

REQUEST FOR PROPOSALS

The Town of Morehead City is Soliciting Bids for the following project:

Hester Pond Outlet Structure Replacement
Bryan Street
Town of Morehead City
Carteret County, North Carolina

Project plans and specifications are available for review at the Town Hall, Town of Morehead City during normal business hours. Bid packages can be obtained from the Project Engineer upon submission of a \$30.00 non-refundable plan fee. Bid packages can be obtained from the Project Engineer:

Avolis Engineering, P.A.
5405 Morton Road
P.O. Box 15564
New Bern, NC 28561-5564
252-633-0068 Office
252-633-6507 Fax

A bid security is required in the amount of 5% of the Bidders maximum bid for all bids in excess of \$100,000.

A Mandatory Pre-Bid Conference will be held on October 8, 2013 at 10:00 a.m. in the Town of Morehead City Municipal Building located at 202 South 8th Street in Morehead City, North Carolina.

All bids are due by October 15, 2013 at 10:00 a.m. Bids will be publically opened at that time in the Town of Morehead City Municipal Building located at 202 South 8th Street in Morehead City, North Carolina.

The Town of Morehead City reserves the right to reject any and all bids.

**HESTER POND OUTLET STRUCTURE REPLACEMENT
BRYAN STREET**

**TOWN OF MOREHEAD CITY
CARTERET COUNTY, NORTH CAROLINA**

**Owner: Town of Morehead City
706 Arendell Street
Morehead City, NC 28557
(252)726-6840**

**Engineer: Avolis Engineering, P.A.
P.O. Box 15564
New Bern, NC 28561
(252)633-0068 Office
(252)633-6507 Fax**

August 30, 2013

**HESTER POND OUTLET STRUCTURE REPLACEMENT
BRYAN STREET**

**TOWN OF MOREHEAD CITY
CARTERET COUNTY, NORTH CAROLINA**

PROJECT TABLE OF CONTENTS

00100 INSTRUCTION TO BIDDERS

00300 BID FORM

**00500 STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR ON
A BASIS OF STIPULATION**

00700 STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION PRICE

00800 SUPPLEMENTAL CONDITIONS OF THE CONSTRUCTION

DIVISION 01 - GENERAL REQUIREMENTS

01 12 00 CUTTING AND PATCHING
01 13 00 TRAFFIC SAFETY
01 14 00 WORK RESTRICTIONS
01 57 19 TEMPORARY ENVIRONMENTAL CONTROLS

DIVISION 02 - SITE WORK

02 41 00 DEMOLITION
02 50 00 WORK UTILIZING SECTIONS REFERENCING NCDOT HWY SPECS &
STANDARDS
02 82 30 RE-ESTABLISHING VEGETATION

DIVISION 03 – CONCRETE

03 30 04 CONCRETE FOR MINOR STRUCTURES

DIVISION 31 – EARTHWORK

31 23 00.00 20 EXCAVATION AND FILL

DIVISION 33 – UTILITIES

33 40 00 STORM DRAINAGE

0100 - INSTRUCTIONS TO BIDDERS

TABLE OF CONTENTS

ARTICLE 1 - DEFINED TERMS.....	1
ARTICLE 2 - COPIES OF BIDDING DOCUMENTS.....	1
ARTICLE 3 - QUALIFICATIONS OF BIDDERS.....	1
ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE.....	1
ARTICLE 5 - PRE-BID CONFERENCE.....	4
ARTICLE 6 - SITE AND OTHER AREAS.....	4
ARTICLE 7 - INTERPRETATIONS AND ADDENDA.....	4
ARTICLE 8 - BID SECURITY.....	4
ARTICLE 9 - CONTRACT TIMES.....	5
ARTICLE 10 - LIQUIDATED DAMAGES.....	5
ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS.....	5
ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS.....	5
ARTICLE 13 - PREPARATION OF BID.....	6
ARTICLE 14 - BASIS OF BID; EVALUATION OF BIDS.....	6
ARTICLE 15 - SUBMITTAL OF BID.....	7
ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID.....	7
ARTICLE 17 - OPENING OF BIDS.....	7
ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE.....	7
ARTICLE 19 - AWARD OF CONTRACT.....	7
ARTICLE 20 - CONTRACT SECURITY AND INSURANCE.....	8
ARTICLE 21 - SIGNING OF AGREEMENT.....	8

TABLE OF ARTICLES (Alphabetical by Subject)

<u>Subject</u>	<u>Article</u>
Award of Contract.....	19
Basis of Bid; Evaluation of Bids.....	14
Bid Security.....	8
Bids to Remain Subject to Acceptance.....	18
Contract Security and Insurance.....	20
Contract Times.....	9
Copies of Bidding Documents.....	2
Defined Terms.....	1
Examination of Bidding Documents, Other Related Data, and Site.....	4
Interpretations and Addenda.....	7
Liquidated Damages.....	10
Modification and Withdrawal of Bid.....	16
Opening of Bids.....	17
Pre-Bid Conference.....	5
Preparation of Bid.....	13
Qualifications of Bidders.....	3
Signing of Agreement.....	21
Site and Other Areas.....	6
Subcontractors, Suppliers and Others.....	12
Submittal of Bid.....	15
Substitute or "Or-Equal" Items.....	11

ARTICLE 1 - DEFINED TERMS

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:

- A. *Bidder*--The individual or entity who submits a Bid directly to OWNER.
- B. *Issuing Office*--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

Avolis Engineering, P.A.
P.O. Box 15564
New Bern, NC 28561
Office: (252)633-0068
Fax: (252)633-6507

- C. *Successful Bidder*--The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER's evaluation as hereinafter provided) makes an award.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents in the number and for the non-refundable deposit sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Issuing Office.

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ENGINEER assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

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

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of OWNER's request Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 *Subsurface and Physical Conditions*

- A. The Supplementary Conditions identify:

- 1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.

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

B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.02 *Underground Facilities*

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to OWNER and ENGINEER by owners of such Underground Facilities, including OWNER, or others.

4.03 *Hazardous Environmental Condition*

A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.

4.05 On request, OWNER will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

4.06 Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of other work that is to be performed at the Site by OWNER or others (such as utilities and other prime contractors) that relates to the Work for which a Bid is to be submitted. On request, OWNER will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

4.07 It is the responsibility of each Bidder before submitting a Bid to:

A. examine and carefully study the Bidding Documents, including any Addenda and the other related data identified in the Bidding Documents;

B. visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;

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

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

E. obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;

F. agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;

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

H. correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;

I. promptly give ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by ENGINEER is acceptable to Bidder; and

J. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by ENGINEER are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

5.01 A **Mandatory Pre-Bid Conference** will be held for this project as outlined in the Request for Proposals.

ARTICLE 6 - SITE AND OTHER AREAS

6.01 The Site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by OWNER unless otherwise provided in the Bidding Documents.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to ENGINEER in writing. Interpretations or clarifications considered necessary by ENGINEER in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by ENGINEER as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by OWNER or ENGINEER.

ARTICLE 8 - BID SECURITY - **APPLICABLE FOR ALL BIDS IN EXCESS OF \$300,000**

8.01 A Bid must be accompanied by Bid security made payable to OWNER in an amount of **5%** of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond on the form attached issued by a surety meeting the requirements of paragraphs 5.01 and 5.02 of the General Conditions.

8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until the earlier of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be (a) Substantially Completed and (b) also completed and ready for final payment are set forth in the Agreement.

ARTICLE 10 - LIQUIDATED DAMAGES

10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration of possible substitute or "or-equal" items. Whenever it is specified or described in the Bidding Documents that a substitute or "or-equal" item of material or equipment may be furnished or used by CONTRACTOR if acceptable to ENGINEER, application for such acceptance will not be considered by ENGINEER until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by ENGINEER is set forth in the General Conditions and may be supplemented in the General Requirements.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to OWNER in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to OWNER a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by OWNER. If OWNER or ENGINEER, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, OWNER may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

12.02 If apparent Successful Bidder declines to make any such substitution, OWNER may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which OWNER or ENGINEER makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER subject to revocation of such acceptance after the Effective Date of the Agreement as provided in paragraph 6.06 of the General Conditions.

12.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom CONTRACTOR has reasonable objection.

ARTICLE 13 - PREPARATION OF BID

13.01 The Bid form is included with the Bidding Documents. Additional copies may be obtained from ENGINEER.

13.02 All blanks on the Bid form shall be completed by printing in ink or by typewriter and the Bid signed. A Bid price shall be indicated for each Bid item listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered.

13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.

13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown below the signature.

13.06 A Bid by an individual shall show the Bidder's name and official address.

13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The official address of the joint venture must be shown below the signature.

13.08 All names shall be typed or printed in ink below the signatures.

13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid form.

13.10 The address and telephone number for communications regarding the Bid shall be shown.

13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number for the state of the Project, if any, shall also be shown on the Bid form.

ARTICLE 14 - BASIS OF BID; EVALUATION OF BIDS

14.01 The low bidder shall be determined based on the total of lump sum work.

ARTICLE 15 - SUBMITTAL OF BID

15.01 Each prospective Bidder is furnished one copy of the Bidding Documents with one separate unbound copy each of the Bid form, and, if required, the Bid Bond. The unbound copy of the Bid form is to be completed and submitted with the Bid security:

15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the advertisement or invitation to Bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to the **Town of Morehead City**.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

16.02 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

ARTICLE 17 - OPENING OF BIDS

17.01 Bids will be opened at the time and place indicated in the advertisement or invitation to Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of each alternate will be made available to Bidders after the opening of Bids.

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid form, but OWNER may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 19 - AWARD OF CONTRACT

19.01 OWNER reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. OWNER further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. OWNER may also reject the Bid of

any Bidder if OWNER believes that it would not be in the best interest of the Project to make an award to that Bidder. OWNER also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.03 In evaluating Bids, OWNER will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.04 In evaluating Bidders, OWNER will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

19.05 OWNER may conduct such investigations as OWNER deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.

19.06 If the Contract is to be awarded, OWNER will award the Contract to the Bidder whose Bid is in the best interests of the Project.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth OWNER's requirements as to performance and payment Bonds and insurance. When the Successful Bidder delivers the executed Agreement to OWNER, it must be accompanied by such Bonds.

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 When OWNER gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER. Within ten days thereafter, OWNER shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

**MANDATORY PRE-BID CONFERENCE
TUESDAY, OCTOBER 8, 2013 @ 10:00 A.M.
AT THE
TOWN OF MOREHEAD CITY MUNICIPAL BUILDING LOCATED
AT 202 SOUTH 8TH STREET IN MOREHEAD CITY, NORTH CAROLINA**

**BIDS DUE TUESDAY, OCTOBER 15, 2013 @10:00 A.M.
AT THE
TOWN OF MOREHEAD CITY MUNICIPAL BUILDING LOCATED
AT 202 SOUTH 8TH STREET IN MOREHEAD CITY, NORTH CAROLINA**

00300 - BID FORM

PROJECT IDENTIFICATION:

**Hester Pond Outlet Structure Replacement
Bryan Street
Town of Morehead City
Carteret County, North Carolina**

THIS BID IS SUBMITTED TO:

**Town of Morehead City
706 Arendell Street
Morehead City, NC 28557
(252)726-6840**

1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2.01 Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

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

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

Addendum No.

Addendum Date

00300-1

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of a Hazardous Environmental Condition, if any, which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.
- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by ENGINEER is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

4.01 Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

A. Base Bid Work:

1. All Work as Depicted on Project Plans:

_____ (\$ _____)
(use words) (figures)

The low bidder shall be determined based upon the total of items A.

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

6.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment in accordance with paragraph 14.07.B of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Agreement.

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of _____;

8.01 The terms used in this Bid with initial capital letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

SUBMITTED on _____, 2013.

State Contractor License No. _____ (If applicable)

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)
(Individual's signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Corporation

Corporation Name: _____ (SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(CORPORATE SEAL)

Attest _____
(Signature of Corporate Secretary)

Business address: _____

Phone No.: _____ FAX No.: _____

Date of Qualification to do business is _____

A Joint Venture

Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ FAX No.: _____

Joint Venturer Name: _____ (SEAL)

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ FAX No.: _____

Phone and FAX Number, and Address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

**00500 - STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

THIS AGREEMENT is by and between TOWN OF MOREHEAD CITY

(hereinafter called OWNER) and _____

(hereinafter called CONTRACTOR).

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

ARTICLE 1 - WORK

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

**Hester Pond Outlet Structure Replacement
Bryan Street
Town of Morehead City
Carteret County, North Carolina**

ARTICLE 2 - THE PROJECT

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

Replacement of outlet pond structure at Hester Pond on Bryan Street, Town of Morehead City.

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by: **Avolis Engineering, P.A.
P.O. Box 15564
New Bern, NC 28561
Office: (252)633-0068
Fax: (252)633-6507**

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

ARTICLE 4 - CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Days to Achieve Substantial Completion and Final Payment*

A. The Work will be substantially completed within 120 days after the date when the Contract Times commence to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 100 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$100.00 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$100.00 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

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

A. Base Bid Work:

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

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

ARTICLE 6 - PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

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

6.02 *Progress Payments; Retainage*

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

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

a. **90%** of Work completed (with the balance being retainage). If the Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

b. **90%** of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to **95%** of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less **100%** of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

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

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of **6%** per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

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

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

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

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

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface

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

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

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

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

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

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

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

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 15, inclusive); Including Labor Wage Determination
2. General Conditions (pages i to 40, inclusive);
3. Supplementary Conditions (pages i to 5, inclusive);
4. Specifications as listed in the table of contents of the Project Manual;
5. Drawings consisting of Sheet CS; C1 – C2, inclusive, bearing the following general title:
Hester Pond Outlet Structure Replacement, Bryan Street Repairs, Town of Morehead City.

6. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Written Agreements;
- b. Work Changes Directives;
- c. Change Order(s).

B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

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

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

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

10.02 Assignment of Contract

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

10.03 Successors and Assigns

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

10.04 Severability

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

10.05 *Other Provisions*

10.05.01 *Clean Water, Clean Air, Executive Order (E.O.) 11738 and EPA Regulations Provision*

Compliance with Air and Water Acts

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

The Contractors and any of its subcontractors for work funded this Agreement which is in excess of \$100,000, agree to the following requirements:

1. A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20;
2. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 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 regulations and guidelines issued thereunder;
3. A stipulation that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities; and
4. Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt sub-contract and requiring that the contractor will take such action as the 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© (1) of the Clean Air Act or Section 309© of the Federal Water Pollution Control Act.

10.05.02 *Lobbying Clause*

Require by Section 1352, Title 31, U.S. Code

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative, agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

10.05.03 *Nondiscrimination Clause*

Section 109, Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.

10.05.04 *Age Discrimination Act of 1975, As Amended*

Non Discrimination on the Basis of Age

No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

10.05.05 *Executive Order 11246 Clause*

During the performance of this contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, with regard to their race, color, religion, sex or national origin. Such action shall include, but not limited to the following; employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions in this nondiscrimination clause.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous place available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- E. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

10.05.06 *Section 504 of the Rehabilitation Act of 1973, As Amended*

Nondiscrimination on the Basis of Handicap

No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

10.05.07 *CONFLICT OF INTEREST*

Interest of Members, Officers, or Employees of the Recipient, Members of Local Governing Body, or Other Public Officials. Public officials and immediate family members, officers, employees, and officials are barred from having any financial interest in this project.

10.05.08 *PAYMENT OF PREDETERMINED MINIMUM WAGE*

1. General:

A. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide

fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

B. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

C. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

A. The Owner shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

B. The Owner shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

C. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the Owner agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Owner to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Owner or will notify the Owner within the 30-day period that additional time is necessary.

D. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the Owner do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Owner shall refer the questions, including the views of all interested parties and the recommendation of the Owner, to the Wage and Hour Administrator for determination. Said

Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the Owner within the 30-day period that additional time is necessary.

E. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

A. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

B. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

A. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no

longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

B. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the

Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

C. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2.

Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Withholding:

The Owner shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of

the wages required by the contract, the Owner may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

6. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

7. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

8. Withholding for Unpaid Wages and Liquidated Damages:

The Owner shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

10.05.09 STATEMENTS AND PAYROLLS

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

A. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

B. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor,

pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

C. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the Owner a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

D. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

E. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

F. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

G. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of The North Carolina Department of Economics and Community Development, FEMA, NCEM or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, The North Carolina Department of Economics and Community Development, FEMA, NCEM the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

10.05.10 *ACCESS TO RECORDS AND RECORD RETENTION CLAUSE*

In general, all official project records and documents must be maintained during the operation of this project and for a period of three years following closeout in compliance with 4 NCAC 19L Rule .0911, Recordkeeping.

The North Carolina Department of Economic and Community Development, FEMA, NCEM, the North Carolina Department of the Treasurer, U.S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above rule.

10.05.11 *Solicitation Provision Incorporated by Reference*

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Owner will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotations or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

10.05.11.01 *CLAUSES INCORPORATED BY REFERENCE:*

- A. Contract Work Hours and Safety Standard Act - Sections 103 and 107 (40 USC 327-330) as supplemented by Department of Labor Regulations contained in 29 CFR Parts 3, 5 and 5a.
- B. Copeland "Anti - Kick Back" Act (24 CFR 85.36)

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

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

OWNER: Town of Morehead City CONTRACTOR: _____

By: _____ By: _____

Signature

Signature

Address for giving notices:

Address for giving notices:

706 Arendell Street
Morehead City, NC 28557
(252)726-6840 Office

FISCAL OFFICER CERTIFICATION

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____

Title: _____

Date: _____

**00700 - STANDARD GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 - DEFINITIONS AND TERMINOLOGY	00700 - 1
1.01 <i>Defined Terms</i>	00700 - 1
1.02 <i>Terminology</i>	00700 - 3
ARTICLE 2 - PRELIMINARY MATTERS	00700 - 4
2.01 <i>Delivery of Bonds</i>	00700 - 4
2.02 <i>Copies of Documents</i>	00700 - 4
2.03 <i>Commencement of Contract Times; Notice to Proceed</i>	00700 - 4
2.04 <i>Starting the Work</i>	00700 - 4
2.05 <i>Before Starting Construction</i>	00700 - 4
2.06 <i>Preconstruction Conference</i>	00700 - 5
2.07 <i>Initial Acceptance of Schedules</i>	00700 - 5
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE	00700 - 5
3.01 <i>Intent</i>	00700 - 5
3.02 <i>Reference Standards</i>	00700 - 6
3.03 <i>Reporting and Resolving Discrepancies</i>	00700 - 6
3.04 <i>Amending and Supplementing Contract Documents</i>	00700 - 6
3.05 <i>Reuse of Documents</i>	00700 - 6
ARTICLE 4 - AVAILABILITY OF LANDS, SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS	00700 - 7
4.01 <i>Availability of Lands</i>	00700 - 7
4.02 <i>Subsurface and Physical Conditions</i>	00700 - 7
4.03 <i>Differing Subsurface or Physical Conditions</i>	00700 - 7
4.04 <i>Underground Facilities</i>	00700 - 8
4.05 <i>Reference Points</i>	00700 - 9
4.06 <i>Hazardous Environmental Condition at Site</i>	00700 - 9
ARTICLE 5 - BONDS AND INSURANCE	00700 - 10
5.01 <i>Performance, Payment, and Other Bonds</i>	00700 - 10
5.02 <i>Licensed Sureties and Insurers</i>	00700 - 10
5.03 <i>Certificates of Insurance</i>	00700 - 10
5.04 <i>CONTRACTOR's Liability Insurance</i>	00700 - 11
5.05 <i>OWNER's Liability Insurance</i>	00700 - 11
5.06 <i>Property Insurance</i>	00700 - 11
5.07 <i>Waiver of Rights</i>	00700 - 13
5.08 <i>Receipt and Application of Insurance Proceeds</i>	00700 - 13
5.09 <i>Acceptance of Bonds and Insurance; Option to Replace</i>	00700 - 14
5.10 <i>Partial Utilization, Acknowledgment of Property Insurer</i>	00700 - 14
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES	00700 - 14
6.01 <i>Supervision and Superintendence</i>	00700 - 14
6.02 <i>Labor; Working Hours</i>	00700 - 14
6.03 <i>Services, Materials, and Equipment</i>	00700 - 14
6.04 <i>Progress Schedule</i>	00700 - 15
6.05 <i>Substitutes and "Or-Equals"</i>	00700 - 15
6.06 <i>Concerning Subcontractors, Suppliers, and Others</i>	00700 - 17
6.07 <i>Patent Fees and Royalties</i>	00700 - 17
6.08 <i>Permits</i>	00700 - 18

6.09	<i>Laws and Regulations</i>	00700 - 18
6.10	<i>Taxes</i>	00700 - 18
6.11	<i>Use of Site and Other Areas</i>	00700 - 18
6.12	<i>Record Documents</i>	00700 - 19
6.13	<i>Safety and Protection</i>	00700 - 19
6.14	<i>Safety Representative</i>	00700 - 19
6.15	<i>Hazard Communication Programs</i>	00700 - 19
6.16	<i>Emergencies</i>	00700 - 19
6.17	<i>Shop Drawings and Samples</i>	00700 - 19
6.18	<i>Continuing the Work</i>	00700 - 21
6.19	<i>CONTRACTOR's General Warranty and Guarantee</i>	00700 - 21
6.20	<i>Indemnification</i>	00700 - 21
ARTICLE 7 -	OTHER WORK	00700 - 22
7.01	<i>Related Work at Site</i>	00700 - 22
7.02	<i>Coordination</i>	00700 - 22
ARTICLE 8 -	OWNER'S RESPONSIBILITIES	00700 - 23
8.01	<i>Communications to Contractor</i>	00700 - 23
8.02	<i>Replacement of ENGINEER</i>	00700 - 23
8.03	<i>Furnish Data</i>	00700 - 23
8.04	<i>Pay Promptly When Due</i>	00700 - 23
8.05	<i>Lands and Easements; Reports and Tests</i>	00700 - 23
8.06	<i>Insurance</i>	00700 - 23
8.07	<i>Change Orders</i>	00700 - 23
8.08	<i>Inspections, Tests, and Approvals</i>	00700 - 23
8.09	<i>Limitations on OWNER's Responsibilities</i>	00700 - 23
8.10	<i>Undisclosed Hazardous Environmental Condition</i>	00700 - 23
8.11	<i>Evidence of Financial Arrangements</i>	00700 - 23
ARTICLE 9 -	ENGINEER'S STATUS DURING CONSTRUCTION	00700 - 23
9.01	<i>OWNER'S Representative</i>	00700 - 24
9.02	<i>Visits to Site</i>	00700 - 24
9.03	<i>Project Representative</i>	00700 - 24
9.04	<i>Clarifications and Interpretations</i>	00700 - 25
9.05	<i>Authorized Variations in Work</i>	00700 - 25
9.06	<i>Rejecting Defective Work</i>	00700 - 25
9.07	<i>Shop Drawings, Change Orders and Payments</i>	00700 - 25
9.08	<i>Determinations for Unit Price Work</i>	00700 - 25
9.09	<i>Decisions on Requirements of Contract Documents and Acceptability of Work</i>	00700 - 26
9.10	<i>Limitations on ENGINEER's Authority and Responsibilities</i>	00700 - 26
ARTICLE 10 -	CHANGES IN THE WORK; CLAIMS	00700 - 26
10.01	<i>Authorized Changes in the Work</i>	00700 - 26
10.02	<i>Unauthorized Changes in the Work</i>	00700 - 26
10.03	<i>Execution of Change Orders</i>	00700 - 26
10.04	<i>Notification to Surety</i>	00700 - 27
10.05	<i>Claims and Disputes</i>	00700 - 27
ARTICLE 11 -	COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK	00700 - 27
11.01	<i>Cost of the Work</i>	00700 - 27
11.02	<i>Cash Allowances</i>	00700 - 29
11.03	<i>Unit Price Work</i>	00700 - 30
ARTICLE 12 -	CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES	00700 - 30
12.01	<i>Change of Contract Price</i>	00700 - 30
12.02	<i>Change of Contract Times</i>	00700 - 31
12.03	<i>Delays Beyond CONTRACTOR's Control</i>	00700 - 31
12.04	<i>Delays Within CONTRACTOR's Control</i>	00700 - 31
12.05	<i>Delays Beyond OWNER's and CONTRACTOR's Control</i>	00700 - 31

12.06	<i>Delay Damages</i>	00700 - 31
ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK		
13.01	<i>Notice of Defects</i>	00700 - 32
13.02	<i>Access to Work</i>	00700 - 32
13.03	<i>Tests and Inspections</i>	00700 - 32
13.04	<i>Uncovering Work</i>	00700 - 32
13.05	<i>OWNER May Stop the Work</i>	00700 - 33
13.06	<i>Correction or Removal of Defective Work</i>	00700 - 33
13.07	<i>Correction Period</i>	00700 - 33
13.08	<i>Acceptance of Defective Work</i>	00700 - 33
13.09	<i>OWNER May Correct Defective Work</i>	00700 - 34
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION		
14.01	<i>Schedule of Values</i>	00700 - 34
14.02	<i>Progress Payments</i>	00700 - 34
14.03	<i>CONTRACTOR's Warranty of Title</i>	00700 - 36
14.04	<i>Substantial Completion</i>	00700 - 36
14.05	<i>Partial Utilization</i>	00700 - 36
14.06	<i>Final Inspection</i>	00700 - 37
14.07	<i>Final Payment</i>	00700 - 37
14.08	<i>Final Completion Delayed</i>	00700 - 37
14.09	<i>Waiver of Claims</i>	00700 - 38
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION		
15.01	<i>OWNER May Suspend Work</i>	00700 - 38
15.02	<i>OWNER May Terminate for Cause</i>	00700 - 38
15.03	<i>OWNER May Terminate For Convenience</i>	00700 - 39
15.04	<i>CONTRACTOR May Stop Work or Terminate</i>	00700 - 39
ARTICLE 16 - DISPUTE RESOLUTION		
16.01	<i>Methods and Procedures</i>	00700 - 39
ARTICLE 17 - MISCELLANEOUS		
17.01	<i>Giving Notice</i>	00700 - 39
17.02	<i>Computation of Times</i>	00700 - 39
17.03	<i>Cumulative Remedies</i>	00700 - 39
17.04	<i>Survival of Obligations</i>	00700 - 40
17.05	<i>Controlling Law</i>	00700 - 40

GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32. *PCBs*--Polychlorinated biphenyls.

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

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

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

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy

Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

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

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

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

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

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

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

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

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

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor

to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

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

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

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

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

1.02 Terminology

A. Intent of Certain Terms or Adjectives

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or

adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. Day

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

C. Defective

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

D. Furnish, Install, Perform, Provide

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

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

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

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

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

ARTICLE 2 - PRELIMINARY MATTERS

2.01 Delivery of Bonds

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

2.02 Copies of Documents

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

2.03 Commencement of Contract Times; Notice to Proceed

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

2.04 Starting the Work

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

2.05 Before Starting Construction

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

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and
3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

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

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as

appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

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

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

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

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

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that

may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

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

3.02 Reference Standards

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

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

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

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

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

such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. Resolving Discrepancies

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

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

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

3.04 Amending and Supplementing Contract Documents

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

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

3.05 Reuse of Documents

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

herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

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

4.01 *Availability of Lands*

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

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

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

4.02 *Subsurface and Physical Conditions*

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

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

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

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such

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

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

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

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

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

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

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

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

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

C. *Possible Price and Times Adjustments*

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

- a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and
- b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

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

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

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

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

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

costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

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

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

- a. reviewing and checking all such information and data,

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

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

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

B. *Not Shown or Indicated*

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

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

4.05 Reference Points

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 Hazardous Environmental Condition at Site

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

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

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

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

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

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

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

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

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

G. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.E shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

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

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

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

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

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

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

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

5.04 *CONTRACTOR's Liability Insurance*

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

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
4. claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

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

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER,

ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

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

3. include completed operations insurance;

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

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

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with paragraph 13.07; and

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

5.05 *OWNER's Liability Insurance*

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

5.06 *Property Insurance*

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

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

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

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

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

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

6. include testing and startup; and

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

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

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

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

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

5.07 *Waiver of Rights*

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

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

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

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

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.05, after Substantial Completion pursuant to paragraph 14.04, or after final payment pursuant to paragraph 14.07.

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

5.08 Receipt and Application of Insurance Proceeds

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

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

5.09 Acceptance of Bonds and Insurance; Option to Replace

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 Partial Utilization, Acknowledgment of Property Insurer

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

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

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

6.02 *Labor; Working Hours*

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

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not

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

6.03 *Services, Materials, and Equipment*

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

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

6.04 *Progress Schedule*

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

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

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

6.05 *Substitutes and "Or-Equals"*

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

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

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

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

2. *Substitute Items*

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under paragraph 6.05.A.1, it will be considered a proposed substitute item.

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

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

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

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

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

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

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

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

6.06 *Concerning Subcontractors, Suppliers, and Others*

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

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis

of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

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

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

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

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

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.06, the agreement between the CONTRACTOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGI-

NEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

6.07 *Patent Fees and Royalties*

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

6.08 *Permits*

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

6.09 *Laws and Regulations*

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

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

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

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

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

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

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

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

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

6.12 *Record Documents*

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

documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 *Safety and Protection*

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

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

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as

otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes

required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

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

D. *Submittal Procedures*

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

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

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

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

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

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

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

E. *ENGINEER's Review*

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

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

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

F. *Resubmittal Procedures*

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

6.18 *Continuing the Work*

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

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

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

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

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

6.20 Indemnification

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to

the performance of the Work, provided that any such claim, cost, loss, or damage:

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

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

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

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

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

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

ARTICLE 7 - OTHER WORK

7.01 Related Work at Site

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct

contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

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

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

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

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

7.02 Coordination

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

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

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

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

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

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of ENGINEER*

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

8.03 *Furnish Data*

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

8.04 *Pay Promptly When Due*

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

8.05 *Lands and Easements; Reports and Tests*

A. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on OWNER's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

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

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *OWNER'S Representative*

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

9.02 *Visits to Site*

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

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

9.03 *Project Representative*

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such

other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

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

9.05 *Authorized Variations in Work*

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

9.06 *Rejecting Defective Work*

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

9.07 *Shop Drawings, Change Orders and Payments*

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

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

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

9.08 *Determinations for Unit Price Work*

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

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

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

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

9.10 *Limitations on ENGINEER's Authority and Responsibilities*

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

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

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

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

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

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

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

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

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

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

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

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

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

10.04 *Notification to Surety*

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

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract

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

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

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

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

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

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

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

11.01 *Cost of the Work*

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

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

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

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain

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

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

5. Supplemental costs including the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11.02 *Cash Allowances*

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

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

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

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

11.03 Unit Price Work

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

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

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

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

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

3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or

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

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

12.01 Change of Contract Price

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

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

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

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

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

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

1. a mutually acceptable fixed fee; or

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

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

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

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

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

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

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

12.02 *Change of Contract Times*

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

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

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of

CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.04 *Delays Within CONTRACTOR's Control*

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

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

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

12.06 *Delay Damages*

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

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

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

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

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

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

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

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

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

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

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

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

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

13.04 *Uncovering Work*

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

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

agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

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

13.07 *Correction Period*

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

losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

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

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

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

13.08 *Acceptance of Defective Work*

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

13.09 *OWNER May Correct Defective Work*

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

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

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

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

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

A. *Applications for Payments*

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

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

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

B. *Review of Applications*

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's

reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

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

- a. the Work has progressed to the point indicated;
- b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and
- c. the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

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

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of

the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Written Amendment or Change Orders;
- c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or
- d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. *Payment Becomes Due*

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

D. *Reduction in Payment*

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

- a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;
- b. Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens;

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

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

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

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

14.03 *CONTRACTOR's Warranty of Title*

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

14.04 *Substantial Completion*

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not

substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

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

14.05 *Partial Utilization*

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

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended

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

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

14.06 *Final Inspection*

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

14.07 *Final Payment*

A. *Application for Payment*

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

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

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

B. *Review of Application and Acceptance*

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

C. *Payment Becomes Due*

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

14.08 *Final Completion Delayed*

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

14.09 *Waiver of Claims*

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

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

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

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *OWNER May Suspend Work*

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

15.02 *OWNER May Terminate for Cause*

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

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

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

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

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

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any

rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 *OWNER May Terminate For Convenience*

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

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

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

3. for all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

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

15.04 *CONTRACTOR May Stop Work or Terminate*

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days

after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

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

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

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

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and

remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

00800 - SUPPLEMENTARY CONDITIONS

TABLE OF CONTENTS

SC4.06	Hazardous Environmental Conditions at Site.....	00800-1
SC5.04	CONTRACTOR'S Liability Insurance.....	00800-1
SC5.06	Property Insurance.....	00800-3
SC5.07	Waiver of Rights.....	00800-3
SC14	Payment to Contractor and Completion.....	00800-3
SC16.02	Mediation.....	00800-4
SC16.03	Arbitration.....	00800-4

SUPPLEMENTARY CONDITIONS

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

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

SC-4.06 Hazardous Environmental Conditions at Site

SC-4.06.A Delete paragraph 4.06.G in its entirety.

SC-5.04 CONTRACTOR'S Liability Insurance

SC-5.04 Add the following new paragraph immediately after paragraph 5.04.B:

A. Insurance Required. The Contractor shall purchase and maintain, at its sole cost and expense, from a company or companies with an A7 or better rating issued by Bests and to which the Owner has no reasonable objection, insurance protection from claims which may arise out of or result from the Contractor's operations under this Agreement, whether such operations be by the Contractor or by any Subcontractor, Subsubcontractor, or materialman, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable in the amounts and for the coverages required by Section F below. In the event of any failure of the Contractor to comply with the provisions of this, Agreement, the Owner may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

B. Insurance Limits. The insurance required by Section A shall be written for not less than any limits of liability specified herein, or required by law, whichever is greater.

C. Insurance Certificates. Certificates of insurance acceptable to the Owner shall be delivered to the Owner prior to commencement of the Work. The certificates shall set forth evidence of all coverages required by Section F below. The form of certificates shall be as required by the Owner. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending limits of coverage.

D. Insurance Company Requirements and Additional Insureds. All insurance shall name Owner as an additional insured and each policy shall include the condition that it is primary and that any liability insurance maintained by Owner is excess and non-contributory. The Contractor shall not commence Work under this Agreement until it has obtained all insurance required hereunder and certificates of insurance evidencing such insurance have been submitted to and approved by Owner.

E. Noncancellation Without Notice. Each policy shall provide that it will not be canceled or materially altered except after thirty (30) days, advance written notice to Owner mailed to the address indicated in the Agreement, and the certificates of insurance shall so state. Upon receipt of any notice of cancellation of alteration, the Contractor shall within ten (10) days procure other policies of insurance,

similar in all respects to the policy or policies, about to be canceled or altered; and, if the Contractor fails to provide, procure, and deliver acceptable policies of insurance, or satisfactory evidence thereof, in accordance with the terms hereof, then at Owner's option, Owner may (i) obtain such insurance at the cost and expense of the Contractor, without the need of any notice to the Contractor or (ii) terminate this Agreement pursuant to Article 15 of the General Conditions.

F. Contractor Insurance Requirements. The insurance required under this Section shall include the following coverage and limits in the following categories, amounts and detail:

1.	<u>COVERAGE</u>	<u>MINIMUM AMOUNTS AND LIMITS</u>
	Worker's Compensation: Statutory Compliance	
	Employer's Liability	\$500,000 per Accident
		\$500,000 per Disease, Policy Limit
		\$500,000 per Disease, Each Employee

The policy shall include a waiver of subrogation as described in subparagraph 5.7.A of the General Conditions.

2. **Commercial General Liability:**

Bodily Injury/ Property Damage (Occurrence Basis)	\$1,000,000 each occurrence, or equivalent, subject to a \$1,000,000 aggregate applicable to the Project
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This policy shall be on a form acceptable to Owner, endorsed to include the Owner as an additional insured, contain cross-liability and severability of interest endorsements, state that this insurance is primary insurance as regards to any other insurance carried by the Owner, and shall include the following coverages:

Premises/Operations;

Independent Contractors;

Products and Completed Operations for a period of two (2) years following the acceptance of the Contractor's Work;

Broad Form Contractual Liability specifically in support of, but not limited to, the Indemnity sections of the contract;

Broad Form Property Damage shall include Completed Operations;

Delete Exclusions relative to collapse, explosion, and underground property damage hazards.

3. Contractual Liability

Bodily Injury and Property Damage
\$1,000,000 Each Occurrence

4. Personal Injury Liability with employee and contractual exclusions removed;

(I) \$1,000,000 Aggregate

5. Comprehensive Automobile Liability:

Bodily/Injury \$500,000 Combined Single Limit
Property Damage

- (i) This policy shall be on a standard form written to cover all owned, hired, and non-owned automobiles. The policy shall be endorsed to include the Owner as an additional insured, contain cross-liability and severability of interest endorsements, and state that this insurance is primary insurance as regards any other insurance carried by the Owner.
- (ii) General Aggregate shall not be less than \$500,000 and it shall apply, in total, to this Project only.
- (iii) Fire Damage Limit shall be not less than \$50,000 on any one fire.
- (iv) Medical Expenses Limit shall be not less than \$5,000 on any one person.

6. Umbrella Excess Liability Insurance:

Bodily Injury/ \$2,000,000 Per Occurrence
Property Damage \$2,000,000 Aggregate
(Occurrence Basis)

This policy shall be written on an umbrella excess basis above coverages as described in subparagraphs 1, 2, 3, 4, and 5 above, endorsed to include the Owner as an additional insured, contain cross-liability and severability of interest endorsements, and state that this insurance is primary insurance as regards any other insurance carried by the Owner. In addition, the policy shall be endorsed to provide defense coverage obligations.

7. **Broad Form Boiler and Machinery Insurance:**

The Contractor shall maintain or cause to be maintained, without additional expense to Owner, such boiler and machinery insurance as may be required by law. This insurance shall include the interests of the Owner, the Contractor, and Subcontractors in the Work.

SC-5.06 Property Insurance

SC-5.06.A Delete paragraph 5.06.A in its entirety.

SC-5.07 Waiver of Rights

SC-5.07.A Delete Paragraphs 5.07.B and 5.07.C in their entirety.

SC-14 Payment to Contractor and Completion

SC-14.02.A Add the following sentence at the end of the paragraph:

The Contractor shall submit duly executed waivers of mechanics' and material suppliers' liens from the Contractor and all Subcontractors and material suppliers, establishing payment or satisfaction of the payment requested by the Contractor in the previous Application for Payment.

SC-14.02.C Amend the First Sentence of Paragraph 14.02.C to read as follows:

“30 days after Presentation of the Application for payment...”

SC-14.09 Delete paragraph 14.09.A.1 in its entirety.

SC-16 Add the following new paragraph immediately after paragraph 16.01:

SC-16.02 Mediation

A. OWNER and CONTRACTOR agree that they shall submit any and all unsettled Claims or counterclaims, disputes, or other matters in question between them arising out of or relating to the Contract Documents or the breach thereof to mediation prior to either of them initiating against the other a demand for arbitration pursuant to paragraph SC-16.03, unless delay in initiating arbitration would irrevocably prejudice one of the parties. The 30 day time limit within which to file a demand for arbitration as provided in paragraphs SC-16.03.B and 16.03.C shall be suspended with respect to a dispute submitted to mediation within that time limit and shall remain suspended until 10 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.

SC-16 Add the following new paragraph immediately after paragraph SC-16.02.

SC-16.03 Arbitration

A. All Claims or counterclaims, disputes, or 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 14.09) not resolved under the provisions of paragraph SC-16.02 will be decided by binding arbitration subject to the limitations of this paragraph SC-16.03. This agreement to arbitrate and any other agreement or consent to arbitrate entered into will be specifically enforceable under the prevailing law of any court having jurisdiction.

B. No demand for arbitration of any Claim or counterclaim, dispute, or other matter that is required to be referred to ENGINEER initially for decision in accordance with paragraph 9.09 will be made until the earlier of: (I) the date on which ENGINEER has rendered a written decision, or (ii) the 31st day after the parties have presented their final evidence to ENGINEER if a written decision has not been rendered by ENGINEER before that date. No demand for arbitration of any such Claim or counterclaim, dispute, or other matter will be made later than 30 days after the date on which ENGINEER has rendered a written decision in respect thereof in accordance with paragraph 10.05; and the failure to demand arbitration within said 30 day 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.

C. Notice of the demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitrator, and a copy will be sent to ENGINEER for information. The demand for arbitration will be made within the 30 day period specified in paragraph SC-16.03.B, and in all other cases within a reasonable time after the Claim or counterclaim, 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 or other dispute or matter in question would be barred by the applicable statute of limitations.

D. Except as provided in paragraph SC-16.03.E, no arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder, or in any other manner any other individual or entity (including ENGINEER, and ENGINEER's Consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:

1. the inclusion of such other individual or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration; and

2. such other individual 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

3. the written consent of the other individual 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.

E. Notwithstanding paragraph SC-16.03.D, if a Claim or counterclaim, 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 6.06.G 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 SC-16.03.E nor in the provisions 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.

F. 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.

PROJECT TABLE OF CONTENTS

DIVISION 01 - GENERAL REQUIREMENTS

01 12 00 CUTTING AND PATCHING
01 13 00 TRAFFIC SAFETY
01 14 00 WORK RESTRICTIONS
01 57 19 TEMPORARY ENVIRONMENTAL CONTROLS

DIVISION 02 - EXISTING CONDITIONS

02 41 00 DEMOLITION
02 50 00 WORK UTILIZING SECTIONS REFERENCING NCDOT HWY SPECS &
STANDARDS
02 82 30 RE-ESTABLISHING VEGETATION

DIVISION 03 - CONCRETE

03 30 04 CONCRETE FOR MINOR STRUCTURES

DIVISION 31 - EARTHWORK

31 23 00.00 20 EXCAVATION AND FILL

DIVISION 33 - UTILITIES

33 40 00 STORM DRAINAGE

-- End of Project Table of Contents --

SECTION 01 12 00

CUTTING AND PATCHING

01/07

PART 1 GENERAL

1.1 CUTTING

Shall be done by sawing along straight lines. The amount cut out shall be the minimum necessary to accommodate the new work. No flame cutting will be permitted without written permission of the Officer in Charge of Construction.

1.2 HOLES

Shall be rotary drilled. The size shall be the minimum necessary to accommodate the new work.

1.3 PATCHING

Shall be done with materials which match the existing in color, quality and surface texture when finished.

PART 2 PRODUCTS

Not used.

PART 3 EXECUTION

Not used.

-- End of Section --

SECTION 01 13 00

TRAFFIC SAFETY

01/07

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

U.S. FEDERAL HIGHWAY ADMINISTRATION (FHWA)

FHWA SA-89-006

(1988) Manual on Uniform Traffic Control
Devices for Streets and Highways

1.2 MAINTENANCE FOR TRAFFIC

The existing road shall be kept open to all traffic while undergoing improvements. The Contractor shall furnish, erect and maintain barricades, warning and informational signs, delineators, and flagmen in accordance FHWA SA-89-006.

1.2.1 TEMPORARY APPROACHES

Temporary approaches or crossings and intersections with roads, streets, residences, and parking lots shall be maintained in a safely passable condition.

1.3 PUBLIC CONVENIENCE AND SAFETY

The Contractor shall at all times so conduct his work as to assure the safety and convenience of the users and of those along the streets and roads and to assure the protection of persons and property.

1.4 WARNING SIGNS

Warning signs shall be erected in advance of any place on the project where operations may interfere with the use of the road by traffic, and at all intermediate points where the new work crosses or coincides with an existing road.

1.4.1 INFORMATIONAL SIGNS

The Contractor shall furnish, erect, maintain, and remove, when directed, any informational identification indicated.

1.4.2 CONSTRUCTION WARNING SIGNS

Construction warning signs shall be displayed only when a crew is actually working at the site. "Men Working" or "Flagman" signs shall be removed from view of traffic when not needed.

PART 2 PRODUCTS

2.1 Traffic Control Devices

FHWA SA-89-006.

PART 3 EXECUTION

Not Used.

-- End of Section --

SECTION 01 14 00

WORK RESTRICTIONS

01/07

PART 1 GENERAL

1.1 SPECIAL SCHEDULING REQUIREMENTS

- a. Access to all properties shall be maintained during the entire construction period. The Contractor shall conduct his operations so as to cause the least possible interference with normal operations and activities. The Contractor shall provide temporary bypass measures necessary to ensure the continued access to all properties during the duration of this project. A plan detailing bypass measures (including backup measures) shall be provided to the Owner for approval prior to commencing any work that would alter or disrupt the normal traffic flow.

1.2 CONTRACTOR ACCESS AND USE OF PREMISES

1.2.1 Working Hours

Regular working hours shall be from 7:00 AM to 6:00 PM, Monday through Friday, excluding Federal holidays.

1.2.2 Work Outside Regular Hours

Work outside regular working hours requires Owner approval. Provide written request at least 15 calendar days prior to such work to allow arrangements to be made by the Owner for inspecting the work in progress. During periods of darkness, the different parts of the work shall be lighted in a manner approved by the Owner.

1.2.3 Occupied and Existing Buildings

The Contractor shall be working around existing buildings. Do not enter the buildings without prior approval of the Owner.

1.2.4 Utility Cutovers and Interruptions

- a. Make utility cutovers and interruptions after normal working hours or on Saturdays, Sundays, and Government holidays. Conform to procedures required in the paragraph "Work Outside Regular Hours."
- b. Ensure that new utility lines are complete, except for the connection, before interrupting existing service.
- c. Interruption to water, sanitary sewer, storm sewer, telephone service, electric service, shall be considered utility cutovers pursuant to the paragraph entitled "Work Outside Regular Hours."

PART 2 PRODUCTS

Not used.

PART 3 EXECUTION

Not used.

-- End of Section --

SECTION 01 57 19

TEMPORARY ENVIRONMENTAL CONTROLS

05/12

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

40 CFR 261 Identification and Listing of Hazardous Waste

49 CFR 171 General Information, Regulations, and Definitions

49 CFR 172 Hazardous Materials Tables and Hazardous Materials Communications Regulations

1.2 DEFINITIONS

1.2.1 Sediment

Soil and other debris that have eroded and have been transported by runoff water or wind.

1.2.2 Solid Waste

Rubbish, debris, garbage, and other discarded solid materials, except recyclables and hazardous waste as defined in paragraph entitled "Hazardous Waste," resulting from industrial, commercial, and agricultural operations and from community activities.

1.2.3 Sanitary Wastes

Wastes characterized as domestic sanitary sewage.

1.2.4 Rubbish

Combustible and noncombustible wastes such as non-recyclable paper and cardboard, crockery, and bones.

Recyclables includes: clean paper, cardboard, glass, plastics (No. 1 & 2), metal, and cans.

Non-recyclable paper and cardboard are defined as material that has become wet or contaminated with food or other residue that render it un-acceptable

for recycling.

Treated wood/lumber is defined as wood that has been stained or treated to prevent rot, or composite wood products such as OSB, pressboard furniture, etc.

Untreated wood is defined as lumber, trees, stumps, limbs, tops, and shrubs.

1.2.5 Debris

Combustible and noncombustible wastes such as ashes and waste materials resulting from construction or maintenance and repair work, (excluding organic matter) leaves, pine straw, grass and shrub clippings.

1.2.6 Chemical Wastes

This includes salts, acids, alkalies, herbicides, pesticides, and organic chemicals.

1.2.7 Garbage

Refuse and scraps resulting from preparation, cooking, dispensing, and consumption of food.

1.2.8 Hazardous Waste

Hazardous substances as defined in 40 CFR 261 or as defined by applicable State and local regulations.

1.2.9 Hazardous Materials

Hazardous materials as defined in 49 CFR 171 and listed in 49 CFR 172.

1.2.10 Landscape Features

Trees, plants, shrubs, and ground cover.

1.2.11 Lead Acid Battery Electrolyte

The electrolyte substance (liquid medium) within a battery cell.

1.2.12 Oily Waste

Petroleum products and bituminous materials.

1.2.13 Class I Ozone Depleting Substance (ODS)

Class I and Class II ODS are defined in Sections 602 (a and b) of The Clean Air Act.

1.3 DIRT AND DUST CONTROL PLAN

The Contractor shall be responsible for controlling dirt and dust on a daily basis. Roadways shall be cleaned on a daily basis to prevent nuisance and safety hazards.

1.3.1 Erosion and Sedimentation Control

The Contractor shall be responsible for meeting the requirements of erosion

and sedimentation control measures of the site.

1.4 ENVIRONMENTAL PROTECTION REGULATORY REQUIREMENTS

Provide and maintain, during the life of the contract, environmental protection as defined in this Section. Plan for and provide environmental protective measures to control pollution that develops during normal construction practice. Plan for and provide environmental protective measures required to correct conditions that develop during the construction of permanent or temporary environmental features associated with the project. Comply with Federal, State, and local regulations pertaining to the environment, including but not limited to water, air, solid waste, and noise pollution.

PART 2 PRODUCTS

Not used.

PART 3 EXECUTION

3.1 PROTECTION OF NATURAL RESOURCES

Preserve the natural resources within the project boundaries and outside the limits of permanent work. Restore to an equivalent or improved condition upon completion of work. Confine construction activities to within the limits of the work indicated or specified.

3.1.1 Land Resources

Except in areas to be cleared, do not remove, cut, deface, injure, or destroy trees or shrubs without Contracting Officer's permission. Do not fasten or attach ropes, cables, or guys to existing nearby trees for anchorages.

3.1.1.1 Protection of Trees

Protect existing trees which are to remain and which may be injured, bruised, defaced, or otherwise damaged by construction operations. RBy approved excavation, remove trees with 30 percent or more of their root systems destroyed.

3.1.1.2 Landscape Replacement

Remove trees and other landscape features scarred or damaged by equipment operations, and replace with equivalent, undamaged trees and landscape features. Obtain Engineerr's approval before replacement.

3.1.2 Water Resources3.1.2.1 Oily Wastes

Prevent oily or other hazardous substances from entering the ground, drainage areas, or local bodies of water. For oil, fuel oil, or other hazardous substance spills, verbally notify the Engineer immediately. Surround all temporary fuel oil or petroleum storage tanks with a temporary earth berm of sufficient size and strength to contain the contents of the tanks in the event of leakage or spillage.

3.1.3 Fish and Wildlife Resources

Do not disturb fish and wildlife. Do not alter water flows or otherwise

significantly disturb the native habitat adjacent to the project and critical to the survival of fish and wildlife, except as indicated or specified.

3.2 HISTORICAL AND ARCHAEOLOGICAL RESOURCES

Carefully protect in-place and report immediately to the Engineer historical and archaeological items or human skeletal remains discovered in the course of work. Stop work in the immediate area of the discovery until directed by the Contracting Officer to resume work.

3.3 EROSION AND SEDIMENT CONTROL MEASURES

3.3.1 Erosion and Sediment Control Plan

Follow the approved storm water management, erosion and sediment control plan.

3.3.2 Burnoff

Burnoff of the ground cover is not permitted.

3.3.3 Protection of Erodible Soils

Immediately finish the earthwork brought to a final grade, as indicated or specified. Immediately protect side and back slopes upon completion of rough grading. Plan and conduct earthwork to minimize duration of exposure of unprotected soils.

3.3.4 Temporary Protection of Erodible Soils

Use the following methods to prevent erosion and control sedimentation:

3.3.4.1 Mechanical Retardation and Control of Runoff

Mechanically retard and control the rate of runoff from the construction site. This includes construction of diversion ditches, benches, berms, and use of silt fences and strawbales to retard and divert runoff to protected drainage courses.

3.3.4.2 Vegetation and Mulch

Provide temporary protection on sides and back slopes as soon as rough grading is completed or sufficient soil is exposed to require erosion protection. Protect slopes by accelerated growth of permanent vegetation, temporary vegetation, mulching, or netting. Stabilize slopes by hydroseeding, anchoring mulch in place, covering with anchored netting, sodding, or such combination of these and other methods necessary for effective erosion control.

- a. Provide new seeding where ground is disturbed. Include topsoil or nutriment during the seeding operation necessary to establish a suitable stand of grass.

3.4 CONTROL AND DISPOSAL OF SOLID WASTES

Pick up and separate solid wastes, and place in covered containers which are regularly emptied. Do not prepare or cook food on the project site.

Prevent contamination of the site or other areas when handling and disposing of wastes. At project completion, leave the areas clean. Remove all solid waste (including non-hazardous debris) from the project site and dispose off-site at an approved landfill. Solid waste disposal off-site must comply with State requirements.

3.5 CONTROL AND DISPOSAL OF HAZARDOUS WASTE

3.5.1 Petroleum Products

Protect against spills and evaporation during fueling and lubrication of equipment and motor vehicles. Dispose of lubricants to be discarded and excess oil.

3.6 DUST CONTROL

Keep dust down at all times, including nonworking periods. Sprinkle or treat, with dust suppressants, the soil at the site, haul roads, and other areas disturbed by operations.

-- End of Section --

SECTION 02 41 00

DEMOLITION
05/10

PART 1 GENERAL

1.1 PROJECT DESCRIPTION

1.1.1 General Requirements

Do not begin demolition or deconstruction until authorization is received from the Engineer. Remove rubbish and debris from the project site daily; do not allow accumulations.

1.2 QUALITY ASSURANCE

Comply with federal, state, and local hauling and disposal regulations.

1.2.1 Dust and Debris Control

Prevent the spread of dust and debris and avoid the creation of a nuisance or hazard in the surrounding area.

1.3 PROTECTION

1.3.1 Traffic Control Signs

a. Where pedestrian and driver safety is endangered in the area of removal work, use traffic barricades with flashing lights.

1.3.2 Protection of Personnel

Before, during and after the demolition work continuously evaluate the condition of the structure being demolished and take immediate action to protect all personnel working in and around the project site. No area, section, or component of floors, roofs, walls, columns, pilasters, or other structural element will be allowed to be left standing without sufficient bracing, shoring, or lateral support to prevent collapse or failure while workmen remove debris or perform other work in the immediate area.

1.4 FOREIGN OBJECT DAMAGE (FOD)

Aircraft and aircraft engines are subject to FOD from debris and waste material lying on airfield pavements. Remove all such materials that may appear on operational aircraft pavements due to the Contractor's operations. If necessary, the Contracting Officer may require the Contractor to install a temporary barricade at the Contractor's expense to control the spread of FOD potential debris. The barricade shall include a fence covered with a fabric designed to stop the spread of debris. Anchor the fence and fabric to prevent displacement by winds or jet/prop blasts. Remove barricade when no longer required.

1.5 RELOCATIONS

Perform the removal and reinstallation of relocated items as indicated with workmen skilled in the trades involved. Repair or replace items to be

relocated which are damaged by the Contractor with new undamaged items as approved by the Contracting Officer.

1.6 EXISTING CONDITIONS

Before beginning any demolition or deconstruction work, survey the site and examine the drawings and specifications to determine the extent of the work. Record existing conditions in the presence of the Contracting Officer showing the condition of structures and other facilities adjacent to areas of alteration or removal. Photographs sized 4 inch will be acceptable as a record of existing conditions. Include in the record the elevation of the top of foundation walls, finish floor elevations, possible conflicting electrical conduits, plumbing lines, alarms systems, the location and extent of existing cracks and other damage and description of surface conditions that exist prior to before starting work. It is the Contractor's responsibility to verify and document all required outages which will be required during the course of work, and to note these outages on the record document. Submit survey results.

PART 2 PRODUCTS

Not used. PART 3 EXECUTION

3.1 EXISTING FACILITIES TO BE REMOVED

3.1.1 Paving and Slabs

Remove sawcut concrete and asphalt paving as needed. Where concrete driveway joints occur within six feet of the limits of work, remove the concrete up the joint.

3.2 DISPOSITION OF MATERIAL

3.2.1 Title to Materials

Except where specified in other sections, all materials removed, and not reused, shall become the property of the Contractor and shall be removed from the project site. The Town of River Bend will not be responsible for the condition or loss of, or damage to, such property after contract award.

3.3 CLEANUP

Remove and transport the debris in a manner that prevents spillage on streets or adjacent areas. Clean up spillage from streets and adjacent areas. Apply local regulations regarding hauling and disposal.

-- End of Section --

SECTION 02 50 00

WORK UTILIZING SECTIONS REFERENCING NCDOT HWY SPECS & STANDARDS

01/07

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)

NCDOT (2006) Standard Specifications for Roads and Structures

1.2 SUBMITTALS

Submit the following in accordance with Section, "Submittal Procedures".

- a. Pavement mix
- b. Tack coat
- c. Stone
- d. Pavement Paint

SD-05 Design Data

Job-mix formula

1.2.1 Job-Mix Formula

Submit the mix design, including mixing temperature, for approval. The mix design shall include a certified laboratory analysis of mix composition with marshall stability value, void content, and flow. After mix design approval, job mixes shall conform to the range of tolerances specified in NCDOT.

1.3 GENERAL REQUIREMENTS

All "Section" references refer to NCDOT, Standard Specifications for Roads and Structures. In all references

- a. The articles entitled "Method of Measurement", "Basis of Payment" and "Acceptance of Bituminous Materials" will not apply.
- c. All work shall conform to NCDOT, Roadway Standards.

1.4 ASPHALT/BITUMINOUS PAVEMENT MATERIAL OPTION

The Contractor has the option to provide either of the following pavement

materials:

- a. Asphalt/Bituminous Mix with recycled aggregate material

Mix shall contain recycled/reclaimed asphalt material not to exceed 25 percent by weight of the total aggregate material. Mix design shall conform to Section 611 and the Sections for the Type of material specified. The submittal shall clearly state:

Recycled Asphalt Cement	Viscosity
New Asphalt Cement	Grade
Recycling Agent(s), if any	Properties
Mix Composition	Percentage of Each Component

- or -

- b. Asphalt/Bituminous Mix conforming to Section 610 and the Sections for the Type of material specified.

1.5 RECYCLED ASPHALT MATERIAL

Mix may contain a maximum of 25 percent by weight of the total aggregate material, reclaimed asphalt pavement (RAP). Mix design shall meet the requirements for the type of bituminous concrete specified. Clearly state the viscosity of reclaimed asphalt cement, grade of new asphalt cement, properties of recycled agent if used, and percentage of each in the mix. Combine asphalts and recycling agents to achieve a viscosity of 2000 plus or minus 400 poises at 140 degrees F. Furnish a new job mix formula for each change in percentage of RAP material used.

PART 2 PRODUCTS

2.1 TACK COAT

Work and materials shall conform to DOT Section 605.

2.2 ASPHALTIC CONCRETE BASE COURSE

Shall be Type I-19.0, conforming to Section 640.

2.3 ASPHALTIC CONCRETE SURFACE COURSE

Shall be NCDOT Type SF-9.5A, in accordance with Section 645.

2.4 AGGREGATE

2.4.1 Aggregate Base Course

Work and materials shall conform to Section 1005 and 1010, standard size ABC.

2.4.2 Stone

Work and materials shall conform to DOT Section 1005 and 1010, standard size 57.

2.5 PAVEMENT MARKING MATERIALS

Pavement marking materials, conforming to Section 920.

2.6 RIP RAP

Work and materials shall conform to Section 876, quarry run plain rip rap, Class B.

PART 3 EXECUTION

Not used. -- End of Section --

SECTION 02 82 30

RE-ESTABLISHING VEGETATION

03/12

PART 1 GENERAL

1.1 GENERAL REQUIREMENTS

The work covered by this section consists of preparing seedbeds; furnishing and placing limestone, fertilizer, and seed; compacting seedbeds; furnishing, placing, and securing mulch; mowing; and other operations necessary for the permanent establishment of grasses.

Seeding and mulching shall be performed on all earth areas disturbed by construction. The Contractor shall adapt his operations to variations in weather or soil conditions as necessary for the successful establishment and growth.

The quantity of mowing to be performed will be affected by the actual conditions which occur during the construction of the project. The quantity of mowing may be increased, decreased, or eliminated entirely at the direction of the Contracting Officer. Such variations in quantity will not be considered as alterations in the details of construction or a change in the character of the work.

PART 2 PRODUCTS

2.1 FERTILIZER

The quality of all fertilizer and all operations in connection with the furnishing of this material shall comply with the requirements of the North Carolina Fertilizer Law and with the rules and regulations, adopted by the North Carolina Board of Agriculture in accordance with the provisions of said law, in effect at the time of sampling. Fertilizer shall be 10-10-10. Dry fertilizer shall have been manufactured from cured stock. Liquid fertilizer shall be stored and cared for after manufacture in a manner that will prevent loss of plant food values.

2.2 LIMESTONE

The quality of all limestone and all operations in connection with the furnishing of this material shall comply with the requirements of the North Carolina Lime Law and with the rules and regulations adopted by the North Carolina Board of. Limestone shall be agricultural grade ground Dolomitic limestone. All limestone shall contain not less than 90 percent calcium carbonate equivalents. Dolomitic limestone shall contain not less than 10 percent of magnesium. Dolomitic limestone shall be so graded that at least 90 percent will pass through a U.S. Standard 20 mesh screen, and at least 35 percent will pass through a U.S. Standard 100 mesh screen.

2.3 SOD

Sod shall consist of a live, dense, well rooted growth of centipede grass free from an excessive amount of restricted noxious weeds as defined by the

North Carolina Board of Agriculture. The area from which sod is to be obtained shall have been mowed to a height of not less than 2 inches. Sod shall be cut into rectangular sections of sizes convenient for handling without breaking or loss of soil. It shall be cut with a sod cutter or other acceptable means to a depth that will retain in the sod practically all of the dense root system of the grass. During wet weather the sod shall be allowed to dry sufficiently before lifting to prevent tearing during handling and placing, and during extremely dry weather it shall be watered before lifting if such watering is necessary to insure its vitality and to prevent loss of soil during handling.

2.4 MULCH FOR EROSION CONTROL

Mulch for erosion control shall consist of grain straw or other acceptable material, and shall have been approved by the Contracting Officer before being used. All mulch shall be reasonably free from mature seed bearing stalks, roots, or bulblets. Material for holding mulch in place shall be asphalt or other approved binding material.

2.5 SEED

The quality of all seed and all operations in connection with the furnishing of this material shall comply with the requirements of the North Carolina Seed Law and with the rules and regulations adopted by the North Carolina Board of Agriculture. Seed shall have been approved by the North Carolina Department of Agriculture before being sown. No seed will be accepted with a date of test more than 8 months prior to the date of sowing, excluding the month in which the test was completed. Seed mix by weight shall be as specified on the plans.

2.6 MATTING FOR EROSION CONTROL

2.6.1 General

Matting for erosion control shall be or excelsior matting. Other acceptable material manufactured especially for erosion control may be used when approved by the Contracting Officer in writing before being used. Matting for erosion control shall not be dyed, bleached, or otherwise treated in a manner that will result in toxicity to vegetation.

2.6.2 Erosion Control Matting

Matting shall consist of a machine produced mat of curled wood excelsior a minimum of 47 inches in width. The mat shall weigh 1.6 pounds per square yard with a tolerance of plus or minus 10 percent. At least 80 percent of the individual fibers shall be 6 inches or more in length. The fibers shall be evenly distributed over the entire area of the blanket. One side of the excelsior matting shall be covered with an extruded plastic mesh. The mesh size for the plastic mesh shall be a maximum of 1 inch x 1 inch.

2.6.3 Wire Staples

Staples shall be machine made of No. 11 gage new steel wire formed into a "U" shape. The size when formed shall be not less than 6 inches in length with a throat of not less than 1 inch in width.

2.7 WATER

Water used in the planting or care of vegetation shall meet the requirements

of Class C fresh waters as defined in 15 NAC 2B.0200.

PART 3 EXECUTION

3.1 GENERAL REQUIREMENTS

The work shall be performed immediately upon completion of earthwork areas. No exception will be made to this requirement unless otherwise permitted in writing by the Contracting Officer. Upon failure or neglect on the part of the Contractor to coordinate his grading with seeding and mulching operations and diligently pursue the control of erosion and siltation, the Contracting Officer may suspend the Contractor's operations until such time as the work is coordinated in a manner acceptable to the Contracting Officer.

3.2 SEEDBED PREPARATION

The Contractor shall cut and satisfactorily dispose of weeds or other unacceptable growth on the areas to be seeded. The soil shall then be scarified or otherwise loosened to a depth of not less than 3 inches except as otherwise provided below or otherwise directed by the Contracting Officer. Clods shall be broken and the top 2 to 3 inches of soil shall be worked into an acceptable seedbed by the use of soil pulverizers, drags, or harrows; or by other methods approved by the Contracting Officer. All rock and debris 3 inches or larger shall be removed prior to the application of seed and fertilizer. On cut slopes that are 2:1 and steeper, both the depth of preparation and the degree of smoothness of the seedbed may be reduced as permitted by the Contracting Officer, but in all cases the slope surface shall be scarified, grooved, trenched, or punctured so as to provide pockets, ridges, or trenches in which the seeding materials can lodge. On cut slopes that are either 2:1 or steeper, the Contracting Officer may permit the preparation of a partial or complete seedbed during the initial grading of the slope. If at the time of final sodding and mulching operations such initial preparation is still in a condition acceptable to the Contracting Officer, additional seedbed preparation may be reduced or eliminated. Seedbed preparation within 2 feet of the edge of any pavement shall be limited to a depth of 2 to 3 inches. The preparation of seedbeds shall not be done when the soil is frozen, extremely wet, or when the Contracting Officer determines that it is an otherwise unfavorable working condition.

3.3 LIMESTONE AND FERTILIZER

Limestone may be applied as a part of the seedbed preparation, provided it is immediately worked into the soil. If not so applied, limestone and fertilizer shall be distributed uniformly over the prepared seedbed and then harrowed, raked, or otherwise thoroughly worked into the seedbed. Apply fertilizer at the rate as specified on the plans. Apply lime at the rate as specified on the plans. Application equipment for liquid fertilizer, other than a hydraulic seeder, shall be calibrated to ensure that the required rate of fertilizer is applied uniformly.

3.4 SODDING

Extreme care shall be exercised to prevent breaking the sod sections and to prevent the sod from drying out. Any sod that is torn, broken, or too dry will be rejected. Torn or broken sod, if kept moist, may be used for filling unavoidable small gaps in sod cover as permitted by the Contracting Officer. Sod shall be placed on the designated areas within 24 hours after

being cut. The area to be sodded shall be brought to a firm uniform surface. The limestone and fertilizer shall be distributed uniformly over the area. The area shall be roughened by means of picks, rakes, or other approved means to a depth of not less than 2 inches without distorting the uniformity of the surface. The finished surface shall be moistened with water prior to placing the sod. Within 24 hours after soil preparation has been completed, place the sod. Each piece of sod shall be packed tightly against the edge of adjacent pieces so that the fewest possible gaps will be left between the pieces. Unavoidable gaps shall be closed with small pieces of sod. Sod shall be placed beginning at either the top or the toe of the slope. Sod shall be placed with the long edge horizontal and with staggered vertical joints. The edge of the sod shall be turned slightly into the ground at the top of a slope and a layer of earth placed over it and tamped as to conduct the surface water over and onto the top of the sod. On all slopes 3:1 or steeper, in drainage channels, and on any areas that are in such condition that there is danger of sod slipping, sod shall be stapled in place by driving staples flush with the sod. Stapling shall be done concurrently with sod placement and prior to tamping. Use wire staples, per Section 2.6.3. The number of staples shall be sufficient to prevent slipping or displacement of the sod. Staples shall be driven perpendicular to the slope. Where backfill is necessary on cut slopes to obtain a uniform sodding area, staples shall be of sufficient length to reach a minimum of 3 inches into the solid earth underneath the backfill. Sod shall not be placed when the atmospheric temperature is below 32 degrees F. Frozen sod shall not be used. After sod has been placed and tamped, it shall be carefully and thoroughly watered as required to maintain the sod in a healthy condition. Watering shall be conducted until final acceptance. Application of water may be made by the use of hydraulic seeding equipment, farm type irrigation equipment, or by other acceptable means.

3.5 MULCHING

All seeded areas shall be mulched. Grain straw or excelsior mat may be used as mulch at any time of the year. Mulch shall be applied within 24 hours after completion of seeding unless otherwise permitted by the Contracting Officer. Care shall be exercised to prevent displacement of soil or seed or other damage to the seeded area during the mulching operations. Mulch shall be uniformly spread by hand or by approved mechanical spreaders or blowers which will provide an acceptable application. An acceptable application will be that which will allow some sunlight to penetrate and air to circulate but also partially shade the ground, reduce erosion, and conserve soil moisture. Mulch shall be held in place by applying a sufficient amount of asphalt or other approved binding material to assure that the mulch is properly held in place. The rate and method of application of binding material shall meet the approval of the Contracting Officer. Where the binding material is not applied directly with the mulch it shall be applied immediately following the mulch application. During the application of binding material, adequate precautions shall be taken to prevent damage to vehicles, structures, guardrails, and devices. Areas where seeding and mulching have been performed shall be maintained in a satisfactory condition until final acceptance of the project. Maintenance shall include mowing at the location and times directed by the Contracting Officer. Areas of damage or failure due to any cause shall be corrected by being repaired or by being completely redone as may be directed by the Contracting Officer. Excelsior matting shall be installed on all seeded slopes greater than 3:1 (h:v). Install the matting per the manufacturer's printed instructions.

3.6 SEEDING

Seed shall be distributed uniformly over the seedbed at the rate as specified on the plans. Seed shall be harrowed, dragged, raked, or otherwise worked so as to cover the seed with a layer of soil. The depth of covering shall be 1/4 inch. When a hydraulic seeder is used for application of seed and fertilizer, the seed shall not remain in water containing fertilizer for more than 30 minutes prior to application unless otherwise permitted by the Contracting Officer. Immediately after seed has been properly covered the seedbed shall be compacted in the manner and degree approved by the Contracting Officer.

-- End of Section --

SECTION 03 30 04
CONCRETE FOR MINOR STRUCTURES
04/06

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

ACI INTERNATIONAL (ACI)

- | | |
|--------------|--|
| ACI 308R | (2001) Guide to Curing Concrete |
| ACI 318/318R | (2005) Building Code Requirements for Structural Concrete and Commentary |

ASTM INTERNATIONAL (ASTM)

- | | |
|-------------------|---|
| ASTM A 185 | (2002) Steel Welded Wire Reinforcement, Plain, for Concrete |
| ASTM A 615/A 615M | (2005a) Deformed and Plain Billet-Steel Bars for Concrete Reinforcement |
| ASTM C 143/C 143M | (2005) Slump of Hydraulic Cement Concrete |
| ASTM C 150 | (2007) Standard Specification for Portland Cement |
| ASTM C 171 | (2003) Sheet Materials for Curing Concrete |
| ASTM C 172 | (2004) Sampling Freshly Mixed Concrete |
| ASTM C 231 | (2009a) Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method |
| ASTM C 260 | (2001) Air-Entraining Admixtures for Concrete |
| ASTM C 309 | (2003) Liquid Membrane-Forming Compounds for Curing Concrete |
| ASTM C 31/C 31M | (2003a) Making and Curing Concrete Test Specimens in the Field |
| ASTM C 33 | (2003) Concrete Aggregates |
| ASTM C 39/C 39M | (2004a) Compressive Strength of Cylindrical Concrete Specimens |
| ASTM C 494/C 494M | (2005) Chemical Admixtures for Concrete |

ASTM C 94/C 94M	(2007) Standard Specification for Ready-Mixed Concrete
ASTM D 1752	(2004a; R 2008) Standard Specification for Preformed Sponge Rubber Cork and Recycled PVC Expansion
ASTM D 75	(2003) Sampling Aggregates
ASTM D 98	(1998) Calcium Chloride
U.S. ARMY CORPS OF ENGINEERS (USACE)	
COE CRD-C 400	(1963) Requirements for Water for Use in Mixing or Curing Concrete

1.2 DESIGN AND PERFORMANCE REQUIREMENTS

The Government will maintain the option to sample and test aggregates and concrete to determine compliance with the specifications. The Contractor shall provide facilities and labor as may be necessary to assist the Government in procurement of representative test samples. Samples of aggregates will be obtained at the point of batching in accordance with ASTM D 75. Concrete will be sampled in accordance with ASTM C 172. Slump and air content will be determined in accordance with ASTM C 143/C 143M and ASTM C 231, respectively, when cylinders are molded. Compression test specimens will be made, cured, and transported in accordance with ASTM C 31/C 31M. Compression test specimens will be tested in accordance with ASTM C 39/C 39M. Samples for strength tests will be taken not less than once each shift in which concrete is produced. A minimum of three specimens will be made from each sample; two will be tested at 28 days (90 days if pozzolan is used) for acceptance, and one will be tested at 7 days for information.

1.2.1 Strength

Acceptance test results will be the average strengths of two specimens tested at 28 days (90 days if pozzolan is used). The strength of the concrete will be considered satisfactory so long as the average of three consecutive acceptance test results equal or exceed the specified compressive strength, $f'c$, and no individual acceptance test result falls below $f'c$ by more than 500 psi.

1.2.2 Concrete Mixture Proportions

Concrete mixture proportions shall be the responsibility of the Contractor. Mixture proportions shall include the dry weights of cementitious material(s); the nominal maximum size of the coarse aggregate; the specific gravities, absorptions, and saturated surface-dry weights of fine and coarse aggregates; the quantities, types, and names of admixtures; and quantity of water per cubic yard of concrete. All materials included in the mixture proportions shall be of the same type and from the same source as will be used on the project. Specified compressive strength $f'c$ shall be 3,000 psi at 28 days (90 days if pozzolan is used). The maximum nominal size coarse aggregate shall be 3/4 inch, in accordance with ACI 318/318R. The air content shall be between 4.5 and 7.5 percent. The slump shall be between 2 and 5 inches. The maximum water cement ratio shall be 0.50.

PART 2 PRODUCTS

2.1 MATERIALS

2.1.1 Cementitious Materials

Cementitious materials shall conform to the appropriate specifications listed:

2.1.1.1 Portland Cement

ASTM C 150, Type II.

2.1.2 Aggregates

Fine and coarse aggregates shall meet the quality and grading requirements of ASTM C 33 Class Designations 4M or better.

2.1.3 Admixtures

Admixtures to be used, when required or approved, shall comply with the appropriate specification listed. Chemical admixtures that have been in storage at the project site for longer than 6 months or that have been subjected to freezing shall be retested at the expense of the contractor at the request of the Contracting Officer and shall be rejected if test results are not satisfactory.

2.1.3.1 Air-Entraining Admixture

Air-entraining admixture shall meet the requirements of ASTM C 260.

2.1.3.2 Accelerating Admixture

Calcium chloride shall meet the requirements of ASTM D 98. Other accelerators shall meet the requirements of ASTM C 494/C 494M, Type C or E.

2.1.3.3 Water-Reducing or Retarding Admixture

Water-reducing or retarding admixture shall meet the requirements of ASTM C 494/C 494M, Type A, B, or D.

2.1.4 Water

Water for mixing and curing shall be fresh, clean, potable, and free from injurious amounts of oil, acid, salt, or alkali, except that unpotable water may be used if it meets the requirements of COE CRD-C 400.

2.1.5 Reinforcing Steel

Reinforcing steel bar shall conform to the requirements of ASTM A 615/A 615M, Grade 60. Welded steel wire fabric shall conform to the requirements of ASTM A 185. Details of reinforcement not shown shall be in accordance with ACI 318/318R, Chapters 7 and 12.

2.1.6 Expansion Joint Filler Strips, Premolded

Expansion joint filler strips, premolded shall be sponge rubber conforming to ASTM D 1752, Type I.

2.1.7 Formwork

The design and engineering of the formwork as well as its construction, shall be the responsibility of the Contractor.

2.1.8 Form Coatings

Forms for exposed surfaces shall be coated with a nonstaining form oil, which shall be applied shortly before concrete is placed.

2.1.9 Curing Materials

Curing materials shall conform to the following requirements.

2.1.9.1 Impervious Sheet Materials

Impervious sheet materials, ASTM C 171, type optional, except polyethylene film, if used, shall be white opaque.

2.1.9.2 Membrane-Forming Curing Compound

ASTM C 309, Type 1-D or 2, Class A.

PART 3 EXECUTION

3.1 PREPARATION

3.1.1 General

Construction joints shall be prepared to expose coarse aggregate, and the surface shall be clean, damp, and free of laitance. Ramps and walkways, as necessary, shall be constructed to allow safe and expeditious access for concrete and workmen. Snow, ice, standing or flowing water, loose particles, debris, and foreign matter shall have been removed. Earth foundations shall be satisfactorily compacted. Spare vibrators shall be available. The entire preparation shall be accepted by the Government prior to placing.

3.1.2 Embedded Items

Reinforcement shall be secured in place; joints, anchors, and other embedded items shall have been positioned. Internal ties shall be arranged so that when the forms are removed the metal part of the tie will be not less than 2 inches from concrete surfaces permanently exposed to view or exposed to water on the finished structures. Embedded items shall be free of oil and other foreign matters such as loose coatings or rust, paint, and scale. The embedding of wood in concrete will be permitted only when specifically authorized or directed. All equipment needed to place, consolidate, protect, and cure the concrete shall be at the placement site and in good operating condition.

3.1.3 Formwork Installation

Forms shall be properly aligned, adequately supported, and mortar-tight. The form surfaces shall be smooth and free from irregularities, dents, sags, or holes when used for permanently exposed faces. All exposed joints and edges shall be chamfered, unless otherwise indicated.

3.1.4 Production of Concrete

3.1.4.1 Ready-Mixed Concrete

Ready-mixed concrete shall conform to ASTM C 94/C 94M except as otherwise specified.

3.2 CONVEYING AND PLACING CONCRETE

Conveying and placing concrete shall conform to the following requirements.

3.2.1 General

Concrete placement shall not be permitted when weather conditions prevent proper placement and consolidation without approval. When concrete is mixed and/or transported by a truck mixer, the concrete shall be delivered to the site of the work and discharge shall be completed within 1-1/2 hours or 45 minutes when the placing temperature is 85 degrees F or greater unless a retarding admixture is used. Concrete shall be conveyed from the mixer to the forms as rapidly as practicable by methods which prevent segregation or loss of ingredients. Concrete shall be in place and consolidated within 15 minutes after discharge from the mixer. Concrete shall be deposited as close as possible to its final position in the forms and be so regulated that it may be effectively consolidated in horizontal layers 18 inches or less in thickness with a minimum of lateral movement. The placement shall be carried on at such a rate that the formation of cold joints will be prevented.

3.2.2 Consolidation

Each layer of concrete shall be consolidated by rodding, spading, or internal vibrating equipment. Internal vibration shall be systematically accomplished by inserting the vibrator through the fresh concrete in the layer below at a uniform spacing over the entire area of placement. The distance between insertions shall be approximately 1.5 times the radius of action of the vibrator and overlay the adjacent, just-vibrated area by a few inches. The vibrator shall penetrate rapidly to the bottom of the layer and at least 6 inches into the layer below, if such a layer exists. It shall be held stationary until the concrete is consolidated and then withdrawn slowly at the rate of about 3 inches per second.

3.2.3 Cold-Weather Requirements

No concrete placement shall be made when the ambient temperature is below 35 degrees F or if the ambient temperature is below 40 degrees F and falling. Suitable covering and other means as approved shall be provided for maintaining the concrete at a temperature of at least 50 degrees F for not less than 72 hours after placing and at a temperature above freezing for the remainder of the curing period. Salt, chemicals, or other foreign materials shall not be mixed with the concrete to prevent freezing. Any concrete damaged by freezing shall be removed and replaced at the expense of the contractor.

3.2.4 Hot-Weather Requirements

When the rate of evaporation of surface moisture, as determined by use of Figure 1 of ACI 308R, is expected to exceed 0.2 psf per hour, provisions for windbreaks, shading, fog spraying, or covering with a light-colored material shall be made in advance of placement, and such protective

measures shall be taken as quickly as finishing operations will allow.

3.3 FORM REMOVAL

Forms shall not be removed before the expiration of 24 hours after concrete placement except where otherwise specifically authorized. Supporting forms and shoring shall not be removed until the concrete has cured for at least 5 days. When conditions on the work are such as to justify the requirement, forms will be required to remain in place for longer periods.

3.4 FINISHING

3.4.1 General

No finishing or repair will be done when either the concrete or the ambient temperature is below 50 degrees F.

3.4.2 Finishing Formed Surfaces

All fins and loose materials shall be removed, and surface defects including tie holes shall be filled. All honeycomb areas and other defects shall be repaired. All unsound concrete shall be removed from areas to be repaired. Surface defects greater than 1/2 inch in diameter and holes left by removal of tie rods in all surfaces not to receive additional concrete shall be reamed or chipped and filled with dry-pack mortar. The prepared area shall be brush-coated with an approved epoxy resin or latex bonding compound or with a neat cement grout after dampening and filled with mortar or concrete. The cement used in mortar or concrete for repairs to all surfaces permanently exposed to view shall be a blend of portland cement and white cement so that the final color when cured will be the same as adjacent concrete.

3.4.3 Finishing Unformed Surfaces

All unformed surfaces that are not to be covered by additional concrete or backfill shall be float finished to elevations shown, unless otherwise specified. Surfaces to receive additional concrete or backfill shall be brought to the elevations shown and left as a true and regular surface. Exterior surfaces shall be sloped for drainage unless otherwise shown. Joints shall be carefully made with a jointing tool. Unformed surfaces shall be finished to a tolerance of 3/8 inch for a float finish as determined by a 10 foot straightedge placed on surfaces shown on the plans to be level or having a constant slope. Finishing shall not be performed while there is excess moisture or bleeding water on the surface. No water or cement shall be added to the surface during finishing.

3.4.3.1 Broom Finish

A broom finish shall be applied. The concrete shall be screeded and floated to required finish plane with no coarse aggregate visible. After surface moisture disappears, the surface shall be broomed or brushed with a broom or fiber bristle brush in a direction transverse to that of the main traffic or as directed.

3.4.3.2 Expansion and Contraction Joints

Expansion and contraction joints shall be made in accordance with the details shown or as otherwise specified. Provide 1/2 inch thick transverse expansion joints where new work abuts an existing concrete. Expansion

joints shall be provided at a maximum spacing of 50 feet on center in sidewalks, unless otherwise indicated. Contraction joints shall be provided at a maximum spacing of 5 linear feet in sidewalks, unless otherwise indicated. Contraction joints shall be cut at a minimum of 1 inch deep with a jointing tool after the surface has been finished.

3.5 CURING AND PROTECTION

Beginning immediately after placement and continuing for at least 7 days, all concrete shall be cured and protected from premature drying, extremes in temperature, rapid temperature change, freezing, mechanical damage, and exposure to rain or flowing water. All materials and equipment needed for adequate curing and protection shall be available and at the site of the placement prior to the start of concrete placement. Preservation of moisture for concrete surfaces not in contact with forms shall be accomplished by one of the following methods:

- a. Continuous sprinkling or ponding.
- b. Application of absorptive mats or fabrics kept continuously wet.
- c. Application of sand kept continuously wet.
- d. Application of impervious sheet material conforming to ASTM C 171.
- e. Application of membrane-forming curing compound conforming to ASTM C 309, Type 1-D, on surfaces permanently exposed to view and Type 2 on other surfaces shall be accomplished in accordance with manufacturer's instructions.

The preservation of moisture for concrete surfaces placed against wooden forms shall be accomplished by keeping the forms continuously wet for 7 days. If forms are removed prior to end of the required curing period, other curing methods shall be used for the balance of the curing period. During the period of protection removal, the temperature of the air in contact with the concrete shall not be allowed to drop more than 25 degrees F within a 24 hour period.

3.6 TESTS AND INSPECTIONS

3.6.1 General

The individuals who sample and test concrete as required in this specification shall have demonstrated a knowledge and ability to perform the necessary test procedures equivalent to the ACI minimum guidelines for certification of Concrete Field Testing Technicians, Grade I.

3.6.2 Inspection Details and Frequency of Testing

3.6.2.1 Preparations for Placing

Foundation or construction joints, forms, and embedded items shall be inspected in sufficient time prior to each concrete placement by the Contractor to certify that it is ready to receive concrete.

3.6.2.2 Air Content

Air content shall be checked at least twice during each shift that concrete is placed. Samples shall be obtained in accordance with ASTM C 172 and

tested in accordance with ASTM C 231.

3.6.2.3 Slump

Slump shall be checked once for each truck load of concrete delivered to the job site. Samples shall be obtained in accordance with ASTM C 172 and tested in accordance with ASTM C 143/C 143M.

3.6.2.4 Compressive Strength

Provide one sample set for each 10 cubic yards of concrete placed; however, provide one sample for each abutment wall as a minimum in accordance with ASTM C 39/C 39M.

3.6.3 Action Required

3.6.3.1 Placing

The placing foreman shall not permit placing to begin until he has verified that an adequate number of acceptable vibrators, which are in working order and have competent operators, are available. Placing shall not be continued if any pile is inadequately consolidated.

3.6.3.2 Air Content

Whenever a test result is outside the specification limits, the concrete shall not be delivered to the forms and an adjustment shall be made to the dosage of the air-entrainment admixture.

3.6.3.3 Slump

Whenever a test result is outside the specification limits, the concrete shall not be delivered to the forms and an adjustment should be made in the batch weights of water and fine aggregate. The adjustments are to be made so that the water-cement ratio does not exceed that specified in the submitted concrete mixture proportion.

3.6.4 Reports

The results of all tests and inspections conducted at the project site shall be reported informally at the end of each shift and in writing weekly and shall be delivered within 3 days after the end of each weekly reporting period.

-- End of Section --

SECTION 31 23 00.00 20

EXCAVATION AND FILL

04/06

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

AMERICAN WATER WORKS ASSOCIATION (AWWA)

AWWA C600 (2005) Installation of Ductile-Iron Water Mains and Their Appurtenances

ASTM INTERNATIONAL (ASTM)

ASTM C 136 (2006) Standard Test Method for Sieve Analysis of Fine and Coarse Aggregates

ASTM C 33 (2003) Concrete Aggregates

ASTM D 1140 (2000) Amount of Material in Soils Finer than the No. 200 (75-micrometer) Sieve

ASTM D 1556 (2000) Density and Unit Weight of Soil in Place by the Sand-Cone Method

ASTM D 1557 (2009) Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³) (2700 kN-m/m³)

ASTM D 2321 (2005) Underground Installation of Thermoplastic Pipe for Sewers and Other Gravity-Flow Applications

ASTM D 2487 (2006e1) Soils for Engineering Purposes (Unified Soil Classification System)

ASTM D 2922 (2004) Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)

ASTM D 3017 (2004) Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth)

ASTM D 4318 (2005) Liquid Limit, Plastic Limit, and Plasticity Index of Soils

ASTM D 698 (2007e1) Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lbf/cu. ft. (600 kN-m/cu. m.))

U.S. ARMY CORPS OF ENGINEERS (USACE)

EM 385-1-1 (2003) Safety -- Safety and Health Requirements

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

EPA 530/F-93/004 (1993; Rev O; Updates I, II, IIA, IIB, and III) Test Methods for Evaluating Solid Waste (Vol IA, IB, IC, and II) (SW-846)

EPA 600/4-79/020 (1983) Methods for Chemical Analysis of Water and Wastes

1.2 DEFINITIONS

1.2.1 Degree of Compaction

Degree of compaction is expressed as a percentage of the maximum density obtained by the test procedure presented in ASTM D 698, for general soil types, abbreviated as percent laboratory maximum density.

1.2.2 Hard Materials

Weathered rock, dense consolidated deposits, or conglomerate materials which are not included in the definition of "rock" but which usually require the use of heavy excavation equipment, ripper teeth, or jack hammers for removal.

1.2.3 Rock

Solid homogeneous interlocking crystalline material with firmly cemented, laminated, or foliated masses or conglomerate deposits, neither of which can be removed without systematic drilling and blasting, drilling and the use of expansion jacks or feather wedges, or the use of backhoe-mounted pneumatic hole punchers or rock breakers; also large boulders, buried masonry, or concrete other than pavement exceeding 1/2 cubic yard in volume. Removal of hard material will not be considered rock excavation because of intermittent drilling and blasting that is performed merely to increase production.

1.3 SUBMITTALS

The following shall be submitted:

SD-01 Preconstruction Submittals

Shoring and Sheeting Plan

Dewatering work plan

Submit 15 days prior to starting work.

SD-06 Test Reports

Borrow Site Testing

Fill and backfill test

Select material test

Porous fill test for capillary water barrier

Density tests

Moisture Content Tests

Copies of all laboratory and field test reports within 24 hours of the completion of the test.

1.4 DELIVERY, STORAGE, AND HANDLING

Perform in a manner to prevent contamination or segregation of materials.

1.5 CRITERIA FOR BIDDING

Base bids on the following criteria:

- a. Surface elevations are as indicated.
- b. Pipes or other artificial obstructions, except those indicated, will not be encountered.
- c. Hard materials and rock will not be encountered.
- d. Borrow material in the quantities required is not available on Government property.
- e. Blasting will not be permitted. Remove material in an approved manner.

1.6 REQUIREMENTS FOR OFF SITE SOIL

Soils brought in from off site for use as backfill shall be tested for TPH, BTEX and full TCLP including ignitability, corrosivity and reactivity. Backfill shall contain less than 100 parts per million (ppm) of total petroleum hydrocarbons (TPH) and less than 10 ppm of the sum of Benzene, Toluene, Ethyl Benzene, and Xylene (BTEX) and shall not fail the TCPL test. TPH concentrations shall be determined by using EPA 600/4-79/020 Method 418.1. BTEX concentrations shall be determined by using EPA 530/F-93/004 Method 5030/8020. TCLP shall be performed in accordance with EPA 530/F-93/004 Method 1311. Provide Borrow Site Testing for TPH, BTEX and TCLP from a composite sample of material from the borrow site, with at least one test from each borrow site. Material shall not be brought on site until tests have been approved by the Contracting Officer.

1.7 QUALITY ASSURANCE

1.7.1 Shoring and Sheet piling Plan

Submit drawings and calculations, certified by a registered professional engineer, describing the methods for shoring and sheet piling of excavations. Drawings shall include material sizes and types, arrangement of members, and the sequence and method of installation and removal. Calculations shall include data and references used.

The Contractor is required to hire a Professional Geotechnical Engineer to provide inspection of excavations and soil/groundwater conditions

throughout construction. The Geotechnical Engineer shall be responsible for performing pre-construction and periodic site visits throughout construction to assess site conditions. The Geotechnical Engineer shall update the excavation, sheeting and dewatering plans as construction progresses to reflect changing conditions and shall submit an updated plan if necessary. A written report shall be submitted, at least monthly, informing the Contractor and Contracting Officer of the status of the plan and an accounting of the Contractor's adherence to the plan addressing any present or potential problems. The Geotechnical Engineer shall be available to meet with the Contracting Officer at any time throughout the contract duration.

1.7.2 Dewatering Work Plan

Submit procedures for accomplishing dewatering work.

1.7.3 Utilities

Movement of construction machinery and equipment over pipes and utilities during construction shall be at the Contractor's risk. Perform work adjacent to non-Government utilities as indicated in accordance with procedures outlined by utility company. Excavation made with power-driven equipment is not permitted within two feet of known Government-owned utility or subsurface construction. For work immediately adjacent to or for excavations exposing a utility or other buried obstruction, excavate by hand. Start hand excavation on each side of the indicated obstruction and continue until the obstruction is uncovered or until clearance for the new grade is assured. Support uncovered lines or other existing work affected by the contract excavation until approval for backfill is granted by the Contracting Officer. Report damage to utility lines or subsurface construction immediately to the Contracting Officer.

PART 2 PRODUCTS

2.1 SOIL MATERIALS

2.1.1 Satisfactory Materials

Any materials classified by ASTM D 2487 as GW, GP, SW, SP free of debris, roots, wood, scrap material, vegetation, refuse, soft unsound particles, and frozen, deleterious, or objectionable materials. Unless specified otherwise, the maximum particle diameter shall be one-half the lift thickness at the intended location.

2.1.2 Unsatisfactory Materials

Materials which do not comply with the requirements for satisfactory materials. Unsatisfactory materials also include man-made fills, trash, refuse, or backfills from previous construction. Unsatisfactory material also includes material classified as satisfactory which contains root and other organic matter, frozen material, and stones larger than 1/2 inches. The Contracting Officer shall be notified of any contaminated materials.

2.1.3 Cohesionless and Cohesive Materials

Cohesionless materials include materials classified in ASTM D 2487 as GW, GP, SW, and SP. Cohesive materials include materials classified as GC, SC, ML, CL, MH, and CH. Materials classified as GM, GP-GM, GW-GM, SW-SM, SP-SM, and SM shall be identified as cohesionless only when the fines are

nonplastic (plasticity index equals zero). Materials classified as GM and SM will be identified as cohesive only when the fines have a plasticity index greater than zero.

2.1.4 Common Fill

Approved, unclassified soil material with the characteristics required to compact to the soil density specified for the intended location.

2.1.5 Backfill and Fill Material

ASTM D 2487, classification GW, GP, SW, SP with a maximum ASTM D 4318 liquid limit of 35, maximum ASTM D 4318 plasticity index of 12, and a maximum of 25 percent by weight passing ASTM D 1140, No. 200 sieve.

2.1.6 Select Material

Provide materials classified as GW, GP, SW, SP, by ASTM D 2487 where indicated. The liquid limit of such material shall not exceed 35 percent when tested in accordance with ASTM D 4318. The plasticity index shall not be greater than 12 percent when tested in accordance with ASTM D 4318, and not more than 35 percent by weight shall be finer than No. 200 sieve when tested in accordance with ASTM D 1140.

2.1.7 Topsoil

Natural, friable soil representative of productive, well-drained soils in the area, free of subsoil, stumps, rocks larger than one inch diameter, brush, weeds, toxic substances, and other material detrimental to plant growth. Amend topsoil pH range to obtain a pH of 5.5 to 7.

2.2 POROUS FILL FOR CAPILLARY WATER BARRIER

ASTM C 33 fine aggregate grading with a maximum of 3 percent by weight passing ASTM D 1140, No. 200 sieve and conforming to the general soil material requirements specified in paragraph entitled "Satisfactory Materials."

2.3 UTILITY BEDDING MATERIAL

Except as specified otherwise in the individual piping section, provide bedding for buried piping in accordance with AWWA C600, Type 4, except as specified herein. Backfill to top of pipe shall be compacted to 95 percent of ASTM D 698 maximum density. Plastic piping shall have bedding to spring line of pipe. Provide ASTM D 2321 materials as follows:

- a. Class I: Angular, 0.25 to 1.5 inches, graded stone, including a number of fill materials that have regional significance such as coral, slag, cinders, crushed stone, and crushed shells.
- b. Class II: Coarse sands and gravels with maximum particle size of 1.5 inches, including various graded sands and gravels containing small percentages of fines, generally granular and noncohesive, either wet or dry. Soil Types GW, GP, SW, and SP are included in this class as specified in ASTM D 2487.

2.3.1 Gravel

Clean, coarsely graded natural gravel, crushed stone or a combination

thereof having a classification of GW, GP in accordance with ASTM D 2487 for bedding. Maximum particle size shall not exceed 3 inches.

2.4 BORROW

Obtain borrow materials required in excess of those furnished from excavations from sources outside of Government property.

2.5 BURIED WARNING AND IDENTIFICATION TAPE

Polyethylene plastic and metallic core or metallic-faced, acid- and alkali-resistant, polyethylene plastic warning tape manufactured specifically for warning and identification of buried utility lines. Provide tape on rolls, 3 inch minimum width, color coded as specified below for the intended utility with warning and identification imprinted in bold black letters continuously over the entire tape length. Warning and identification to read, "CAUTION, BURIED (intended service) LINE BELOW" or similar wording. Color and printing shall be permanent, unaffected by moisture or soil.

Warning Tape Color Codes

Yellow:	Electric
Yellow:	Gas, Oil; Dangerous Materials
Orange:	Telephone and Other Communications
Blue:	Water Systems
Green:	Sewer Systems
White:	Steam Systems
Gray:	Compressed Air

2.5.1 Warning Tape for Metallic Piping

Acid and alkali-resistant polyethylene plastic tape conforming to the width, color, and printing requirements specified above. Minimum thickness of tape shall be 0.003 inch. Tape shall have a minimum strength of 1500 psi lengthwise, and 1250 psi crosswise, with a maximum 350 percent elongation.

2.5.2 Detectable Warning Tape for Non-Metallic Piping

Polyethylene plastic tape conforming to the width, color, and printing requirements specified above. Minimum thickness of the tape shall be 0.004 inch. Tape shall have a minimum strength of 1500 psi lengthwise and 1250 psi crosswise. Tape shall be manufactured with integral wires, foil backing, or other means of enabling detection by a metal detector when tape is buried up to 3 feet deep. Encase metallic element of the tape in a protective jacket or provide with other means of corrosion protection.

2.6 DETECTION WIRE FOR NON-METALLIC PIPING

Detection wire shall be insulated single strand, solid copper with a minimum of 12 AWG.

PART 3 EXECUTION

3.1 PROTECTION

3.1.1 Shoring and Sheeting

Provide shoring bracing, cribbing, trench boxes, underpinning and sheeting. In addition to Section 25 A and B of EM 385-1-1 and other requirements set forth in this contract, include provisions in the shoring and sheeting plan that will accomplish the following:

- a. Prevent undermining of pavements, foundations and slabs.
- b. Prevent slippage or movement in banks or slopes adjacent to the excavation.

3.1.2 Drainage and Dewatering

Provide for the collection and disposal of surface and subsurface water encountered during construction.

3.1.2.1 Drainage

So that construction operations progress successfully, completely drain construction site during periods of construction to keep soil materials sufficiently dry. The Contractor shall establish/construct storm drainage features (ponds/basins) at the earliest stages of site development, and throughout construction grade the construction area to provide positive surface water runoff away from the construction activity and/or provide temporary ditches, swales, and other drainage features and equipment as required to maintain dry soils, prevent erosion and undermining of foundations. When unsuitable working platforms for equipment operation and unsuitable soil support for subsequent construction features develop, remove unsuitable material and provide new soil material as specified herein. It is the responsibility of the Contractor to assess the soil and ground water conditions presented by the plans and specifications and to employ necessary measures to permit construction to proceed. Excavated slopes and backfill surfaces shall be protected to prevent erosion and sloughing. Excavation shall be performed so that the site, the area immediately surrounding the site, and the area affecting operations at the site shall be continually and effectively drained.

3.1.2.2 Dewatering

Groundwater flowing toward or into excavations shall be controlled to prevent sloughing of excavation slopes and walls, boils, uplift and heave in the excavation and to eliminate interference with orderly progress of construction. French drains, sumps, ditches or trenches will not be permitted within 3 feet of the foundation of any structure, except with specific written approval, and after specific contractual provisions for restoration of the foundation area have been made. Control measures shall be taken by the time the excavation reaches the water level in order to maintain the integrity of the in situ material. While the excavation is open, the water level shall be maintained continuously, at least two feet below the working level.

3.1.3 Underground Utilities

Location of the existing utilities indicated is approximate. The

Contractor shall physically verify the location and elevation of the existing utilities indicated prior to starting construction. The Contractor shall scan the construction site with electromagnetic and sonic equipment and mark the surface of the ground where existing underground utilities are discovered.

3.1.4 Machinery and Equipment

Movement of construction machinery and equipment over pipes during construction shall be at the Contractor's risk. Repair, or remove and provide new pipe for existing or newly installed pipe that has been displaced or damaged.

3.2 SURFACE PREPARATION

3.2.1 Stripping

Strip suitable soil from the site where excavation or grading is indicated and stockpile separately from other excavated material. Material unsuitable for use as topsoil shall be wasted. Locate topsoil so that the material can be used readily for the finished grading. Where sufficient existing topsoil conforming to the material requirements is not available on site, provide borrow materials suitable for use as topsoil. Protect topsoil and keep in segregated piles until needed.

3.2.2 Unsuitable Material

Remove vegetation, debris, decayed vegetable matter, sod, mulch, and rubbish underneath paved areas or concrete slabs.

3.3 EXCAVATION

Excavate to contours, elevation, and dimensions indicated. Reuse excavated materials that meet the specified requirements for the material type required at the intended location. Keep excavations free from water. Excavate soil disturbed or weakened by Contractor's operations, soils softened or made unsuitable for subsequent construction due to exposure to weather. Excavations below indicated depths will not be permitted except to remove unsatisfactory material. Unsatisfactory material encountered below the grades shown shall be removed as directed. Refill with select material and compact to 95 percent of ASTM D 698 maximum density. Unless specified otherwise, refill excavations cut below indicated depth with select material and compact to 95 percent of ASTM D 698 maximum density. Satisfactory material removed below the depths indicated, without specific direction of the Contracting Officer, shall be replaced with satisfactory materials to the indicated excavation grade; except as specified for spread footings. Determination of elevations and measurements of approved overdepth excavation of unsatisfactory material below grades indicated shall be done under the direction of the Contracting Officer.

3.3.1 Structures With Spread Footings

Ensure that footing subgrades have been inspected and approved by the Contracting Officer prior to concrete placement. Fill over excavations with concrete during foundation placement.

3.3.2 Pipe Trenches

Excavate to the dimension indicated. Grade bottom of trenches to provide

uniform support for each section of pipe after pipe bedding placement. Tamp if necessary to provide a firm pipe bed. Recesses shall be excavated to accommodate bells and joints so that pipe will be uniformly supported for the entire length. Rock, where encountered, shall be excavated to a depth of at least 6 inches below the bottom of the pipe.

3.3.3 Hard Material Excavation

Remove hard material to elevations indicated in a manner that will leave foundation material in an unshattered and solid condition. Roughen level surfaces and cut sloped surfaces into benches for bond with concrete. Protect shale from conditions causing decomposition along joints or cleavage planes and other types of erosion. Removal of hard material beyond lines and grades indicated will not be grounds for a claim for additional payment unless previously authorized by the Contracting Officer. Excavation of the material claimed as rock shall not be performed until the material has been cross sectioned by the Contractor and approved by the Contracting Officer. Common excavation shall consist of all excavation not classified as rock excavation.

3.3.4 Excavated Materials

Satisfactory excavated material required for fill or backfill shall be placed in the proper section of the permanent work required or shall be separately stockpiled if it cannot be readily placed. Satisfactory material in excess of that required for the permanent work and all unsatisfactory material shall be disposed of as specified in Paragraph "DISPOSITION OF SURPLUS MATERIAL."

3.3.5 Final Grade of Surfaces to Support Concrete

Excavation to final grade shall not be made until just before concrete is to be placed. Only excavation methods that will leave the foundation rock in a solid and unshattered condition shall be used. Approximately level surfaces shall be roughened, and sloped surfaces shall be cut as indicated into rough steps or benches to provide a satisfactory bond. Shales shall be protected from slaking and all surfaces shall be protected from erosion resulting from ponding or flow of water.

3.4 SUBGRADE PREPARATION

Unsatisfactory material in surfaces to receive fill or in excavated areas shall be removed and replaced with satisfactory materials as directed by the Contracting Officer. The surface shall be scarified to a depth of 6 inches before the fill is started. Sloped surfaces steeper than 1 vertical to 4 horizontal shall be plowed, stepped, benched, or broken up so that the fill material will bond with the existing material. When subgrades are less than the specified density, the ground surface shall be broken up to a minimum depth of 6 inches, pulverized, and compacted to the specified density. When the subgrade is part fill and part excavation or natural ground, the excavated or natural ground portion shall be scarified to a depth of 12 inches and compacted as specified for the adjacent fill. Material shall not be placed on surfaces that are muddy, frozen, or contain frost. Compaction shall be accomplished by sheepsfoot rollers, pneumatic-tired rollers, steel-wheeled rollers, or other approved equipment well suited to the soil being compacted. Material shall be moistened or aerated as necessary to provide the moisture content that will readily facilitate obtaining the specified compaction with the equipment used. Minimum subgrade density shall be as specified herein.

3.4.1 Proof Rolling

Proof rolling shall be done on an exposed subgrade free of surface water (wet conditions resulting from rainfall) which would promote degradation of an otherwise acceptable subgrade. After stripping, proof roll the existing subgrade of the building and paved areas with six passes of a dump truck loaded with 6 cubic meters of soil. Operate the truck in a systematic manner to ensure the number of passes over all areas, and at speeds between 2 1/2 to 3 1/2 miles per hour. When proof rolling under buildings, the building subgrade shall be considered to extend 5 feet beyond the building lines, and one-half of the passes made with the roller shall be in a direction perpendicular to the other passes. Notify the Contracting Officer a minimum of 3 days prior to proof rolling. Proof rolling shall be performed in the presence of the Contracting Officer. Rutting or pumping of material shall be undercut as directed by the Contracting Officer.

3.5 FILLING AND BACKFILLING

Fill and backfill to contours, elevations, and dimensions indicated. Compact each lift before placing overlaying lift.

3.5.1 Common Fill Placement

Provide for general site. Use satisfactory materials. Place in 6 inch lifts. Compact areas not accessible to rollers or compactors with mechanical hand tampers. Aerate material excessively moistened by rain to a satisfactory moisture content. Finish to a smooth surface by blading, rolling with a smooth roller, or both.

3.5.2 Backfill and Fill Material Placement

Provide for paved areas and under concrete slabs, except where select material is provided. Place in 6 inch lifts. Do not place over wet or frozen areas. Place backfill material adjacent to structures as the structural elements are completed and accepted. Backfill against concrete only when approved. Place and compact material to avoid loading upon or against the structure.

3.5.3 Select Material Placement

Provide under porous fill of structures not pile supported. Place in 6 inch lifts. Do not place over wet or frozen areas. Backfill adjacent to structures shall be placed as structural elements are completed and accepted. Backfill against concrete only when approved. Place and compact material to avoid loading upon or against structure.

3.5.4 Backfill and Fill Material Placement Over Pipes and at Walls

Backfilling shall not begin until construction below finish grade has been approved, underground utilities systems have been inspected, tested and approved, forms removed, and the excavation cleaned of trash and debris. Backfill shall be brought to indicated finish grade and shall include backfill for outside grease interceptors and underground fuel tanks. Where pipe is coated or wrapped for protection against corrosion, the backfill material up to an elevation 2 feet above sewer lines and 1 foot above other utility lines shall be free from stones larger than 1 inch in any dimension. Heavy equipment for spreading and compacting backfill shall not be operated closer to foundation or retaining walls than a distance equal

to the height of backfill above the top of footing; the area remaining shall be compacted in layers not more than 4 inches in compacted thickness with power-driven hand tampers suitable for the material being compacted. Backfill shall be placed carefully around pipes or tanks to avoid damage to coatings, wrappings, or tanks. Backfill shall not be placed against foundation walls prior to 7 days after completion of the walls. As far as practicable, backfill shall be brought up evenly on each side of the wall and sloped to drain away from the wall.

3.5.5 Porous Fill Placement

Provide under floor and area-way slabs on a compacted subgrade. Place in 4 inch lifts with a minimum of two passes of a hand-operated plate-type vibratory compactor.

3.5.6 Trench Backfilling

Backfill as rapidly as construction, testing, and acceptance of work permits. Place and compact backfill under structures and paved areas in 6 inch lifts to top of trench and in 6 inch lifts to one foot over pipe outside structures and paved areas.

3.6 BORROW

Where satisfactory materials are not available in sufficient quantity from required excavations, approved borrow materials shall be obtained as specified herein.

3.7 BURIED WARNING AND IDENTIFICATION TAPE

Provide buried utility lines with utility identification tape. Bury tape 12 inches below finished grade; under pavements and slabs, bury tape 6 inches below top of subgrade.

3.8 BURIED DETECTION WIRE

Bury detection wire directly above non-metallic piping at a distance not to exceed 12 inches above the top of pipe. The wire shall extend continuously and unbroken, from manhole to manhole. The ends of the wire shall terminate inside the manholes at each end of the pipe, with a minimum of 3 feet of wire, coiled, remaining accessible in each manhole. The wire shall remain insulated over its entire length. The wire shall enter manholes between the top of the corbel and the frame, and extend up through the chimney seal between the frame and the chimney seal. For force mains, the wire shall terminate in the valve pit at the pump station end of the pipe.

3.9 COMPACTION

Determine in-place density of existing subgrade; if required density exists, no compaction of existing subgrade will be required. Density requirements specified herein are for cohesionless materials. When cohesive materials are encountered or used, density requirements may be reduced by 5 percent.

3.9.1 General Site

Compact underneath areas designated for vegetation and areas outside the 5 foot line of the paved area or structure to 90 percent of ASTM D 698.

3.9.2 Structures, Spread Footings, and Concrete Slabs

Compact top 12 inches of subgrades to 95 percent of ASTM D 698. Compact common fill, fill and backfill material, select material to 95 percent of ASTM D 698.

3.9.3 Adjacent Area

Compact areas within 5 feet of structures to 90 percent of ASTM D 698.

3.9.4 Paved Areas

Compact top 12 inches of subgrades to 95 percent of ASTM D 698. Compact fill and backfill materials to 95 percent of ASTM D 698.

3.10 RIP-RAP CONSTRUCTION

Construct rip-rap on filter fabric in accordance with NCDOT, Section 876.

3.10.1 Preparation

Trim and dress indicated areas to conform to cross sections, lines and grades shown within a tolerance of 0.1 foot.

3.10.2 Bedding Placement

Spread filter fabric on prepared subgrade as indicated.

3.10.3 Stone Placement

Place rock for rip-rap on prepared bedding material to produce a well graded mass with the minimum practicable percentage of voids in conformance with lines and grades indicated. Distribute larger rock fragments, with dimensions extending the full depth of the rip-rap throughout the entire mass and eliminate "pockets" of small rock fragments. Rearrange individual pieces by mechanical equipment or by hand as necessary to obtain the distribution of fragment sizes specified above.

3.11 FINISH OPERATIONS

3.11.1 Grading

Finish grades as indicated within one-tenth of one foot. Grade areas to drain water away from structures. Maintain areas free of trash and debris. For existing grades that will remain but which were disturbed by Contractor's operations, grade as directed.

3.11.2 Topsoil and Seed

Provide as specified in Section 02 82 30, Re-Establishing Vegetation.

Scarify existing subgrade. Provide 4 inches of topsoil for newly graded finish earth surfaces and areas disturbed by the Contractor. Topsoil shall not be placed when the subgrade is frozen, excessively wet, extremely dry, or in a condition otherwise detrimental to seeding, planting, or proper grading. If there is insufficient on-site topsoil meeting specified requirements for topsoil, provide topsoil required in excess of that available.

3.11.3 Protection of Surfaces

Protect newly backfilled, graded, and topsoiled areas from traffic, erosion, and settlements that may occur. Repair or reestablish damaged grades, elevations, or slopes.

3.12 DISPOSITION OF SURPLUS MATERIAL

Remove from Government property surplus or other soil material not required or suitable for filling or backfilling, and brush, refuse, stumps, roots, and timber.

3.13 FIELD QUALITY CONTROL

3.13.1 Sampling

Take the number and size of samples required to perform the following tests.

3.13.2 Testing

Perform one of each of the following tests for each material used. Provide additional tests for each source change.

3.13.2.1 Fill and Backfill Material Testing

Test fill and backfill material in accordance with ASTM C 136 for conformance to ASTM D 2487 gradation limits; ASTM D 1140 for material finer than the No. 200 sieve; ASTM D 4318 for liquid limit and for plastic limit; ASTM D 698 or ASTM D 1557 for moisture density relations, as applicable.

3.13.2.2 Select Material Testing

Test select material in accordance with ASTM C 136 for conformance to ASTM D 2487 gradation limits; ASTM D 1140 for material finer than the No. 200 sieve; ASTM D 698 or ASTM D 1557 for moisture density relations, as applicable.

3.13.2.3 Porous Fill Testing

Test porous fill in accordance with ASTM C 136 for conformance to gradation specified in ASTM C 33.

3.13.2.4 Density Tests

Test density in accordance with ASTM D 1556, or ASTM D 2922 and ASTM D 3017. When ASTM D 2922 and ASTM D 3017 density tests are used, verify density test results by performing an ASTM D 1556 density test at a location already ASTM D 2922 and ASTM D 3017 tested as specified herein. Perform an ASTM D 1556 density test at the start of the job, and for every 10 ASTM D 2922 and ASTM D 3017 density tests thereafter. Test each lift at randomly selected locations every 2000 square feet of existing grade in fills for structures and concrete slabs, and every 2500 square feet for other fill areas and every 2000 square feet of subgrade in cut. Include density test results in daily report.

- a. Bedding and backfill in trenches: One test per 50 linear feet in each lift.

-- End of Section --

SECTION 33 40 00

STORM DRAINAGE
02/10

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS
(AASHTO)

AASHTO M 198 (2010) Standard Specification for Joints for Concrete Pipe, Manholes, and Precast Box Sections Using Preformed Flexible Joint Sealants

ASTM INTERNATIONAL (ASTM)

ASTM A798/A798M (2007) Standard Practice for Installing Factory-Made Corrugated Steel Pipe for Sewers and Other Applications

ASTM B745/B745M (1997; R 2005) Standard Specification for Corrugated Aluminum Pipe for Sewers and Drains

ASTM C1433 (2010) Standard Specification for Precast Reinforced Concrete Box Sections for Culverts, Storm Drains, and Sewers

ASTM C231/C231M (2010) Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method

ASTM C270 (2012) Standard Specification for Mortar for Unit Masonry

ASTM C425 (2004; R 2009) Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings

ASTM C443 (2011) Standard Specification for Joints for Concrete Pipe and Manholes, Using Rubber Gaskets

ASTM C877 (2008) External Sealing Bands for Concrete Pipe, Manholes, and Precast Box Sections

ASTM D1056 (2007) Standard Specification for Flexible Cellular Materials - Sponge or Expanded Rubber

ASTM D1171	(1999; R 2007) Rubber Deterioration - Surface Ozone Cracking Outdoors or Chamber (Triangular Specimens)
ASTM D1557	(2009) Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft ³) (2700 kN-m/m ³)
ASTM D1751	(2004; R 2008) Standard Specification for Preformed Expansion Joint Filler for Concrete Paving and Structural Construction (Nonextruding and Resilient Bituminous Types)
ASTM D1752	(2004a; R 2008) Standard Specification for Preformed Sponge Rubber Cork and Recycled PVC Expansion
ASTM D2167	(2008) Density and Unit Weight of Soil in Place by the Rubber Balloon Method
ASTM D6938	(2010) Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth)

1.2 DELIVERY, STORAGE, AND HANDLING

1.2.1 Delivery and Storage

Materials delivered to site shall be inspected for damage, unloaded, and stored with a minimum of handling. Materials shall not be stored directly on the ground. The inside of pipes and fittings shall be kept free of dirt and debris. Before, during, and after installation, plastic pipe and fittings shall be protected from any environment that would result in damage or deterioration to the material. Keep a copy of the manufacturer's instructions available at the construction site at all times and follow these instructions unless directed otherwise by the Contracting Officer. Solvents, solvent compounds, lubricants, elastomeric gaskets, and any similar materials required to install plastic pipe shall be stored in accordance with the manufacturer's recommendations and shall be discarded if the storage period exceeds the recommended shelf life. Solvents in use shall be discarded when the recommended pot life is exceeded.

1.2.2 Handling

Materials shall be handled in a manner that ensures delivery to the trench in sound, undamaged condition. Pipe shall be carried to the trench, not dragged.

PART 2 PRODUCTS

2.1 PIPE FOR CULVERTS AND STORM DRAINS

Pipe for culverts and storm drains shall be of the sizes indicated and shall conform to the requirements specified.

2.1.1 Corrugated Aluminum Alloy Pipe

ASTM B745/B745M corrugated aluminum alloy pipe of either:

- a. Type I pipe with helical corrugations. Minimum 12 gage thickness.

2.2 DRAINAGE STRUCTURES

2.2.1 Precast Reinforced Concrete Box

Manufactured in accordance with and conforming to ASTM C1433.

2.3 MISCELLANEOUS MATERIALS

2.3.1 Concrete

Unless otherwise specified, concrete and reinforced concrete shall conform to the requirements specified in 03 30 04 CONCRETE FOR MINOR STRUCTURES.. The concrete mixture shall have air content by volume of concrete, based on measurements made immediately after discharge from the mixer, of 5 to 7 percent when maximum size of coarse aggregate exceeds 1-1/2 inches. Air content shall be determined in accordance with ASTM C231/C231M. The concrete covering over steel reinforcing shall not be less than 1 inch thick for covers and not less than 1-1/2 inches thick for walls and flooring. Concrete covering deposited directly against the ground shall have a thickness of at least 3 inches between steel and ground. Expansion-joint filler material shall conform to ASTM D1751, or ASTM D1752, or shall be resin-impregnated fiberboard conforming to the physical requirements of ASTM D1752.

2.3.2 Mortar

Mortar for pipe joints, connections to other drainage structures, and brick or block construction shall conform to ASTM C270, Type M, except that the maximum placement time shall be 1 hour. The quantity of water in the mixture shall be sufficient to produce a stiff workable mortar. Water shall be clean and free of harmful acids, alkalies, and organic impurities. The mortar shall be used within 30 minutes after the ingredients are mixed with water. The inside of the joint shall be wiped clean and finished smooth. The mortar head on the outside shall be protected from air and sun with a proper covering until satisfactorily cured.

2.3.3 Joints

2.3.3.1 Flexible Watertight Joints

- a. Materials: Flexible watertight joints shall be made with plastic or rubber-type gaskets for concrete pipe and with factory-fabricated resilient materials for clay pipe. The design of joints and the physical requirements for plastic gaskets shall conform to AASHTO M 198, and rubber-type gaskets shall conform to ASTM C443. Factory-fabricated resilient joint materials shall conform to ASTM C425. Gaskets shall have not more than one factory-fabricated splice, except that two factory-fabricated splices of the rubber-type gasket are permitted if the nominal diameter of the pipe being gasketed exceeds 54 inches.

2.3.3.2 External Sealing Bands

Requirements for external sealing bands shall conform to ASTM C877.

2.3.3.3 Flexible Watertight, Gasketed Joints

- a. Gaskets: When infiltration or exfiltration is a concern for pipe lines, the couplings may be required to have gaskets. The closed-cell expanded rubber gaskets shall be a continuous band approximately 7 inches wide and approximately 3/8 inch thick, meeting the requirements of ASTM D1056, Type 2 A1, and shall have a quality retention rating of not less than 70 percent when tested for weather resistance by ozone chamber exposure, Method B of ASTM D1171. Rubber O-ring gaskets shall be 13/16 inch in diameter for pipe diameters of 36 inches or smaller and 7/8 inch in diameter for larger pipe having 1/2 inch deep end corrugation. Rubber O-ring gaskets shall be 1-3/8 inches in diameter for pipe having 1 inch deep end corrugations. O-rings shall meet the requirements of AASHTO M 198 or ASTM C443. Flexible plastic gaskets shall conform to requirements of AASHTO M 198, Type B.
- b. Connecting Bands: Connecting bands shall be of the type, size and sheet thickness of band, and the size of angles, bolts, rods and lugs as indicated or where not indicated as specified in the applicable standards or specifications for the pipe. Exterior rivet heads in the longitudinal seam under the connecting band shall be countersunk or the rivets shall be omitted and the seam welded.

PART 3 EXECUTION

3.1 EXCAVATION FOR PIPE CULVERTS, STORM DRAINS, AND DRAINAGE STRUCTURES

Excavation of trenches, and for appurtenances and backfilling for culverts and storm drains, shall be in accordance with the applicable portions of Section 31 23 00.00 20 EXCAVATION AND FILL and the requirements specified below.

3.1.1 Trenching

The width of trenches at any point below the top of the pipe shall be not greater than the outside diameter of the pipe plus 36 inches to permit satisfactory jointing and thorough tamping of the bedding material under and around the pipe. Sheeting and bracing, where required, shall be placed within the trench width as specified, without any overexcavation. Where trench widths are exceeded, redesign with a resultant increase in cost of stronger pipe or special installation procedures will be necessary. Cost of this redesign and increased cost of pipe or installation shall be borne by the Contractor without additional cost to the OWNER.

3.1.2 Removal of Unstable Material

Where wet or otherwise unstable soil incapable of properly supporting the pipe, as determined by the Contracting Officer, is unexpectedly encountered in the bottom of a trench, such material shall be removed to the depth required and replaced to the proper grade with select granular material, compacted as provided in paragraph BACKFILLING. When removal of unstable material is due to the fault or neglect of the Contractor while performing shoring and sheeting, water removal, or other specified requirements, such removal and replacement shall be performed at no additional cost to the Government.

3.2 BEDDING

The bedding surface for the pipe shall provide a firm foundation of uniform density throughout the entire length of the pipe.

3.2.1 Corrugated Aluminum Pipe

Bedding for corrugated metal pipe shall be in accordance with ASTM A798/A798M.

3.3 PLACING PIPE

Submit printed copies of the manufacturer's recommendations for installation procedures of the material being placed, prior to installation.

Each pipe shall be thoroughly examined before being laid; defective or damaged pipe shall not be used. Pipelines shall be laid to the grades and alignment indicated. Proper facilities shall be provided for lowering sections of pipe into trenches. Lifting lugs in vertically elongated metal pipe shall be placed in the same vertical plane as the major axis of the pipe. Pipe shall not be laid in water, and pipe shall not be laid when trench conditions or weather are unsuitable for such work. Diversion of drainage or dewatering of trenches during construction shall be provided as necessary.

Note post installation requirements of paragraph 'Deflection Testing' in PART 3 of this specification for all pipe products including deflection testing requirements for flexible pipe.

3.3.1 Corrugated Metal Pipe

Laying shall be with the separate sections joined firmly together, with the outside laps of circumferential joints pointing upstream, and with longitudinal laps on the sides.

3.4 JOINTING

3.4.1 Corrugated Metal Pipe

3.4.1.1 Field Joints

Transverse field joints shall be designed so that the successive connection of pipe sections will form a continuous line free of appreciable irregularities in the flow line. In addition, the joints shall meet the general performance requirements described in ASTM A798/A798M. Suitable transverse field joints which satisfy the requirements for one or more of the joint performance categories can be obtained with the following types of connecting bands furnished with suitable band-end fastening devices: corrugated bands, bands with projections, flat bands, and bands of special design that engage factory reformed ends of corrugated pipe. The space between the pipe and connecting bands shall be kept free from dirt and grit so that corrugations fit snugly. The connecting band, while being tightened, shall be tapped with a soft-head mallet of wood, rubber or plastic, to take up slack and ensure a tight joint. Field joints for each type of corrugated metal pipe shall maintain pipe alignment during construction and prevent infiltration of fill material during the life of the installations. The type, size, and sheet thickness of the band and the size of angles or lugs and bolts shall be as indicated or where not

indicated, shall be as specified in the applicable standards or specifications for the pipe.

3.4.1.2 Flexible Watertight, Gasketed Joints

Installation shall be as recommended by the gasket manufacturer for use of lubricants and cements and other special installation requirements. The gasket shall be placed over one end of a section of pipe for half the width of the gasket. The other half shall be doubled over the end of the same pipe. When the adjoining section of pipe is in place, the doubled-over half of the gasket shall then be rolled over the adjoining section. Any unevenness in overlap shall be corrected so that the gasket covers the end of pipe sections equally. Connecting bands shall be centered over adjoining sections of pipe, and rods or bolts placed in position and nuts tightened. Band Tightening: The band shall be tightened evenly, even tension being kept on the rods or bolts, and the gasket; the gasket shall seat properly in the corrugations. Watertight joints shall remain uncovered for a period of time designated, and before being covered, tightness of the nuts shall be measured with a torque wrench. If the nut has tended to loosen its grip on the bolts or rods, the nut shall be retightened with a torque wrench and remain uncovered until a tight, permanent joint is assured.

3.5 DRAINAGE STRUCTURES

3.5.1 Manholes and Inlets

Construction shall be of reinforced concrete, plain concrete, brick, precast reinforced concrete, precast concrete segmental blocks, prefabricated corrugated metal, or bituminous coated corrugated metal; complete with frames and covers or gratings; and with fixed galvanized steel ladders where indicated. Pipe studs and junction chambers of prefabricated corrugated metal manholes shall be fully bituminous-coated and paved when the connecting branch lines are so treated. Pipe connections to concrete manholes and inlets shall be made with flexible, watertight connectors.

3.6 BACKFILLING

3.6.1 Backfilling Pipe in Trenches

After the pipe has been properly bedded, selected material from excavation or borrow, at a moisture content that will facilitate compaction, shall be placed along both sides of pipe in layers not exceeding 6 inches in compacted depth. The backfill shall be brought up evenly on both sides of pipe for the full length of pipe. The fill shall be thoroughly compacted under the haunches of the pipe. Each layer shall be thoroughly compacted with mechanical tampers or rammers. This method of filling and compacting shall continue until the fill has reached an elevation equal to the midpoint (spring line) of RCP or has reached an elevation of at least 12 inches above the top of the pipe for flexible pipe. The remainder of the trench shall be backfilled and compacted by spreading and rolling or compacted by mechanical rammers or tampers in layers not exceeding 6 inches. Tests for density shall be made as necessary to ensure conformance to the compaction requirements specified below. Where it is necessary, in the opinion of the Contracting Officer, that sheeting or portions of bracing used be left in place, the contract will be adjusted accordingly. Untreated sheeting shall not be left in place beneath structures or pavements.

3.6.2 Backfilling Pipe in Fill Sections

For pipe placed in fill sections, backfill material and the placement and compaction procedures shall be as specified below. The fill material shall be uniformly spread in layers longitudinally on both sides of the pipe, not exceeding 6 inches in compacted depth, and shall be compacted by rolling parallel with pipe or by mechanical tamping or ramming. Prior to commencing normal filling operations, the crown width of the fill at a height of 12 inches above the top of the pipe shall extend a distance of not less than twice the outside pipe diameter on each side of the pipe or 12 feet, whichever is less. After the backfill has reached at least 12 inches above the top of the pipe, the remainder of the fill shall be placed and thoroughly compacted in layers not exceeding 6 inches. Use select granular material for this entire region of backfill for flexible pipe installations.

3.6.3 Movement of Construction Machinery

When compacting by rolling or operating heavy equipment parallel with the pipe, displacement of or injury to the pipe shall be avoided. Movement of construction machinery over a culvert or storm drain at any stage of construction shall be at the Contractor's risk. Any damaged pipe shall be repaired or replaced.

3.6.4 Compaction

3.6.4.1 General Requirements

Cohesionless materials include gravels, gravel-sand mixtures, sands, and gravelly sands. Cohesive materials include clayey and silty gravels, gravel-silt mixtures, clayey and silty sands, sand-clay mixtures, clays, silts, and very fine sands. When results of compaction tests for moisture-density relations are recorded on graphs, cohesionless soils will show straight lines or reverse-shaped moisture-density curves, and cohesive soils will show normal moisture-density curves.

3.6.4.2 Minimum Density

Backfill over and around the pipe and backfill around and adjacent to drainage structures shall be compacted at the approved moisture content to the following applicable minimum density, which will be determined as specified below.

- a. Under airfield and heliport pavements, paved roads, streets, parking areas, and similar-use pavements including adjacent shoulder areas, the density shall be not less than 90 percent of maximum density for cohesive material and 95 percent of maximum density for cohesionless material, up to the elevation where requirements for pavement subgrade materials and compaction shall control.
- b. Under unpaved or turfed traffic areas, density shall not be less than 90 percent of maximum density for cohesive material and 95 percent of maximum density for cohesionless material.
- c. Under nontraffic areas, density shall be not less than that of the surrounding material.

3.6.5 Determination of Density

Testing is the responsibility of the Contractor and performed at no additional cost to the Government. Testing shall be performed by an approved commercial testing laboratory or by the Contractor subject to approval. Tests shall be performed in sufficient number to ensure that specified density is being obtained. Laboratory tests for moisture-density relations shall be made in accordance with ASTM D1557 except that mechanical tampers may be used provided the results are correlated with those obtained with the specified hand tamper. Field density tests shall be determined in accordance with ASTM D2167 or ASTM D6938. When ASTM D6938 is used, the calibration curves shall be checked and adjusted, if necessary, using the sand cone method as described in paragraph Calibration of the referenced publications. ASTM D6938 results in a wet unit weight of soil and ASTM D6938 shall be used to determine the moisture content of the soil. The calibration curves furnished with the moisture gauges shall be checked along with density calibration checks as described in ASTM D6938. Test results shall be furnished the Contracting Officer. The calibration checks of both the density and moisture gauges shall be made at the beginning of a job on each different type of material encountered and at intervals as directed.

-- End of Section --