations insurance;

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

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

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

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

#### ***OWNER's Liability Insurance:***

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

#### ***Property Insurance:***

5.6. Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property insurance

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

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

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

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

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

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

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

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

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

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

#### **5.11. Waiver of Rights:**

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

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

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

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

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

#### **Receipt and Application of Insurance Proceeds**

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

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

#### **Acceptance of Bonds and Insurance; Option to Replace:**

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

required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

***Partial Utilization—Property Insurance:***

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

## ARTICLE 6—CONTRACTOR'S RESPONSIBILITIES

---

***Supervision and Superintendence:***

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

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

***Labor, Materials and Equipment:***

6.3. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except as otherwise required for the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours and

CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without OWNER's written consent given after prior written notice to ENGINEER.

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

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

***Progress Schedule:***

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

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

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

***6.7. Substitutes and "Or-Equal" Items:***

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



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

6.7.1.2. *Substitute Items*: If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under subparagraph 6.7.1.1, it will be considered a proposed substitute item. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. The procedure for review by the ENGINEER will include the following as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall first make written application to ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified and be suited to the same use as that specified. The application will state the extent, if any, to which the evaluation and acceptance of the proposed substitute will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute.

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

6.7.2. *Substitute Construction Methods or Procedures*: If a specific means, method, technique, sequence or procedure of

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

6.7.3. *Engineer's Evaluation*: ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.7.1.2 and 6.7.2. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized without ENGINEER's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any "or-equal" or substitute. ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitutes proposed or submitted by CONTRACTOR pursuant to paragraphs 6.7.1.2 and 6.7.2 and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER accepts a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute item.

#### *Concerning Subcontractors, Suppliers and Others:*

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

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



substitution and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER or ENGINEER of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject *defective* Work.

6.9.1. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier or other person or organization any contractual relationship between OWNER 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.

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

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

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

#### *Patent Fees and Royalties:*

6.12. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance

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

#### *Permits:*

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

#### *Laws and Regulations:*

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

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

#### *Taxes:*

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

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

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

#### *Record Documents:*

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

the Work, these record documents, Samples and Shop Drawings will be delivered to ENGINEER for OWNER.

#### *Safety and Protection:*

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

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

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

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

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

#### *Safety Representative:*

6.21. CONTRACTOR shall designate a qualified and experienced safety representative at the site whose duties and

responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

#### ***Hazard Communication Programs:***

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

#### ***Emergencies:***

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

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

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

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

#### ***6.25. Submittal Procedures:***

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

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

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

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

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

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

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

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

6.27. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract

Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission as required by paragraph 6.25.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.25.1.

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

#### ***Continuing the Work:***

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

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

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

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

6.30.1.2. normal wear and tear under normal usage.

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

6.30.2.1. observations by ENGINEER;

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

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

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

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

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

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

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

#### ***Indemnification:***

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

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

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

#### ***Survival of Obligations:***

6.34. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with

the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Agreement.

## ARTICLE 7—OTHER WORK

---

### *Related Work at Site:*

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

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

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

### *Coordination:*

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

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

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

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

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

## ARTICLE 8—OWNER'S RESPONSIBILITIES

---

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE 9—ENGINEER'S STATUS DURING CONSTRUCTION

---

### *OWNER's Representative:*

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

### *Visits to Site:*

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

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

### *Project Representative:*

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

### *Clarifications and Interpretations:*

9.4. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER or CONTRACTOR believes that a written clarification or interpretation justifies an adjustment in the Contract Price or the Contract Times and the parties are unable to agree to the amount or extent thereof, if any, OWNER or CONTRACTOR may make a written claim 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 Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR who shall perform the Work involved promptly. If OWNER or CONTRACTOR believes that a Field Order justifies an adjustment in the Contract Price or the Contract Times and the parties are unable to agree as to the amount or extent thereof, OWNER or CONTRACTOR may make a written claim 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, or

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

#### *Shop Drawings, Change Orders and Payments:*

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

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

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

#### *Determinations for Unit Prices:*

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

#### *Decisions on Disputes:*

9.11. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and Claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph. Written notice of each such claim, dispute or other matter will be delivered by the claimant

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

9.12. When functioning as interpreter and judge pursuant to paragraphs 9.10 and 9.11, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be influenced in connection with any interpretation or decision by any person or organization. The rendering of a decision by ENGINEER pursuant to paragraphs 9.10 or 9.11 shall be a condition precedent 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 14.15) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter pursuant to Article 16.

#### *9.13. Limitations on ENGINEER's Authority and Responsibilities:*

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



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

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

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

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

## ARTICLE 10—CHANGES IN THE WORK

---

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

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

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

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

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

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

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

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

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

## ARTICLE 11—CHANGE OF CONTRACT PRICE

---

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

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



be valid if not submitted in accordance with this paragraph 11.2.

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

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

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

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

#### *Cost of the Work:*

11.4. The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in 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. Such employees shall include without limitation superintendents, foremen and other personnel employed full-time at the site. Payroll costs for employees not employed full-time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by OWNER.

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

cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

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

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

11.4.5. Supplemental costs including the following:

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

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

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

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

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

11.4.5.6. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by OWNER in accordance with paragraph 5.9), provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraph 11.6.2.

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

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

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

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

11.5.1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, 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.

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

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

11.6.1. a mutually acceptable fixed fee; or

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

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;

11.6.2.3. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraphs 11.4.1, 11.4.2, 11.4.3 and 11.6.2 is that the Subcontractor who actually performs or furnishes the Work, at whatever tier, will be paid a fee of fifteen percent of the costs incurred by such Subcontractor under paragraphs 11.4.1 and 11.4.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

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

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

11.6.2.6. 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 11.6.2.5, inclusive.

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

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

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

11.8.2. CONTRACTOR's 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 and no demand for additional payment on account of any of the foregoing will be valid.

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

**11.9. Unit Price Work:**

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

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

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

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

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

11.9.3.3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result

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

**ARTICLE 12—CHANGE OF CONTRACT TIMES**

---

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

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

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

12.4. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay. In no event shall OWNER be liable to CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from (i) delays caused by or within the control of CONTRACTOR, or (ii)

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

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

---

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

##### *Access to Work:*

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

##### *Tests and Inspections:*

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

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

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

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

13.4.3. as otherwise specifically provided in the Contract Documents.

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

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

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

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

##### *Uncovering Work:*

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

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

#### ***Correction or Removal of Defective Work:***

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

#### ***13.12. Correction Period:***

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

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

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

#### ***Acceptance of Defective Work:***

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

pay all claims, costs, losses and damages attributable to OWNER's evaluation of and determination to accept such *defective* Work (such costs to be approved by ENGINEER as to reasonableness). If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim 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 from ENGINEER 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. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors and ENGINEER and ENGINEER's Consultants access to the site to enable OWNER to exercise the rights and remedies under this paragraph. All claims, costs, losses and damages incurred or sustained by OWNER in exercising such rights and remedies will be charged against CONTRACTOR and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. Such claims, costs, losses and damages will include but not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's *defective* Work. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

### **ARTICLE 14—PAYMENTS TO CONTRACTOR AND COMPLETION**

#### ***Schedule of Values:***

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

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

#### *Application for Progress Payment:*

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

#### *CONTRACTOR's Warranty of Title:*

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

#### *Review of Applications for Progress Payment:*

14.4. 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 to OWNER 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 executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

14.5.1. the Work has progressed to the point indicated,

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

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

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

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

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

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

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

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

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

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

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

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

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

14.7.8. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.7.1 through 14.7.3 or paragraphs 15.2.1 through 15.2.4 inclusive;

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

#### *Substantial Completion:*

14.8. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER, CONTRACTOR and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons 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 and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform

ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

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

#### *Partial Utilization:*

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

14.10.1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons 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. No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of paragraph 5.15 in respect of property insurance.

#### *Final Inspection:*

14.11. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all



particulars in which this inspection reveals that the Work is incomplete or *defective*. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### ***Final Application for Payment:***

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

#### ***Final Payment and Acceptance:***

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

#### ***Waiver of Claims:***

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

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

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

## **ARTICLE 15—SUSPENSION OF WORK AND TERMINATION**

### ***OWNER May Suspend Work:***

15.1. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes an approved claim 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 persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.9 as adjusted from time to time pursuant to paragraph 6.6);

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

15.2.3. if CONTRACTOR disregards the authority of ENGINEER; or

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

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

15.3. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of 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 of OWNER, elect to terminate the Agreement. In such case, CONTRACTOR shall be paid (without duplication of any items):

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

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

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

15.4.4. for reasonable expenses directly attributable to termination.

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

#### ***CONTRACTOR May Stop Work or Terminate:***

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

#### **ARTICLE 16—DISPUTE RESOLUTION**

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

such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

## ARTICLE 17—MISCELLANEOUS

---

### *Giving Notice:*

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

### *Computation of Times:*

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

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

### *Notice of Claim:*

17.3. Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or

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

### *Cumulative Remedies:*

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

### *Professional Fees and Court Costs Included:*

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

[The remainder of this page was left blank intentionally.]

**EXHIBIT GC-A to General Conditions of the  
Agreement Between OWNER and CON-  
TRACTOR Dated \_\_\_\_\_  
For use with EJCDC No. 1910-8 (1990 ed.)**

---

**DISPUTE RESOLUTION AGREEMENT**

---

OWNER and CONTRACTOR hereby agree that Article 16 of the General Conditions to the Agreement between OWNER and CONTRACTOR is amended to include the following agreement of the parties:

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 14.15) 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 written decision or (b) the thirty-first 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 will 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. Except as provided in paragraph 16.5 below, 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 Consultant and the officers, directors, agents, employees or consultants of any of them) 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, and

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. Notwithstanding paragraph 16.4 if a claim, dispute or other matter in question between OWNER and CONTRACTOR involves the Work of a Subcontractor, either OWNER or CONTRACTOR may join such Subcontractor as a party to the arbitration between OWNER and CONTRACTOR hereunder. CONTRACTOR shall include in all subcontracts required by paragraph 6.11 a specific provision whereby the Subcontractor consents to being joined in an arbitration between OWNER and CONTRACTOR involving the Work of such Subcontractor. Nothing in this paragraph 16.5 nor in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of Subcontractor and against OWNER, ENGINEER or ENGINEER's Consultants that does not otherwise exist.

16.6. The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal.

[The remainder of this page was left blank intentionally.]

16.7. OWNER and CONTRACTOR agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to the Contract Documents or the breach thereof ("disputes"), to mediation by The American Arbitration Association under the Construction Industry Mediation Rules of the American Arbitration Association prior to either of them initiating against the other a demand for arbitration pursuant to paragraphs 16.1 through 16.6, unless delay in initiating arbitra-

tion would irrevocably prejudice one of the parties. The respective thirty and ten day time limits within which to file a demand for arbitration as provided in paragraphs 16.2 and 16.3 above shall be suspended with respect to a dispute submitted to mediation within those same applicable time limits and shall remain suspended until ten days after the termination of the mediation. The mediator of any dispute submitted to mediation under this Agreement shall not serve as arbitrator of such dispute unless otherwise agreed.

[The remainder of this page was left blank intentionally.]

[This page was left blank intentionally.]



**WOLFEBORO MUNICIPAL ELECTRIC DEPARTMENT  
WOLFEBORO, NEW HAMPSHIRE**

---

**DISTRIBUTION SYSTEM VOLTAGE CONVERSION - PHASE 6 CONSTRUCTION  
BID NO. 918127-04 – WMED W.O. 4614  
MARCH 2021**

---

**SUPPLEMENTARY CONDITIONS**

---

**1. SUPPLEMENTARY CONDITIONS TO STANDARD GENERAL CONDITIONS**

These Supplementary Conditions amend or supplement the Standard General Conditions 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.

**SC-1: ARTICLE 1: DEFINITIONS:**

The following definitions shall be added to this section

- 1.46 Act of God - An earthquake, flood, cyclone or other cataclysmic event of nature but not including rain, windstorm, high water or other natural event of unusual intensity, but which are reasonably anticipated considering historic records.
- 1.47 Final Completion/Completion - The work has progressed to the point where, in the opinion of the Owner, it is complete in accordance with the Contract Documents.
- 1.48 Material - Any approved material conforming to the requirements of the Specification and acceptable to Owner.
- 1.49 By Others - Work to be furnished by the Owner or by contractors other than the Contractor to whom this Contract is awarded, or by this Contractor under another contract.
- 1.50 Owner Furnished - As a prefix to the work material, means the material provided by the Owner and delivered to the Contractor in accordance with the terms of the Contract.
- 1.51 Owner's Representative - The person or persons designated by the Owner to act as its authorized field representative for the monitoring of construction activities and to provide technical interpretations of the Drawings and Specifications.
- 1.52 Pay Line - Line to which excavation is taken outside the limits of structures as shown on the Drawing(s). Pay lines shall not exceed two (2) feet beyond structures unless otherwise specifically shown on the Drawing(s).
- 1.53 Proposal - The offer or Bid of the Bidder for the Work when executed and submitted on the prescribed forms.
- 1.54 Site - All land upon which construction work is to be performed including areas adjacent thereto.
- 1.55 Equipment Guarantee Period - The time of any equipment guarantee period which is specifically required by the Contract Documents shall commence on the certified date the equipment was placed in service for its intended purpose. The certified starting date shall be established by written notification from Engineer to Contractor.
- 1.56 Provide - Whenever the word 'provide' is used in the Specifications in reference to work to be performed by the Contractor, it shall be understood to mean furnished and installed complete in place."

Whenever in the Contract Documents the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used it shall be understood that they refer to direction,

requirements, order, designation, or prescription of the Owner and, similarly, the words "acceptable", "satisfactory", or words of like import shall mean acceptable to or satisfactory to the Owner unless otherwise expressly stated.

**SC-2: ARTICLE 2: PRELIMINARY MATTERS**

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

" 2.3 The Contract Time shall commence on the day established in the Notice to Proceed."

Delete paragraph 2.7 of the General Conditions in its entirety, and insert the following in its place:

"Contractor shall deliver to the Owner the insurance certificates required by paragraphs 5.3 and 5.4 in the number and within the times established in the Notice of Award."

**SC-3 ARTICLE 3: CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

**Section 3.2, add following paragraphs**

The Contractor shall ensure that construction workmanship shall be furnished in conformance with the generally accepted standard practice of the trade and manufacturers recommendations, so as to contribute to maximum efficiency of operation, accessibility, appearance, and minimum cost of operation and maintenance and construction of future facilities.

Contractor shall maintain in a safe and weather tight place at the site, one record copy of all drawings, specifications, addenda, supplemental orders, extra work authorizations and written interpretations and clarifications 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 shall be available at all times to the Owner and the Engineer for reference. Upon completion of the Work, these record documents, samples and shop drawings shall be delivered to the Owner.

Anything mentioned in the Specifications and not shown on the drawings, shall be of like effect as if shown or mentioned in both. If the Contractor finds a conflict, error, or discrepancy in the Contract Documents, he shall promptly call it to the Engineer's attention in writing before proceeding with the Work affected thereby and the Engineer will make a determination in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the Contractor's risk and expense. In resolving such conflicts, errors, and discrepancies, the Documents shall be given precedence in the following order:

- a. Supplemental Orders
- b. Agreement
- c. Addenda
- d. General Conditions, as amended by the Supplementary Conditions
- e. Engineering Specifications
- f. Contract Drawings
- g. Construction Schedule
- h. Notice to Bidders
- i. Instructions to Bidders
- j. Performance and Payment Bonds



k. Proposal

**Section 3.2, add as Section 3.2.1**

**RIGHT TO CHANGE PLANS AND SPECIFICATIONS:** When additional information regarding the Work and Site becomes available, it may be desirable to make reasonable revisions in dimensions and relocations of construction to conform to such conditions. The Owner reserves the right to make such reasonable changes as, in its opinion, may be necessary or desirable. The Contractor's operations shall be conducted so as to accommodate any reasonable change as described herein, without additional cost to the Owner.

**SC-4 ARTICLE 4: AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS**

**Add to end of Section 4.4**

The Contractor shall protect and preserve bench marks, property bounds and survey stakes established by the Owner unless the Owner authorizes their removal for the necessary performance of the Work. The Contractor shall report to the Owner whenever any reference point is lost or destroyed or requires relocation and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

The Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The 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 the Contractor will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without the Owner's written consent given after prior written notice to the Owner.

Selective clearing and/or trimming may be done by others at various locations along the Site. All other clearing of brush and trees at ground level will be by the Contractor. The Contractor shall have made himself familiar with all such locations both in the field and on the drawings and will be required to schedule and furnish necessary equipment for all phases of the contract work so as to avoid damage of any nature to vegetation growing in such selectively cleared or trimmed areas. No additional compensation by reason of the Contractor's having to perform necessary work in, around or over such selectively cleared or trimmed areas will be allowed. Any damage by the Contractor to such selectively cleared or trimmed area will be repaired or replanted by the Contractor at no additional cost to the Owner and in a manner acceptable to the Owner.

The Contractor shall give particular attention to the care, maintenance, repair and restoration of fences, stone walls and gates. All existing fences or stone walls broken or damaged shall promptly be restored to a condition equally as good as when the work commenced in the area. With permission of the property owner(s) and the Owner, a new 10' wide gate may be installed wherever crossing of an existing fence is desirable for access to construction. All gates shall be closed when not in use. Any damage claim resulting from the Contractor's actions with respect to the removal, construction, maintenance and use of fences and gates may be settled and paid for by the Owner and charged to the Contractor, if in the reasonable judgment of the Owner based upon investigation, the claim has merit. Upon completion of work through any area, gates and fences shall be inspected, and rebuilt or repaired where necessary to leave them, in all cases, in good and sound condition satisfactory to the Owner. Fences and gates constructed for access shall be left for permanent access to the Construction Site if the Owner so directs. All gate and fence repair will be at the expense of

the Contractor.

**Delete paragraph 4.5.4 in its entirety.**

**SC-5: ARTICLE 5: BONDS AND INSURANCE**

**BID BOND. AMENDING ARTICLE 5.1**

The bid security shall be in the form of a bid bond, or cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the awarding authority. The form of the bid bond, if submitted by the Contractor shall be as set forth in the Bid Form.

**PERFORMANCE AND PAYMENT BONDS. AMENDING ARTICLE 5.1**

The Contractor shall procure for the benefit of the Owner security by bond in an amount equal to the total contract price, for performance by the Contractor of the Contract and in an amount equal to the total contract price for payment by the contractor and subcontractors for labor performed or furnished and materials used or employed therein and including also any material specially fabricated at the order of the contractor or subcontractor for use as a component part of said public work so as to be unsuitable for use elsewhere, even though such material has not been delivered and incorporated into the public work.

In order to obtain the benefit of such bond for any amount claimed due and unpaid at any time, any claimant having a contractual relationship with the contractor principal furnishing the bond, who has not been paid in full for any amount claimed due for the labor, materials, equipment, appliances or transportation coverage within sixty-five days after the due date for same, shall have the right to enforce any such claim (a) by filing a petition in equity within one year after the day on which such claimant last performed the labor or furnished the labor, materials, equipment, appliances or transportation included in the claim and (b) by prosecuting the claim thereafter by trial in the superior court to final adjudication and execution from the sums justly due the claimant as provided in this section.

Any claimant having a contractual relationship with a subcontractor performing labor or both performing labor and furnishing materials pursuant to a contract with the general contractor but no contractual relationship with the contractor principal furnishing the bond shall have the right to enforce any such claim as provided above only if such claimant gives written notice to the contractor principal within sixty-five (65) days after the day on which the claimant last performed the labor or furnished the labor, materials, equipment, appliances or transportation included above, stating with substantial accuracy the amount claimed, the name of the party for whom such labor was performed or such labor, materials, equipment, appliances or transportation were furnished; provided, that any such claimant shall have the right to enforce any part of a claim covering specially fabricated material included above only if such claimant has given the contractor principal written notice of the placement of the order and the amount thereof not later than twenty (20) days after receiving the final approval in writing for the use of the material. The notices provided for shall be served by mailing the same by registered or certified mail postage prepaid in an envelope addressed to the contractor principal at any place at which the contractor principal maintains an office or conducts his business, or at the contractor principal's residence, or in any manner in which civil process may be served.

The Contractor shall provide to the Owner completed and executed payment and performance bonds as set forth in the Agreement, provided by a surety or sureties authorized to do business in the **State of New Hampshire** and reasonably acceptable to the Owner.

**Replace Section 5.4 in its entirety with the following:**

**CONTRACTOR'S INSURANCE AND INDEMNIFICATION**

- a. The Contractor shall maintain and pay for liability insurance against claims which may arise out of or result from the Contractor's operations under the contract:
- i) claims under workers' or workmens' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed;
  - ii) claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
  - iii) claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
  - iv) claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by any other person;
  - v) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
  - vi) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of any motor vehicle;
  - vii) contractual liability claims for the full replacement value of the Work to be done and Equipment to be furnished pursuant to the Contract.

In addition, the Contractor shall insure all the Owner-furnished equipment from the time that the material is delivered to the Contractor.

Should a loss be sustained, the Contractor shall replace or repair any loss or damage and complete the Work in accordance with the Contract as soon as possible after such loss or damage, without waiting for the settlement of the insurance claim.

- b. The Contractor shall also maintain and pay for the following types and minimum levels of insurance coverage:

TYPE	MINIMUM LEVEL
i) Worker's Compensation	Statutory
ii) Employer's Liability	\$1,000,000 per occurrence
iii) Automobile Liability	
a) Bodily Injury	\$1,000,000 per person
b) Property Damage	\$2,000,000 per occurrence
(Combined Limit)	\$1,000,000 per occurrence
iv) Commercial General Liability	
a) General Aggregate Limit	\$2,000,000
b) Products-Completed Operations Aggregate Limit	\$2,000,000
c) Personal & Advertising Injury Limit	\$2,000,000
d) Each Occurrence Limit	\$2,000,000

- c. The Contractor shall require each Subcontractor to take out and maintain, during the life of the subcontract, the insurance coverages set forth in (b) above.
- d. The Comprehensive General Liability Insurance shall indemnify, defend and hold harmless the Contractor, its Subcontractors, the Owner, the City and the Engineer and all of their officers, agents, employees and servants from and against any and all claims, judgments, liens, loss, damage, cost, charge or expense, including defense costs, court costs and attorneys' fees, whether direct or indirect, by reason of liability imposed by law or by contract upon said parties, including Operations/Premises Liability, Independent Contractor's Protective Liability/Owner's Protective Liability, Completed Operations and Products Liability, Broad Form Blanket Contractual Liability, contingent Employers or "Stop Gap", Owned, Non-owned, and Hired Vehicles and Equipment, and Broad Form Property Damage, including explosion, collapse and underground damage and loss of use.
- e. Prior to commencement of any of the Work, the Contractor shall furnish the Owner with two (2) copies of Certificates of Insurance evidencing policies required in (b) above and evidencing policies of insurance required for Subcontractors. Such certificates shall specifically state that the insurance company and companies issuing such insurance policies shall give the Owner and the Engineer at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies. The Certificates of Insurance shall be properly authenticated, shall give a brief description of the Work being performed under the Contract, and shall certify the names of the insured.
- f. The Owner and Engineer shall be named as additional insureds on the Comprehensive General Liability and Automobile Liability insurance policies described in (b) above, and the Contractor shall waive all rights of recovery against the Owner and Engineer for any loss or damage recovered by said policies. Evidence of this requirement must be noted on Certificates of Insurance provided to the Owner.
- g. The insurance coverage required above shall be maintained until the Work is completed and accepted by the Owner and, in addition, the products and completed operations insurance shall be maintained for a period of 12 months after the work is completed and is accepted by the

Owner. Coverage shall also be required if the Contractor is correcting, repairing or replacing defective work in accordance with Paragraph 13.12 of the General Conditions. Certificates of insurance should be provided upon renewal of paid policies.

#### **SUBCONTRACTOR'S INSURANCE**

Prior to the commencement of any of the Work, the Contractor shall require his subcontractors to submit evidence to Contractor and Owner that they have obtained for the period of their contract, coverage and amounts of insurance at least equal to those stated in SC 5.4 b. The Owner, City, Engineer and Contractor shall be named as additional insureds on the Comprehensive General Liability and Automobile Liability insurance policies described in SC 5.4 b, and the Subcontractor shall waive all rights of recovery against the Owner, City, Engineer and Contractor for any loss or damage recovered by said policies. Evidence of this requirement must be noted on certificates of insurance provided to the Contractor and Owner.

#### **Delete paragraph 5.5 in its entirety, and insert the following in its place:**

"5.5. Contractor shall purchase and maintain a separate Owner's Protective Liability policy, issued to Owner at the expense of Contractor, including Owner and Engineer as named insured. This insurance shall provide coverage for not less than the following amounts:

5.5.1. Bodily Injury:                      \$1,000,000 Per Person  
   \$2,000,000 Per Occurrence

5.5.2. Property Damage, Including Explosion, Collapse and Underground coverage:  
   \$1,000,000 Each Occurrence  
   \$1,000,000 Annual Aggregate"

5.5.3. A rider on the Contractor's Liability Insurance will not be acceptable.

#### **Delete paragraphs 5.6 in its entirety and insert the following in its place:**

"5.6. Contractor shall purchase and maintain property insurance upon the Work at the site in an amount at least equal to the total bid price for the completed construction. This insurance shall include the interests of Owner, Contractor, Subcontractors and Engineer and the Engineer's consultants in the Work, shall insure against the perils of fire and extended coverage, shall include "all risk" insurance for physical loss and damage of the Work including theft, vandalism and malicious mischief, collapse and water damage, shall include a flood endorsement, and shall include damages, losses and expenses rising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including fees and charges of Engineers, architects, attorneys and other professionals). This insurance shall be provided on the completed value form. If not covered under the "all risk" insurance or otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain similar 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 the paragraph shall contain a provision that the coverage afforded will not be canceled or materially changed until at least thirty (30) days prior written notice has been given to Owner."

#### **Delete paragraph 5.7 in its entirety and insert the following in its place:**

"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."

**Delete paragraph 5.8 of the General Conditions in its entirety.**

**Delete paragraph 5.9 in its entirety, and insert the following in its place:**

"5.9 Owner shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor, Subcontractor or others in the Work."

**Delete paragraph 5.10 in its entirety:**

**Delete paragraphs 5.11.1 and 5.11.2 in their entirety, and insert the following paragraphs in their place:**

"5.11 The Contractor shall waive all rights against the Owner for all losses and damages caused by any perils covered by the policies of insurance provided in response to paragraphs SC - 5.6 or the Supplementary Conditions and any other property insurance applicable to the Work, and also waive such rights against the subcontractors, Engineer, Engineer's consultant and all other parties named as insured in such policies for loss and damage so caused.

"5.11.1. As required by paragraph 6.11 of the General Conditions 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 insured."

"5.11.2. All such policies provided in response to paragraphs 5.6 of the General Conditions, as amended in SC - 5.6 of the Supplementary Conditions shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights or recovery against the Owner, Engineer, or Engineer's consultant."

**Delete paragraph 5.12 in its entirety.**

**Delete paragraph 5.13 in its entirety.**

**Delete paragraph 5.14 in its entirety, and insert the following in its place:**

"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 Article 5, on the basis of its not complying with the Contract Documents, Owner will notify Contractor in writing thereof within ten (10) days of the date of delivery of such certificates to Owner in accordance with paragraph 2.7. Contractor will provide such additional information in respect of insurance provided by him as Owner may reasonably request."

**SC-6: ARTICLE 6: CONTRACTORS' RESPONSIBILITIES**

**Section 6.3, Add the following subitems a - g:**

- a. In hiring of employees for the performance of the Work under this contract or any subcontract hereunder, agree that neither it nor any of its subcontractors, nor any person acting on his or their behalf shall by reason of race, creed, color, age, sex, disability or national origin discriminate against any person who is qualified and available to perform the Work to which the employment relates.
- b. Agree that neither it nor any of its subcontractors, nor any person acting on its or their behalf shall in any manner discriminate against, or intimidate any employee hired for the performance of the Work under the contract or a subcontract on account of race, creed, color, age, sex, disability or national origin.
- c. Remove from their work any employee who the Owner considers to be incompetent, disorderly, insubordinate, intemperate, or otherwise objectionable and who shall not be employed again on any portion of the Work without the written consent of the Owner.
- d. Not permit its employees, while on the job, to possess, consume or be under the influence of alcoholic beverages, illegal drugs, or any other drug that could impair an individual's ability to work safely and effectively.
- e. Comply with all security rules and regulations which may from time to time be imposed by the Owner.
- f. Arrange for local temporary lodging facilities for non-local workers well in advance of the need for them.
- g. Submit weekly manpower reports indicating total manpower by classification, disposition and hours worked.
- h. Comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of all rules, regulations and relevant orders of the Secretary of labor.

**Add the following as Section 6.30.3**

**6.30.3 Guarantee**

- A. The Contractor shall replace, repair and make good at his own expense any work found to be defective or not in accordance with the Contract Documents, within a period of **one year** after the date of final acceptance of the Work by the Owner. The Contractor shall correct such work promptly after receipt of written notice from the Owner to do so.
- B. If the defective work is in such condition as to be a hazard to the public or Owner or the defect will cause consequential damage to the Owner, then the Contractor shall immediately commence repair of the Work after verbal notice by the Owner.
- C. If the Contractor fails to begin such repairs in a timely manner as determined by the Owner, then the Owner may employ other persons to make the repairs and charge the Contractor the cost thereby incurred.
- D. The method of repair or replacement of any defective work shall be as determined by the Engineer.



**Add the following as Section 6.35**

**PUBLIC UTILITIES**

All permits required for the line crossings of highway and waterways will be obtained by the Owner.

The Contractor shall familiarize himself with the existence of structures of municipal and other public service corporations on the site of the Work and extend reasonable opportunity for cooperation with the Owner of such utilities in connection with reconstruction or alteration as may be required during the course of the Work. The Contractor shall not disturb any part or parts of such facilities without the approval of the facilities owner and approval of the Owner. Failure of a utility owner to cooperate in removal or alteration of such facilities as may be required, shall be immediately reported by the Contractor to the Owner in writing. However, the Owner does not guarantee to secure any outages and the Contractor will not be allowed extra compensation above the regular compensation stated in the Bid Form for any overtime work on this account.

It shall be the responsibility of the Contractor to make all arrangements with the owners or operators of all utilities within limits of Work covered by these Contract Documents to coordinate the work required for any alteration or relocation of their facilities which are required to permit completion of the Work under this Contract. No interruption of service longer than the minimum period necessary for required alterations on any utility within the required working areas will be permitted during the period of this contract. The Contractor shall provide for all alterations or relocations of utilities effected solely for the Contractor's convenience.

The Contractor shall make all necessary arrangements with public and private utilities and shall perform all work required under the Contract and without any interference with the power or communication lines, or subsurface utilities, or with their operation or with the maintenance or service thereon except as permitted by the utility concerned, all in a manner satisfactory to the owners or operators thereof and to the Owner. The cost of providing and maintaining all necessary or required watchmen, safety supervision, signals, guards, temporary structures, without interference with public or private utility operation and furnishing indemnity or other bonds, if required, and all or any other costs required in connection therewith shall be paid by the Contractor and shall be included in the unit prices bid in the Bid Form for other items of Work.

All state or U.S. highway crossings shall be made in accordance with requirements of the State of New Hampshire Department of Transportation. Other road crossings shall be made in accordance with the requirements of the local Highway Department having jurisdiction.

Contractor shall make all necessary provisions and do all work required by his operations under this Agreement to prevent any interference with power or communication lines, with their operation or with maintenance or services thereon, all in a manner satisfactory to the owners or operators thereof and to the Owner, and all cost incidental thereto shall be paid by Contractor. Any damage done by Contractor to power or communication lines shall be Contractor's responsibility, and may be settled and paid for by the Owner and charged to Contractor. Permanent relocation of power and communication lines, if any, made necessary by this construction work will be arranged for and paid by the Owner.

Contractor shall provide and erect suitable temporary structures to facilitate stringing conductor and shield wire over power and communication lines, highways, rivers or other obstructions requiring temporary protective structures. The temporary structures shall insure safety to the public, the workmen and the object or facility being crossed. Upon completion of use thereof, all such temporary structures shall be removed by the Contractor and the location restored to its original condition. No separate payment shall be made for the costs incurred in connection with



erection and removal of temporary structures, such costs shall be included in the unit prices bid in the Bid Form for the installation of conductors and shield wire.

The Contractor is responsible to investigate with public officials, other utility companies, pipeline companies, agencies, and other concerns utilizing underground facilities in the area as to the location of underground facilities which might be endangered in the performance of the Work covered by this Contract.

Any costs related to the services performed by the Utility Underground Plant Damage Prevention Authority shall be borne by the Contractor.

Arrangement for repair of facilities damaged by the Contractor will be the responsibility of the Contractor and will be made at his sole expense. The Contractor will be responsible for settlement of damages outside the Site. The Contractor will secure and submit to the Owner a written release signed by the Contractor's representative and the individual(s) suffering such damage within sixty (60) days after the completion of the Work in the immediate area. If the Contractor is negligent, in the opinion of the Owner, in making settlement or repair of damages, the Owner may make said settlement or repair of damages, and the Contractor agrees to promptly reimburse the Owner the amount of its costs and expenses therefore. If the Contractor does not promptly make such reimbursement to the Owner, the Owner may at its option set off the cost of said settlement or repairs against any amounts due under the Contract to the Contractor.

**Add the following as Section 6.36:**

**UTILITIES FOR CONSTRUCTION PURPOSES**

The Contractor shall, at its own expense, arrange for the supply of light and power, communications and water necessary for the performance of the Work under this Contract. All temporary lines installed by the Contractor shall be removed by the Contractor in a manner satisfactory to the Owner prior to completion of the construction. No separate or direct payment will be made to the Contractor for work described in this paragraph.

**Add the following as Section 6.37:**

**THEFT, VANDALISM AND SABOTAGE**

The Contractor shall take at all times such usual and ordinary precautions as may be required to protect all materials, equipment and completed Work from theft, vandalism and sabotage. The Contractor shall repair or replace the stolen or damaged materials, equipment or completed Work which may result from such action without additional cost to the Owner.

**Add the following as Section 6.38:**

**PUBLICITY**

Publication by the Contractor of information originating by reason of the Work shall be only by permission of the Owner.

The Contractor shall not allow or permit any public ceremony reasonably within the Contractor's control which is in connection with the Work without the permission of the Owner.

**Add the following as Section 6.39**

## **PERFORMANCE OF WORK**

### **A. Force Majeure**

Performance of this Contract by the Contractor shall be pursued with due diligence in all requirements hereof; however, the Contractor shall not be liable for any loss or damage for delay or for nonperformance due to causes not reasonably within its control that could not have been avoided by reasonable care and foresight, including without limitation acts of civil or military authority (i.e., legislatures, courts or administrative agencies), Acts of God, war, riot or insurrection, inability to obtain any required permits or licenses, blockages, embargoes, strikes, sabotage, epidemics, fires, or floods. In the event of any delay resulting from such causes, the time for performance (including the payment of monies) shall be extended for a period of time reasonably necessary to overcome the effect of such delays; provided, however, that the Owner shall have the right to terminate this Contract under "Termination for Convenience" of this Section of this Contract. No further modification to other terms and conditions of this Contract shall occur. Delays due to adverse weather conditions, except for Acts of God, will not be regarded as unavoidable delays.

In the event of any delay or nonperformance caused by the above causes, the Contractor shall promptly give notice to the Owner in writing of the nature, cause, date of commencement and the anticipated extent of such delay, and shall indicate whether it is anticipated that any completion dates will be affected thereby.

### **B. Performance to Schedule**

Time is of the Essence for the Performance of the Work.

The Contractor shall perform the Work so as to meet the schedule set forth by the Owner.

Notwithstanding any other language in this Contract to the contrary, if the Contractor for any reason other than (i) an addition to the Work as provided for in "Additions, Deductions and Alterations" or (ii) a suspension of the Work as provided for in "Owner's Right to Stop or Suspend Work" or (iii) a force majeure event as previously provided for, fails to meet the Contract Time, the Owner will suffer damages, including a penalty assessed by its power supplier.

Accordingly, the Contractor agrees to comply with the requirements concerning liquidated damages and contract incentives set forth in the Agreement.

## **Add the following as Section 6.40**

The Owner will be given 5 days notice by the Contractor prior to testing or installation of any equipment or construction so that the Owner may provide a witness. Owner furnished material will not be tested without the Owner's representative present.

## **SC-8: ARTICLE 8: OWNER'S RESPONSIBILITIES**

**Delete paragraph 8.5 in its entirety.**

## **SC-11: ARTICLE 11: CHANGE IN CONTRACT PRICE**

**Amend the first sentence of paragraph 11.4.5.6 by striking out the following words:**

"(except losses and damages within the deductible amounts of property insurance established by Owner in accordance with paragraph 5.9)."

**Delete paragraph 11.6.2.1 in its entirety and insert the following in its place:**

"11.6.2.1. for costs incurred under paragraphs 11.4.1 and 11.4.2 the Contractor's Fee shall be twenty (20%) percent;"

**Delete paragraph 11.6.2.2 in its entirety and insert the following in its place:**

"11.6.2.2. for costs incurred under paragraph 11.4.3 the Contractor's Fee shall be seven and one half (7-1/2%) 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 Subcontractor shall be twenty (20%) percent;"

**SC-14: ARTICLE 14: PAYMENTS TO CONTRACTOR AND COMPLETION**

**Amend paragraph 14.2 by striking out the last sentence and inserting in its place the following:**

"The amount of retainage with respect to progress payments will be as stipulated under paragraph 14.4 of the General Conditions."

**Delete paragraph 14.4 in its entirety and insert the following paragraphs in its place:**

"14.4 After receipt of each Application for Payment, Engineer will 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. Upon receipt of a recommendation of payment from the Engineer, the Owner will make payment to the Contractor of the amount recommended by the Engineer, less a retention of five percent (5%) of the approved amount of the periodic payment.

**Delete paragraph 14.13 in its entirety and insert the following in its place.**

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 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 14.15. Otherwise, Engineer will return the Application to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application. The amount recommended by Engineer will become due and will be paid by Owner to Contractor as provided under Section 14.4 of the General Conditions.

**SC-16: ARTICLE 16: DISPUTE RESOLUTION**

**Add two (2) new paragraphs immediately after paragraph 16.1. which is to read as follows:**

16.1.1. Contractor shall carry on the work and maintain the progress schedule during the arbitration proceedings, unless otherwise agreed by him and Owner in writing.

16.1.2. Arbitration, as specified herein, will be required for settling claims, disputes and other matters in question only if both the Contractor and Owner agree to enter into arbitration.

**SC-17: ARTICLE 17: MISCELLANEOUS**

**Add a new paragraph immediately after paragraph 17.1. which is to read as follows:**

The last business address known to the giver of the notice shall mean the address for giving notices which appears in the AGREEMENT section of the Contract. The address for giving notices may be changed by giving notice, in writing, to the other party in the Contract.

**REQUIRED APPROVAL FOR CHANGES OR DEVIATIONS FROM THE CONTRACT**

No substantial deviation from the awarded contract can be made unless authorized in writing by the Owner or by the engineer or architect in charge of the work who is duly authorized by the Owner to approve such deviations. Within thirty (30) days after the issuance of such written order of the Owner, engineer or architect, such written order shall be confirmed by a certificate of the Owner stating (1) if such deviation involves any substitution or elimination of materials, fixtures, or equipment were included in the first instance and the reasons for substitution or elimination, and, if the deviation is of any other nature, the reasons for such deviation, giving justification therefor; (2) that the specified deviation does not materially injure the project as a whole; (3) that either the work substituted for the work specified is of the same cost and quality, or that an equitable adjustment has been agreed upon between the contracting agency and the contractor and the amount in dollars of said adjustment; and (4) that the deviation is in the best interest of the Owner.

**3. DECISION ON INTERPRETATION OF SPECIFICATIONS**

When a decision on interpretation of the specifications, approval of equipment, material or any other approval, or progress of the work is required to be made by the Owner, such decision shall be made promptly. In no event shall such decision be made more than thirty (30) days after the written submission for decision; but if such decision requires extended investigation and study, the Owner, the official, architect, or engineer shall, within thirty (30) days after the receipt of the submission, give the party making the submission written notice of the reasons why the decision cannot be made within thirty (30) day period and the date by which the decision will be made.

**4. LABOR AND REPORTING REQUIREMENTS**

**4.1 Labor Laws and Minimum Wage Rates**

- A. Each Contractor and subcontractor performing work on this project shall take notice that all occupations employed directly on the site of the work shall be paid an hourly wage rate not less than the minimum rates as designated by applicable statutes.
- B. The Contractor shall provide statutory benefits for disability benefits, workmen's compensation, unemployment insurance and social security.
- C. The Contractor shall include in his Bid, provisions for payment by the Contractor of current and prevailing wage rates applicable to the project over the entire course of the work, it shall be the responsibility of the Contractor to pay current wage rates as indicated in the wage schedule and included at the end of the General Conditions.

**4.2 Overtime Requirements**

If so required by statute, no Contractor nor any subcontractor contracting for any part of the contract work which may require or involve the employment of laborer or mechanics shall require or permit any laborer or mechanic in any work week in which he/she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in

such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half time he/her basic rate of pay for all hours in excess of eight hours in any calendar day or in excess of forty hours in such work week, as the case may be.

#### **4.3 Apprentices**

If so required by statute, Apprentices will be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The Contractor or subcontractor shall be required to furnish to the Owner written evidence of the registration of his/her program and apprentices as well as of the appropriate ratios and wage rates, for the area of construction prior to using any apprentices on the contract work.

#### **5. Anti-Kickback Provisions**

Under this section the Contractor is required to conform to Section 29 (FR Part 3, Prescribed "Anti-Kickback" regulations under Section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c), popularly known as the Copeland Act.

#### **6. Clean Air and Water**

All Contractors and Sub-contractors shall comply with the following:

- A. The Contractor will not utilize any facility, before or during the performance of this contract or sub-contract that is listed on the Environmental Protection Agency's (E.P.A.) "List of Violating Facilities" pursuant to 40 CFR 15.20.
- B. The Contractor will comply to all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857-c.8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C., 1318) relating to inspection, monitoring, entry, reports and information as well as all other requirements specified in said Section 114 and Section 308, and all regulation and guidelines issued there under.

The Contractor agrees that as a condition for the award of this contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, E.P.A., indicating that a facility utilized or to be utilized for this contract is under consideration to be listed on the E.P.A.'s list for Violating Facilities.

The Contractor also agrees that as a condition for the award of this contract he/she will include or cause to be included the criteria and requirements of the above paragraphs, inclusive hereof under section headed "Clean Air & Water" in every sub-contractor and that he will take such action as the U.S. Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113 (c) (1) of the Clean Air or Section 309 (c) of the Federal Water Pollution Control Act.

#### **7. "Or Equal" Clause**

Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference to manufacturer's or vendors' names, tradenames, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article or

equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed is, in the opinion of the Engineer, of equal substance and function. It shall not be purchase or installed by the Contractor without the Engineer's written approval.

#### **8. Contractor's Title to Materials**

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale Contractor or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, from all liens, claims and encumbrances.

#### **9. Contract Cancellation Clause**

The Contractor hereby agrees to the provisions of the Section 103-a of the General Municipal Law which required that upon refusal of a person, when called before a grand jury to testify concerning any transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency, or official of the State or any political subdivision thereof to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract: Such person and any firm, partnership or corporation of which he is a member shall be disqualified from any contract with the Owner for a period of five (5) year after such refusal.

#### **10. Required Provisions Deemed Inserted**

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read any enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, it is not correctly inserted, than upon application of either party the contract shall forthwith be amended to make such insertion.

#### **11. Termination and Debarment**

A breach of any one of the Section in these General Conditions may be considered by the Owner as grounds for termination of the contract and for debarment as provide by law.