



Joe C. Despino  
Purchasing Manager

# City of Alexandria

Purchasing Department  
P.O. Box 71  
Alexandria, Louisiana  
71309-0071



Office: (318) 441-6180  
Fax: (318) 619-3412

Requests for Proposals will be received until **2:00 PM CDT, Wednesday, October 26, 2016**, and opened at the City of Alexandria Electric Distribution Department.

City of Alexandria **RFP #1252P (Re-Bid)**  
Page: 1 of 6  
Date RFP Prepared: September 15, 2016

Bid Bond Requirements: A bid bond or check for N/A% of the total amount of bid.

Performance Bond Requirements: In the event bid is accepted, a performance guarantee shall be submitted as detailed below.

**Please file proposals with the following:**  
**Richard Williamson – Environmental Compliance**  
**City of Alexandria – Electric Distribution**  
**1015 North Third Street**  
**Phone: 318-473-1344 Fax: 318-473-1325**

## SPECIFICATIONS

### **SALE OF SURPLUS, OFF-ROAD, HIGH SULFUR DIESEL FUEL LOCATED AT THE D.G. HUNTER GENERATING POWER PLANT**

#### **Scope of Work:**

It is the intent of the City of Alexandria to offer for sale to the **highest proposer**, approximately 424,239 gallons of off-road, high sulfur diesel fuel that is no longer needed by the City of Alexandria. This fuel is stored in one (1) above ground storage tank located at the D.G. Hunter Electric Generating Station, 1011 N. Third Street, Alexandria, LA 71301. It shall be the responsibility of the awarded proposer to furnish all equipment, labor and personnel necessary to remove this surplus off-road, high sulfur diesel fuel from the D.G. Hunter Electric Generating Station premises. The awarded proposer shall also be responsible for any and all transportation costs involved in the removal the surplus off-road, high sulfur diesel fuel. *Prior to beginning removal of the fuel, the awarded proposer shall submit to the City an emergency response plan including a spill response plan.*

Removal of the fuel oil shall be from the diesel in both the tank and any above and below ground piping. Upon completion of removal of the surplus off-road, high sulfur diesel fuel, the awarded proposer shall be responsible for the proper degassing and cleaning of the fuel storage tank to the point where there are no remaining gas vapors and they are rendered non-flammable, inert, and the tank is considered safe for demolition. The waste generated from cleaning of the tank shall be transported and disposed of properly by the successful proposer at no additional cost to the City of Alexandria. All proposers shall provide with their *Total Proposed Offer Price*, a detailed description of the process to be used in the degassing and cleaning of the emptied fuel storage tank.

**CITY OF ALEXANDRIA REQUEST FOR PROPOSAL FOR:  
SALE OF SURPLUSED, OFF-ROAD, HIGH SULFUR DIESEL FUEL  
LOCATED AT THE D.G. HUNTER GENERATING POWER PLANT**

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**SPECIFICATIONS**

The successful proposer shall enter into a written contract with the City prior to commencing work (copy attached).

The successful proposer shall be responsible for submitting any and all paperwork and/or forms required by all regulating local, state and federal agencies, in the removal of the diesel fuel and accompanying waste.

The removal of all surplus off-road, high sulfur diesel fuel, as well as the cleaning of the tank and disposal of any and all waste and wastewater from the tank, must be completed within forty-five (45) days from the date of the contract.

Any and all liability associated with the removal of the surplus diesel fuel; the transportation of the fuel; and the cleaning, disposal and transporting of any waste and wastewater from the tank(s); shall be the responsibility of the successful proposer.

**Insurance:**

Proposer shall furnish, attached to the bid document, a current copy of his Certificate of Insurance indicating limits of General Liability, Automobile Liability and Worker's Compensation in force at the time of the bidding. Evidence of reliable insurance to fully indemnify against long-term liabilities shall be part of the evaluation criteria for award of this bid. Certificate of Insurance shall have a General Liability Aggregate of Four Million (\$4,000,000) Dollars and a per person/per occurrence of Two Million (\$2,000,000) Dollars. Automobile Liability will have a Combined Single Limit of Two Million (2,000,000). Also on the Certificate, the City shall be named as an "additional insured" and a waiver of subrogation in favor of the City of Alexandria. On the Certificate of Insurance under Worker's Compensation, it shall state that "This is a standard Worker's Compensation Policy", with statutory limits. Cancellation of any Certificate of Insurance should require sixty (60) days notice to the City of Alexandria, but under no circumstances less than thirty (30) days notice. Also, the following wording must be removed before acceptance of the Certificate: "Endeavor to" or "But failure to mail such notice shall impose no obligation of liability of any kind upon the company, its agents or representatives." Certificate holder shall be the City of Alexandria, P.O. Box 71, Alexandria, LA 71309-0071, Attention: Purchasing Manager.

**Performance Guarantee:**

The successful proposer shall have the option of:

**Option #1:** Making a 90% remittance of his/her offer before removing any of the surplus high sulfur diesel fuel; the final 10% remittance shall be due within forty-eight hours (48), excluding weekends and holidays, of the completed project to include the removal of the diesel fuel, degassing and cleaning of the emptied fuel tank. Reconciliation of the final amount of diesel fuel recovered as compared to the amount bid shall be added to or deducted from the final 10% emittance.

**Option #2:** Providing the City with a irrevocable letter of credit equal to 100% of the amount bid.

**Option #3:** Providing the City with a Performance Bond equal to 100% of the amount bid.

**CITY OF ALEXANDRIA REQUEST FOR PROPOSAL FOR:  
SALE OF SURPLUSED, OFF-ROAD, HIGH SULFUR DIESEL FUEL  
LOCATED AT THE D.G. HUNTER GENERATING POWER PLANT**

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**SPECIFICATIONS**

**Questions & Clarifications:**

Questions concerning this RFP shall be in written form only and directed to Richard Williamson, [richard.williamson@cityofalex.com](mailto:richard.williamson@cityofalex.com) . Questions will be received until 4:00 PM CDT, Friday, October 21, 2016.

**Site Inspection:**

Proposers wishing to make an “on site” inspection prior to submitting their offer, can do so by contacting Darren Sigur, Plant Manager, at 318-473-1294, between the hours of 9:00 a.m. and 3:00 p.m., Monday thru Friday. Questions concerning this RFP shall be in written form only and directed to Richard Williamson, at [richard.williamson@cityofalex.com](mailto:richard.williamson@cityofalex.com). Mr. Williamson’s direct phone number is 318-473-1344.

**Submitting Proposals:**

**Price proposals may be returned either by fax to (318)473-1325; or hand delivered to City of Alexandria Electric Distribution Department, located 1015 North Third Street, Alexandria, LA 71301; or e-mailed to [richard.williamson@cityofalex.com](mailto:richard.williamson@cityofalex.com) .** Proposers have the option to submit their offer electronically at Central Bidding, [www.centralbidding.com](http://www.centralbidding.com) . For questions regarding the electronic bidding process, please call Central Bidding at 225-810-4814.

**END OF SPECIFICATIONS**

**CITY OF ALEXANDRIA REQUEST FOR PROPOSAL FOR:  
SALE OF SURPLUSED, OFF-ROAD, HIGH SULFUR DIESEL FUEL  
LOCATED AT THE D.G. HUNTER GENERATING POWER PLANT**

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Picture –  
ground  
containing  
off-road,  
diesel fuel.



Above  
storage tank  
surplused  
high sulfur



# LUBRIPORT LABORATORIES INC.

PRODUCT: ON ROAD DIESEL

INVOICE NO. LL-58839

SAMPLE MARKED: CUSTOMER'S OLD DIESEL

REQUESTED BY: DAVID DOLLAR

SAMPLE REC'D DATE: 2/16/16

REPORT DATE: FEBRUARY 22, 2016

DATE SAMPLE DRAWN: ----

LAB NO. 2-502

ACCOUNT: LOTT OIL COMPANY, INC.

P.O. BOX 17

NATCHITOCHE LA 71458-0017

REVIEWED BY: *David Dollar*

GRAVITY API @ 60 F	36.4
SULFUR (XRF)	0.07% (700 PPM)
BOTTOM, SEDIMENT & WATER BY CENTRIFUGE	< 0.02%
CETANE INDEX	50.5
DISTILLATION IEP F	380 F
10%	410
50%	520
90%	630
END POINT	660
RECOVERY	98.0%
RESIDUE	1.5%
LOSS	0.5%
MOLD & BACTERIAL GROWTH	NEGATIVE
APPEARANCE:	BROWN

COMMENT: PRODUCT SHOULD BE MIXED WITH NEAR EQUAL VOLUME  
OF FRESH, LOW SULFUR DIESEL, TO BRING SULFUR  
UNDER 0.05% AND IMPROVE PERFORMANCE.

**CITY OF ALEXANDRIA REQUEST FOR PROPOSAL FOR:  
SALE OF SURPLUSED, OFF-ROAD, HIGH SULFUR DIESEL FUEL  
LOCATED AT THE D.G. HUNTER GENERATING POWER PLANT**

**PRICE PAGE**

Proposed price for the purchase of approximately 424,239 gallons of surplused off-road, high sulfur diesel located at the D.G. Hunter Generating Power Plant; to include all equipment, labor, personnel, vehicles necessary for the removal and transportation of the fuel from the D.G. Hunter Generating Power Plant premises. Price includes the proper degassing and cleaning of the fuel tank as well as any necessary paperwork and/or forms required by all local, state and federal agencies in the removal of the fuel and accompanying waste from cleaning.

**Price Per Gallon: \$**\_\_\_\_\_

**X 424,239 Gallons = Total Purchase Price \$**\_\_\_\_\_

Insurance Certificate Attached:	_____ Yes	_____ No
Detailed plan of action for removal of the diesel fuel:	_____ Yes	_____ No
Degassing/Cleaning Emptied Storage Tank Plan Attached:	_____ Yes	_____ No
Performance Guarantee Option (circle one):	1	2                      3

=====

**Proposer's Information:**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone #: (\_\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_\_) \_\_\_\_\_

Authorized Printed Name and Title: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

## **AGREEMENT BETWEEN OWNER AND CONTRACTOR**

This AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2016, by and between the CITY OF ALEXANDRIA (herein called OWNER) and XXXXXXXXXXXXXXXX. (herein called CONTRACTOR)

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

### Article 1. WORK

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

### **Sale of Surplused, Off-Road, High Sulfur Diesel Fuel Located at the D. G. Hunter Electric Generating Station**

Work shall include:

- Removal of all high sulfur diesel fuel stored at D. G. Hunter Electric Generating Station,
- Transportation of all high sulfur diesel fuel stored at D. G. Hunter Electric Generating Station to a suitable location for re-use or re-purposing,
- Degassing and cleaning of the existing storage tank drained during the WORK including the removal of all waste water, solvents, or other byproducts resulting from the degassing and cleaning of the existing storage tank,
- Delivery of all reports, manifests, logs, or other necessary documentation the City may require to document proper disposal of this surplus product.

### Article 2. CONTRACT TIME

2.1 The WORK will be substantially completed within 45 Calendar Days from the date when the Contract Time commences to run as provided in Paragraph 3.9 of the City of Alexandria's Standard General Provisions.

### Article 3. CONTRACT PRICE

CONTRACTOR shall pay OWNER for completion of the WORK in accordance with the Contract Documents. All payments to the OWNER shall be in accordance with the CONTRACTOR's RFP response dated 7/7/16.

### Article 4. PAYMENT PROCEDURES

All payments to the OWNER shall be in accordance with the CONTRACTOR's RFP response dated 7/7/16.

### Article 5. CONTRACTOR'S REPRESENTATION

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

5.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, WORK, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the WORK.

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

### Article 6. CONTRACT DOCUMENTS

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

- 6.1 This Agreement,
- 6.2 City of Alexandria RFP #2035 as submitted by the CONTRACTOR,
- 6.3 Appendix A – Standards of Work
- 6.4 Notice of Award,
- 6.5 Notice to Proceed,
- 6.6 The City of Alexandria's Standard General Provisions,

There are no Contract Documents other than those listed above in this Article 6.

Article 7. MISCELLANEOUS

7.1 Terms used in this Agreement which are defined in Section 1 of the City of Alexandria's Standard General Provisions will have the meanings indicated in the City of Alexandria's Standard General Provisions.

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

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

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in quadruplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and one counterpart recorded with the Parish Clerk of Court.

This Agreement will be effective on \_\_\_\_\_, 2016.

CONTRACTOR: XXXXXXXXXXXXXXX

BY: \_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_

Address for giving notices:

ATTEST: \_\_\_\_\_

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



OWNER: CITY OF ALEXANDRIA, LOUISIANA

BY: \_\_\_\_\_  
Jacques M. Roy, Mayor

ATTEST: \_\_\_\_\_

Address for giving notices:

ATTEST: \_\_\_\_\_

P. O. Box 71

Alexandria, LA 71309-0071

NOTE: If Contractor is a corporation, a certified copy of a corporate resolution of the Board of Directors of the Corporation authorizing an officer of the Corporation to execute the Agreement contained within this document on behalf of the Corporation must be attached.

APPENDIX A

Scope of Work

As a part of the execution of the Agreement Between OWNER and CONTRACTOR, the OWNER and CONTRACTOR agree to be bound by the following standards and representations:

1. The empty storage tank shall be cleaned to be free of all liquids and solids, to a height of eight (8) feet, and shall also be free of aromatic hydrocarbons. This work shall be completed by the CONTRACTOR without additional compensation from the OWNER.
2. The OWNER and CONTRACTOR agree to a system of mutually approved, uniquely numbered Bills of Lading and certified Weigh Tickets as the means for computing the final volume of the transaction. All such computations shall be recorded in gallons and pounds respectively.
3. The OWNER has fully and completely disclosed all known information relative to the condition of the storage tank and product contained therein. To the OWNER's knowledge the diesel is of good quality and fit for its intended purpose. The CONTRACTOR understands this diesel has been in storage since approximately 1984. There are no records of any other products being stored or added to the product being sold; therefore, the OWNER has no obligation to furnish additional MSDS data.
4. The CONTRACTOR shall notify the OWNER in the event unsafe levels of hydrogen sulfide gas are detected during the loading process. In the event of such discovery, the CONTRACTOR shall cease operations and notify the OWNER of its mitigation plan to remove this hazard. The cost of mitigation shall be negotiated between the OWNER and CONTRACTOR.
5. The CONTRACTOR is solely responsible for developing and implementing an appropriate safety and health plan. Any such plan should comply with all OSHA, API, or similar rules and regulations.
6. The CONTRACTOR takes possession of and responsibility for the product at the last flange of the storage tank.

CONTRACTOR

XXXXXXXXXXXX

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name & Title

OWNER

City of Alexandria

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Michael P. Marcotte  
Director of Utilities

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## DIVISION 1

### General Provisions

#### Section 1

#### Definition of Terms

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Wherever used in these SPECIFICATIONS or CONTRACT DOCUMENTS, the following terms shall have the meaning indicated and shall be applicable to both the singular and plural thereof.

- 1.1 STATE: State of Louisiana.
- 1.2 PARISH: The Parish of Rapides.
- 1.3 CITY: The City of Alexandria, Louisiana, domiciled in Rapides Parish and governed by a Mayor-Council form of government represented by the MAYOR.

- 1.4 COUNCIL: The elected COUNCIL and governing body of CITY.
- 1.5 MAYOR: The MAYOR of the CITY.
- 1.6 DIRECTOR OF PUBLIC WORKS: The DIRECTOR OF PUBLIC WORKS of the CITY or his authorized representative.
- 1.7 ARCHITECT/ENGINEER: The person, firm, or corporation named as such in the AGREEMENT.
- 1.8 ADDENDA: Written or graphic instruments issued prior to the BID opening that modify or interpret the CONTRACT DOCUMENTS, PLANS, and SPECIFICATIONS, by additions, deletions, clarifications or corrections.
- 1.9 AGREEMENT: The written Contract between the CITY and the CONTRACTOR concerning the work to be performed; other CONTRACT DOCUMENTS are attached to the AGREEMENT and made a part thereof as provided therein.
- 1.10 APPLICATION FOR PAYMENT: The form approved by the CITY to be used by the CONTRACTOR in requesting progress or final payments. The application may require supporting documentation as required in the CONTRACT DOCUMENTS or additionally by the CITY.
- 1.11 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 State Occupational Safety and Health Administration.
- 1.12 BID: The written offer of the BIDDER to perform the contemplated WORK and furnish the necessary materials on the prescribed form, properly signed in accordance with Louisiana law.
- 1.13 BIDDER: Any individual, firm or corporation submitting a BID for the WORK contemplated, acting directly or through a duly authorized representative.
- 1.14 BIDDING DOCUMENTS: The Advertisement or Invitation to BID, Instruction(s) to BIDDERS, the BID form(s), and the proposed CONTRACT DOCUMENTS including ADDENDA or acknowledgment of ADDENDA issued prior to receipt of BID.
- 1.15 BIDDING REQUIREMENTS: The Advertisement or Invitation to BID, Instruction(s) to BIDDERS and the BID form(s), and applicable Louisiana law.
- 1.16 BONDS: BID, Performance and Payment BONDS and other instruments of security, furnished by the CONTRACTOR and the CONTRACTOR'S SURETY, in accordance with the BIDDING REQUIREMENTS and CONTRACT DOCUMENTS.



- 1.17 **CERTIFICATE OF ACCEPTANCE:** Document recommended by ARCHITECT/ENGINEER, executed by MAYOR at the direction of CITY COUNCIL indicating that all WORK has been completed in accordance with the CONTRACT DOCUMENTS.
- 1.18 **CHANGE ORDER:** A document recommended by the ARCHITECT/ENGINEER on an approved form signed by the CONTRACTOR and CITY and authorizing an addition, deletion or revision in the WORK or an adjustment in the CONTRACT PRICE or the CONTRACT TIME issued on or after the effective date of the AGREEMENT.
- 1.19 **CONTRACT DOCUMENTS:** The AGREEMENT, ADDENDA, CONTRACTOR'S BID, NOTICE OF AWARD, NOTICE TO PROCEED, the BONDS, these General Provisions, the SPECIAL PROVISIONS, the SPECIFICATIONS and PLANS, WRITTEN AMENDMENTS, CHANGE ORDERS, FIELD ORDERS and the ARCHITECT/ENGINEER'S written interpretations and clarifications issued on or after the EFFECTIVE DATE OF THE AGREEMENT.
- 1.20 **CONTRACT PRICE:** The total moneys payable by the CITY to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.
- 1.21 **CONTRACT TIME:** The number of WORKING DAYS allowed for the completion of the CONTRACT, including authorized time extensions.
- 1.22 **CONTRACTOR:** The individual, firm or corporation who enters into an AGREEMENT awarded him by the CITY. The CONTRACTOR may act directly or through a lawfully authorized agent or employee.
- 1.23 **CONTROLLING ITEMS OF WORK:** Items of construction that should be in progress at the time, as essential to the orderly completion of the WORK within the time limit specified, in accordance with the CONTRACTOR's approved progress schedule.
- 1.24 **DEFECTIVE:** An item of work that is unsatisfactory, faulty or deficient in that it does not conform to the CONTRACT DOCUMENTS, or does not meet the requirement of any inspection, reference standard, test or required approvals.
- 1.25 **DRAWINGS:** Individual sheets of the Construction PLANS which contain graphic information concerning the Proposed WORK which have been prepared or approved by ARCHITECT/ENGINEER and are referred to in the CONTRACT DOCUMENTS. Shop drawings are not drawings as defined herein.
- 1.26 **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 by the Mayor.

- 1.27 **FIELD ORDER:** A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the ARCHITECT/ENGINEER to the CONTRACTOR during construction.
- 1.28 **HAZARDOUS WASTE:** The term HAZARDOUS WASTE shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
- 1.29 **LAWS AND REGULATIONS:** Any and all applicable laws, rules, regulations, ordinances, codes and orders of governmental bodies, agencies, authorities and courts having jurisdiction.
- 1.30 **LABORATORY:** The testing laboratories employed by the CITY to make required tests.
- 1.31 **LIENS:** Liens, charges, security interests or encumbrances upon real property or personal property.
- 1.32 **NOTICE OF AWARD:** A written notice given by the CITY or ARCHITECT/ENGINEER to the apparent successful BIDDER. The notice may enumerate conditions precedent to the award which require compliance activity from the apparent low BIDDER, such as, submission of BONDS, construction scheduling, etc. Where no formal written notice is provided, the AGREEMENT shall constitute NOTICE OF AWARD.
- 1.33 **NOTICE TO PROCEED:** A written notice from the CITY or ARCHITECT/ENGINEER notifying the CONTRACTOR to begin the prosecution of the WORK.
- 1.34 **PARTIAL UTILIZATION:** Use by the CITY of a part of the WORK for the purpose for which it is intended, prior to completion of all of the WORK.
- 1.35 **PLANS:** The set of DRAWINGS, consisting of profiles, typical cross sections, general cross sections, working DRAWINGS and supplemental DRAWINGS, or exact reproductions thereof, which show the location, character, dimension and details of WORK to be done and which are to be considered as part of the CONTRACT, supplementary to the SPECIFICATIONS.
- 1.36 **PROJECT:** The total of the WORK to be provided as specified by the CONTRACT DOCUMENTS.
- 1.37 **PROJECT REPRESENTATIVE:** The authorized representative of the ARCHITECT/ENGINEER or CITY who may be assigned to the site or any part thereof.

- 1.38 **SAMPLES:** Physical examples of material, equipment, or workmanship that are representative of some portion of the work and which establish the standard by which such portion of the WORK will be judged.
- 1.39 **SHOP DRAWINGS:** All drawings, diagrams, illustration, schedules, and other data or information which are submitted by the CONTRACTOR to illustrate some portion of the WORK.
- 1.40 **SPECIAL PROVISIONS:** The specific clauses or provisions setting forth conditions or requirements, peculiar to the PROJECT under consideration and covering WORK or materials involved in the proposal but not thoroughly or satisfactorily stipulated or set forth by the General Provisions.
- 1.41 **SPECIFICATIONS:** Those portions of the CONTRACT DOCUMENTS consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the WORK.
- 1.42 **SUBCONTRACTOR:** Any individual, firm, partnership, or corporation who contracts with the CONTRACTOR to perform any part of the PROJECT covered by the CONTRACT.
- 1.43 **SUPPLIER:** A manufacturer, fabricator, supplier, distributor, material man or vendor having a direct contract with the CONTRACTOR or with any SUBCONTRACTOR to furnish materials or equipment to be incorporated into the WORK.
- 1.44 **UNDERGROUND FACILITIES:** All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments along with any encasements containing such facilities which have been installed underground to furnish: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.
- 1.45 **UNIT PRICE WORK:** Work to be paid on the basis of unit prices.
- 1.46 **WORK:** All labor, materials, equipment and/or services required to be incorporated into the construction necessary to produce the PROJECT specified by the CONTRACT DOCUMENTS.
- 1.47 **WORKING DAY:** A calendar day, with exceptions stated herein, on which weather and other conditions not under control of CONTRACTOR will permit construction operations to proceed for at least five (5) continuous hours of the day with a normal working force engaged in performing the CONTROLLING ITEMS OF WORK.

No WORKING DAYS will be charged for the following days:

1. Saturdays and Sundays.
2. CITY recognized holidays:
  - a. New Year's Day
  - b. Martin Luther King's birthday
  - c. Good Friday
  - d. Fourth of July
  - e. Labor Day
  - f. Veterans' Day
  - g. Thanksgiving Day
  - h. Friday following Thanksgiving Day
  - i. Christmas Day
  - j. Any other holiday declared by the CITY COUNCIL
3. Days on which delays, attributable solely to the CITY or other governmental agencies prevent CONTRACTOR from proceeding with the CONTROLLING ITEMS OF WORK at time of delay.
4. Days on which delays are attributable to the direct effect of strikes, riots or civil commotions.

1.48 WRITTEN AMENDMENT: A WRITTEN AMENDMENT of the CONTRACT DOCUMENTS, signed by the CITY and CONTRACTOR on or after the EFFECTIVE DATE of the AGREEMENT and normally dealing with the non-ARCHITECT/ENGINEERING or non-technical rather than strictly construction-related aspects of the CONTRACT DOCUMENTS.

1.49 DEFINITION OF ALPHABETICAL TERMS:

A.A.S.H.T. O.: American Association of State Highway Transportation Officials  
A.S.T.M. : American Society for Testing Materials  
A.S.A. : American Standards Association  
A.W.W.A. : American Water Works Association  
A.W.P.A. : American Wood Preservers Association  
LA DOTD : Louisiana Department of Transportation and Development  
C.O.A. : City of Alexandria  
M.U.T.C.D. : Manual on Uniform Traffic Control Devices, latest edition

1.50 OR EQUAL: Whenever in these CONTRACT DOCUMENTS a particular brand, make of material, device or equipment is specified, followed by the words "or EQUAL", such brand, make of material, device, or equipment should be regarded merely as establishing a standard or quality. If two or more brands, makes of material, devices, or equipment are shown or specified, each should be regarded as the EQUAL of the other. Any other brand, make of material, device, or equipment, which, in the opinion of the ARCHITECT/ENGINEER, is the recognized EQUAL of that specified, considering quality, workmanship, and economy of operation, and is suitable for the purpose intended, may be accepted by the ARCHITECT/ENGINEER as a substitute, provided that all materials and

workmanship shall in every respect be in accordance with what, in the opinion of the ARCHITECT/ENGINEER, is the best modern practice.

# DIVISION 1

## General Provisions

### Section 2

#### Instructions to Bidders

- |     |  |      |   |
|-----|--|------|---|
| 2.1 | Advertisement for BIDS   | 2.8  | Delivery of BIDS                                      |
| 2.2 | Contents of BID Forms  | 2.9  | Withdrawal of BIDS                                    |
| 2.3 | Interpretation of Estimates  | 2.10 | Opening of BIDS                                       |
| 2.4 | Examination of DRAWINGS,<br>SPECIFICATIONS, SPECIAL<br>PROVISIONS and Site of WORK | 2.11 | Disqualification of<br>BIDDERS                        |
| 2.5 | Preparation of BIDS  | 2.12 | Competency of BIDDERS                                 |
| 2.6 | Rejection of BIDS  | 2.13 | Joint BIDS  |
| 2.7 | BID Guaranty   | 2.14 | Interpretations and ADDENDA                           |
|     |  | 2.15 | Substitute Materials or<br>Products - Prior Approvals |

- 2.1 **ADVERTISEMENT FOR BIDS:** In conformity with STATE Law, the CITY will publish a "Notice to CONTRACTORS" requesting BIDS for the WORK. The advertisement for BIDS will contain a description of the WORK; a statement of the place where BIDS will be received and the time for opening same; and Instructions to BIDDERS as how to access DRAWINGS, SPECIFICATIONS and proposals.
- 2.2 **CONTENTS OF BID FORMS:** BIDDERS will be furnished with Bid forms, in duplicate, which will state the locations and description of the contemplated construction and will show the preliminary estimate of the various quantities and kinds of work to be performed, or materials to be furnished, with a schedule of items for which unit prices are asked. The PLANS and SPECIFICATIONS, in force at the time of receipt of BIDS, and the SPECIAL PROVISIONS and other CONTRACT DOCUMENTS will be considered a part of the BID whether attached or not. The BID shall be submitted to the Office of the City Clerk and one copy shall be retained by the BIDDER.
- 2.3 **INTERPRETATION OF ESTIMATES:** The quantities listed in the BID form are to be considered as approximate and are to be used only for the comparison of BIDS. Payment to the CONTRACTOR will be made only for the actual quantities of WORK performed and materials furnished in accordance with the AGREEMENT, and if, upon completion of the construction, the actual quantities shall show either an increase or decrease from the quantities given in the approximate estimate, the unit prices mentioned in the BID will prevail, except as otherwise herein provided.

- 2.4 EXAMINATION OF DRAWINGS, SPECIFICATIONS, SPECIAL PROVISIONS, AND SITE OF WORK: The BIDDER is required to examine carefully the site of the proposed PROJECT, BID FORMS, DRAWINGS, SPECIFICATIONS, SPECIAL PROVISIONS, AGREEMENT and BOND forms, for the WORK contemplated and it will be assumed that the CONTRACTOR has investigated and satisfied himself as to the conditions to be encountered as to the character, quality and quantities of WORK to be performed and materials to be furnished, as to the requirements of these SPECIFICATIONS, SPECIAL PROVISIONS and AGREEMENT. BIDDERS are assumed to have made themselves familiar with all Federal and STATE Laws, Local Laws, ordinances and regulations which in any manner shall affect the work or its prosecution. The filing of a BID shall be presumptive evidence that the BIDDER has complied with these requirements.
- 2.5 PREPARATION OF BID: Unless otherwise specified, only BIDS submitted on the forms furnished by the ARCHITECT/ENGINEER will be considered. Except in the case of alternate items, the BIDDER must correctly fill in the spaces for each and every item, (written in ink, both in words and numerals), the unit prices for which he proposes to do the WORK contemplated or to furnish materials. Should the BIDDER fail to correctly submit a unit price for each item as prescribed above, his BID will be classed as irregular.
- 2.6 REJECTION OF BIDS: BIDS may be rejected in the case of any omission, alterations of forms, additions, or conditions not called for, unauthorized alternate BIDS, incomplete BIDS, erasures, or irregularities of any kind. BIDS received, conditioning their consideration or rejection upon BIDS for other work submitted by the same BIDDER may be classed as irregular, unless the SPECIAL PROVISIONS specifically invite or permit conditional or combination BIDS. BIDS not accompanied by a BID guaranty, or if the BID is not signed by the BIDDER, the BID shall be rejected.
- 2.7 BID GUARANTY: Each BID must be accompanied by a BID guaranty equal to five percent (5%) of the total amount of the highest combination for which a BID is submitted. Only Certified Checks or BID BONDS will be accepted as the BIDDER's guaranty with his proposal; any deviation from this requirement will be considered cause for rejection of the BID. The Certified Check shall be issued by a State or National Bank in good standing and shall be made payable to the CITY for not less than the amount specified above. Cashier's Checks or currency will not be accepted as a substitute for Certified Checks or BID BONDS. If Cashier's Check, uncertified check or currency is enclosed with the BID, the BID will be considered informal and the Cashier's Check, uncertified check or currency and all other enclosures, will be returned to the BIDDER without having been read.
- 2.8 DELIVERY OF BIDS: Each BID shall be submitted together with the BID guaranty, in a sealed envelope addressed to the City of Alexandria, Alexandria City Hall, 915 Third Street, Alexandria, Louisiana 71301. Each sealed envelope

containing a BID must be plainly marked on the outside with the "Name of the PROJECT being bid" and the envelope shall bear on the outside the BIDDER's name, address and License Number. If forwarded by mail, the sealed envelope, containing the BID, must be enclosed in another envelope addressed to the CITY at the address provided above. BIDS shall be received up to the time stated in the Advertisement for bids and must be delivered to the CITY COUNCIL Meeting Chambers at the designated place before the expiration of the time stipulated in the Advertisement for bids. BIDS received after the stipulated time will be returned to the BIDDER, unopened.

- 2.9 WITHDRAWAL OF BIDS: A BIDDER may withdraw his BID up to the time set for opening BIDS. The withdrawal of a BID shall not prejudice the right of a BIDDER to file a new BID.
- 2.10 OPENING OF BIDS: BIDS will be opened and read publicly at the time and place indicated in the Advertisement for bids. BIDDERS or their authorized agents are invited to be present.
- 2.11 DISQUALIFICATION OF BIDDERS: If more than one BID is submitted by an individual, a firm or partnership, a corporation or association, under the same or different names, all BIDS so submitted shall be rejected. The BID will be rejected if there is any reason for believing that collusion exists among the BIDDERS and all participants in such collusion, will not be considered in future BIDS for the same WORK. No CONTRACT will be awarded except to responsible BIDDERS capable of performing the class of WORK contemplated, and having sufficient equipment, financial resources and experience to properly perform the WORK.
- 2.12 COMPETENCY OF BIDDERS: BIDDERS must be capable of performing the various items of WORK bid upon. The low BIDDER may be required to submit the following information to the CITY COUNCIL if requested:
  - (a) A statement of his experience in similar work.
  - (b) A financial statement as of the date of the end of the last full quarter immediately preceding the date of opening of BIDS.
  - (c) A certification that he has not failed to carry out any previous CONTRACTS with the CITY.
  - (d) A list of the principal items of equipment and machinery which he proposes to use on the WORK, giving the make, model, capacity, size, age and general condition of all such equipment and machinery.
  - (e) A list giving the names and years of experience of the key personnel he expects to assign to the WORK.
  - (f) A certification that no liens are outstanding on any other contracts.
- 2.13 JOINT BIDS: When two or more persons, firms, or corporations tender a joint BID, each of said persons, firms, or corporations shall have complied with the requirements for prequalification when required in the SPECIAL PROVISIONS



before a BID will be issued to them. Joint BIDS shall be fully executed by all interested parties by and for each of the persons, firms, or corporations interested in said joint BID, by the individual or officers authorized to enter into CONTRACTS for such firms or corporations. In the event of award of a Joint BID, each person, firm, or corporation shall assume the full obligation under the CONTRACT and Performance BOND.

2.14 INTERPRETATIONS AND ADDENDA All questions about the meaning or intent of the CONTRACT DOCUMENTS are to be directed to the ARCHITECT/ENGINEER. Interpretations or clarifications considered necessary by ARCHITECT/ENGINEER and response to such questions will be issued by ADDENDA mailed or delivered to all parties recorded by ARCHITECT/ENGINEER as having received the BIDDING DOCUMENTS. Questions received less than ten (10) days prior to the date for opening of BIDS may not be answered. Only questions answered by formal written ADDENDA will be binding. Oral and other interpretations or clarifications will be without legal affect.

2.14.1 ADDENDA: May also be issued to modify the BIDDING DOCUMENTS as deemed advisable by CITY and ARCHITECT/ENGINEER.

2.15 SUBSTITUTE MATERIALS OR PRODUCTS - PRIOR APPROVALS: In unusual cases where a closed specification has been justified for prior acceptance by the CITY in conformance with Louisiana Revised Statues RS 38:2291 and 38:2292, the naming of that product in the DRAWINGS and SPECIFICATIONS will be followed by wording indicating that no SUBSTITUTION is permitted.

2.15.1 OTHERWISE where the DRAWINGS and SPECIFICATIONS identify a product by a specific brand, make, manufacture, or definite specification, it is to establish the required quality standard for the product regarding style, type, character, materials of construction, function, accessories, dimensions, appearance and durability. Products which are determined to be equivalent by the ARCHITECT/ENGINEER will be acceptable. Products which are specified by specific brand, make or manufacturers name may also be specified by its applicable model or catalog number or other product designation.

2.15.2 SELECTED MATERIALS AND EQUIPMENT: Several alternatives suppliers or manufacturers have been identified. If the BIDDER desires to obtain approval of materials or equipment from other alternative suppliers or manufacturers to those identified in the SPECIFICATIONS, a written request for a SUBSTITUTION shall be submitted to the ARCHITECT/ENGINEER at least fifteen (15) days prior to the BID opening date. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed

substitution is upon the BIDDER. The ARCHITECT/ENGINEER'S decision of approval or disapproval of a proposed substitution shall be final. If ARCHITECT/ENGINEER approves any proposed substitution, such approval will be set forth in an ADDENDA issued to all prospective BIDDERS. BIDDERS shall not rely upon approvals made in any other manner.

2.15.3 AFTER RECEIPT OF BIDS: The CONTRACT, if awarded, will be on the basis of material and product described in the DRAWINGS or specified in the SPECIFICATIONS without consideration of possible substitute of or "EQUAL" items except as specified in 2.15.2 above.

DIVISION 1

General Provisions

Section 3

Award and Execution of Contract

- 1.1 STATE
- 1.2 PARISH
- 1.3 CITY
- 1.4 COUNCIL
- 1.26 EFFECTIVE DATE OF AGREEMENT
- 1.27 FIELD ORDER
- 1.28 HAZARDOUS WASTE
- 1.29 LAWS AND REGULATIONS

- 3.1 Consideration of BIDS
- 3.2 Award of AGREEMENT
- 3.3 Return of BID BONDS
- 3.4 Execution of AGREEMENT
- 3.5 Performance, Payment and Other BONDS
- 3.6 Personnel Employment
- 3.13 Preliminary Schedules
- 3.7 Copies of CONTRACT DOCUMENTS
- 3.8 Failure to Execute Contracts
- 3.9 Commencement of CONTRACT TIME; NOTICE TO PROCEED
- 3.10 Preconstruction Conference
- 3.11 Starting the WORK
- 3.12 Before Starting Construction

3.1 CONSIDERATION OF BIDS: After the BIDS are opened and publicly read, the BID prices will be checked and tabulated as soon as possible. Comparison of acceptable BIDS will be based on the corrected summation of the extensions for each item at the unit prices BID. Prior to announcement of an award of the AGREEMENT, the CITY reserves the right to reject any or all BIDS in accordance with Louisiana Law.

3.2 AWARD OF AGREEMENT: The award of the AGREEMENT, if it be awarded, will be made to the lowest responsible BIDDER whose BID shall comply with all requirements necessary to render it formal. The award, if made, will be within thirty (30) days after the opening of the BIDS. The successful BIDDER will be notified, by letter mailed to the address shown on the BID, that the BID has been accepted and that he has been awarded the AGREEMENT.

3.3 RETURN OF BID BONDS: All BID BONDS will be returned to the unsuccessful BIDDER(s) after the execution of the AGREEMENT with the lowest responsible BIDDER. Should the BIDDER to whom the work be awarded fail to enter into an AGREEMENT within the allotted time or fail to provide a Payment and Performance BOND, the amount of the BID BOND submitted by him will ipso facto, be forfeited to the CITY. Should no award be made within thirty (30) days, all BIDS will be rejected and all guaranties returned, unless the successful BIDDER agrees to a longer delay.

- 3.4 EXECUTION OF AGREEMENT: The successful BIDDER shall be required to execute the AGREEMENT, CONTRACTOR's Affidavit, furnish Performance and Payment BONDS satisfactory to the CITY, along with his Certificate of Insurance, within ten (10) days after receipt of the NOTICE OF AWARD.
- 3.5 PERFORMANCE, PAYMENT AND OTHER BONDS: 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 SPECIAL PROVISIONS. All BONDS shall be on the forms prescribed by the CONTRACT DOCUMENTS except as provided otherwise by Laws or Regulations, and shall be executed by such SURETIES as are named in the current list of "Companies Holding Certificates of Authority as Acceptable SURETIES on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department and registered to do business in the STATE. All BONDS signed by an agent must be accompanied by a certified copy of such agent's authority to act. All BONDS shall be furnished on CITY forms.
- 3.5.1 FAILURE OF SURETY: If the SURETY on any BOND furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the STATE, CONTRACTOR shall within ten days thereafter substitute another BOND and SURETY, both of which must be acceptable to CITY.
- 3.6 PERSONNEL EMPLOYMENT: As a condition of awarding the CONTRACT, the successful BIDDER for Public Works Projects, administered by or paid for in whole or in part by public funds of the City of Alexandria shall comply with LSA R.S. 38:2225.1, which requires that no less than 80% of the total work force required to complete the PROJECT be residents of the State of Louisiana.
- 3.7 COPIES OF CONTRACT DOCUMENTS: The CITY shall furnish to CONTRACTOR up to three (3) copies (unless otherwise specified in the SPECIAL PROVISIONS) of the CONTRACT DOCUMENTS as are reasonably necessary for the execution of the WORK. Additional copies will be furnished, upon request, at the cost of reproduction.
- 3.8 FAILURE TO EXECUTE AGREEMENT: In the event of failure or refusal on the part of the BIDDER to whom the award is made to execute the AGREEMENT and furnish satisfactory BONDS within ten (10) days after receipt of the NOTICE OF AWARD the amount of the BID BOND accompanying his BID shall be forfeited to the CITY. The CITY, within ten (10) days of receipt of an acceptable

AGREEMENT, Performance BOND, Payment BOND, CONTRACTOR's Affidavit, and Certificate of Insurance, executed by the party to whom the CONTRACT was awarded, will sign the AGREEMENT and return to such party an executed duplicate of the AGREEMENT. Should the CITY not execute the AGREEMENT within such period, the BIDDER may by written notice withdraw the signed AGREEMENT. Such notice of withdrawal shall be effective upon receipt of the notice by the CITY.

- 3.9 COMMENCEMENT OF CONTRACT TIME; NOTICE TO PROCEED: The CONTRACT TIME will commence to run on the thirtieth day after the EFFECTIVE DATE OF THE AGREEMENT, or, if the NOTICE TO PROCEED is given, on the day indicated in the NOTICE TO PROCEED. A NOTICE TO PROCEED may be given at any time within thirty days after the EFFECTIVE DATE OF THE AGREEMENT. Should there be any reason why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the CITY and CONTRACTOR.
- 3.10 PRECONSTRUCTION CONFERENCE: Prior to beginning construction, a preconstruction conference will be held between the CONTRACTOR and the ARCHITECT/ENGINEER to reach agreements relating to responsibilities and procedures of each interested party to see that the PROJECT is built according to the approved PLANS and SPECIFICATIONS and the conditions under which disbursements for construction cost are authorized and will be paid. This meeting will be prearranged by the ARCHITECT/ENGINEER.
- 3.11 BEFORE STARTING CONSTRUCTION: Before undertaking each part of the WORK, CONTRACTOR shall carefully study and compare the CONTRACT DOCUMENTS and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ARCHITECT/ENGINEER any conflict, error, ambiguity or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ARCHITECT/ENGINEER before proceeding with any work affected thereby; however, CONTRACTOR shall not be liable to CITY or ARCHITECT/ENGINEER for failure to report any conflict, error, ambiguity or discrepancy in the CONTRACT DOCUMENTS, unless CONTRACTOR knew or reasonably should have known thereof.
- 3.12 STARTING THE WORK: CONTRACTOR shall start to perform the WORK on the date when the CONTRACT TIME commences to run, but no work shall be done at the site prior to the issuance of a NOTICE TO PROCEED.
- 3.13 PRELIMINARY SCHEDULES: Within ten (10) days after the receipt of the NOTICE OF AWARD (unless otherwise specified in the SPECIAL PROVISIONS), CONTRACTOR shall submit to ARCHITECT/ENGINEER along with the executed AGREEMENT, the following for review:

- A. A preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various CONTROLLING ITEMS OF WORK;
- B. 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;
- C. A preliminary schedule of values for lump sum items which will include quantities and prices of items aggregating the CONTRACT PRICE and will subdivide the WORK into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of work;
- D. Before any work at the site is started, CONTRACTOR shall deliver with copies to each additional insured identified in the SPECIAL PROVISIONS, Certificates of Insurance (and other evidence of insurance) which CONTRACTOR is required to purchase and maintain.

# DIVISION 1

## General Provisions

### Section 4

#### Contract Documents, Intent, Amending, Reuse

- |     |   |     |                                  |
|-----|---|-----|----------------------------------|
| 4.1 | Intent  | 4.5 | Supplementing CONTRACT DOCUMENTS |
| 4.2 | Reference to Standards, Resolving Discrepancies | 4.6 | Reuse of Documents               |
| 4.3 | Amending CONTRACT DOCUMENTS                     | 4.7 | SPECIAL PROVISIONS               |
| 4.4 | Notice to SURETY                                |     |                                  |

4.1 INTENT: The CONTRACT DOCUMENTS comprise the entire AGREEMENT between the CITY and the CONTRACTOR concerning the WORK. The intent of the CONTRACT DOCUMENTS is to prescribe a complete WORK or improvement which the CONTRACTOR shall undertake to do in full compliance with the DRAWINGS and SPECIFICATIONS and in conformity with the General and SPECIAL PROVISIONS and the terms and conditions of the CONTRACT. The CONTRACTOR shall do all work including such incidental work as may be reasonably implied as being necessary to complete the WORK in a satisfactory and acceptable manner. He shall furnish, unless otherwise provided for in the AGREEMENT, all materials, supplies, equipment, tools, labor and incidentals necessary to prosecute and complete the WORK. Any work, materials or equipment that may reasonably be inferred from the CONTRACT DOCUMENTS or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically called for. When words or phrases which have a well-known technical or construction industry or trade meaning are used to describe work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning. Clarifications and interpretations of the CONTRACT DOCUMENTS shall be issued by ARCHITECT/ENGINEER.

4.1.1 ORDER OF PRECEDENCE: Should a conflict exist between the requirements of the Advertisement for BIDS, BID Proposal Form, Instruction to BIDDERS, SPECIAL PROVISIONS, Supplemental GENERAL PROVISIONS, PLANS or Technical SPECIFICATIONS, the former shall take precedence.

4.2 REFERENCE TO STANDARDS, RESOLVING DISCREPANCIES: Reference to standards, SPECIFICATIONS, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, SPECIFICATION, manual, code or Laws or Regulations in effect at the time of opening of BIDS except as may be otherwise specifically stated in the CONTRACT DOCUMENTS. If during the performance of the WORK,

CONTRACTOR discovers any conflict, error, ambiguity or discrepancy within the CONTRACT DOCUMENTS or between the CONTRACT DOCUMENTS and any provision of any such Law or Regulation applicable to the performance of the work or of any such standard, SPECIFICATION, manual or code or of any instruction to any SUPPLIER, CONTRACTOR shall report it to ARCHITECT/ENGINEER in writing at once, and, CONTRACTOR shall not proceed with the work affected thereby until a FIELD CHANGE, amendment, or supplement to the CONTRACT DOCUMENTS has been issued. 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:

- 4.2.1 The provisions of any such standard, SPECIFICATION, manual, code or instruction (whether or not specifically incorporated by reference in the CONTRACT DOCUMENTS); or 4.2.2 The Provision of any such Laws or Regulations applicable to the performance of the WORK (unless such an interpretation of the provisions of the CONTRACT DOCUMENTS would result in violation of such Law or Regulation). No provision of any such standard, SPECIFICATION, manual, code or instruction shall be effective to change the duties and responsibilities of the CITY, CONTRACTOR, ARCHITECT/ENGINEER, or any of their SUBCONTRACTORS, consultants, agents or employees from those set forth in the CONTRACT DOCUMENTS.
- 4.3 AMENDING CONTRACT DOCUMENTS: The CONTRACT DOCUMENTS may be amended to provide for additions, deletions and revisions in the WORK or to modify the terms and conditions by formal WRITTEN AMENDMENT or by CHANGE ORDER.
  - 4.3.1 WRITTEN AMENDMENTS (sometimes called supplemental agreements) authorize additions, deletions or revisions in the WORK and shall be used as the method to amend the AGREEMENTS when the addition, deletion or revision of quantities of pay items in the AGREEMENT exceed twenty-five percent (25%) of the total amount of the AGREEMENT.
  - 4.3.2 CHANGE ORDERS: Changes in the WORK through additions, deletions or revisions or changes which modify the WORK shall be authorized by CHANGE ORDER. The CITY and the CONTRACTOR shall execute appropriate CHANGE ORDERS recommended by the ARCHITECT/ENGINEER covering the following changes in the AGREEMENT.
    - 4.3.2.1 Changes in the WORK which are ordered by the CITY.
    - 4.3.2.2 Changes required for acceptance of DEFECTIVE WORK.
    - 4.3.2.3 Changes required for correction of DEFECTIVE WORK.
    - 4.3.2.4 Changes in the CONTRACT PRICE.
    - 4.3.2.5 Changes in the CONTRACT TIME.



- 4.4 NOTICE TO SURETY: If notice of any change affecting the general scope of the WORK or the CONTRACT DOCUMENTS is required by the provisions of the BOND to be given to SURETY, the giving of such notice shall be the CONTRACTOR's responsibility.
- 4.5 SUPPLEMENTING CONTRACT DOCUMENTS: The requirements of the CONTRACT DOCUMENTS may be supplemented and minor variations and deviations in the WORK, may be authorized by FIELD ORDERS, ARCHITECT/ENGINEER's approval of SHOP DRAWINGS or SAMPLES and by the ARCHITECT/ENGINEER's written interpretation or clarifications.
- 4.5.1 FIELD ORDER: The ARCHITECT/ENGINEER may issue a FIELD ORDER which authorizes minor variations in the WORK from the requirements of the CONTRACT DOCUMENTS and which does not involve an adjustment to the CONTRACT PRICE or the CONTRACT TIME. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ARCHITECT/ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles the CONTRACTOR to a change in CONTRACT PRICE or TIME, or both, in which event the CONTRACTOR shall give the ARCHITECT/ENGINEER written notice thereof within seven (7) days after the receipt of the order to change. Within thirty (30) days after providing written notice to the ARCHITECT/ENGINEER, the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME.
- 4.5.2 ARCHITECT/ENGINEER Approval of SHOP DRAWINGS: The ARCHITECT/ENGINEER will review and approve SHOP DRAWINGS and SAMPLES in accordance with the schedule defined in the SPECIFICATIONS, SPECIAL PROVISIONS or WORK scheduling requirements of the CONTRACT DOCUMENTS. ARCHITECT/ENGINEER's review and approval will be only to determine if the items in the submittal will conform to and be compatible with the design concept of the completed PROJECT. ARCHITECT/ENGINEER's review and approval will not extend to means, methods, techniques, sequence or procedure of construction or to safety precautions or programs incident thereto. The review and approval of a separate item will not constitute approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by ARCHITECT/ENGINEER, and shall return the required number of corrected copies of SHOP DRAWINGS and submit as required new SAMPLES for review and approval. ARCHITECT/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 ARCHITECT/ENGINEER's attention to each such variation at the time of submission and ARCHITECT/ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the SHOP DRAWING or SAMPLE approval.

- 4.5.3 Where a SHOP DRAWING or SAMPLE is required by the CONTRACT DOCUMENTS or the schedule of SHOP DRAWINGS and SAMPLE submissions accepted by ARCHITECT/ENGINEER as required by the CONTRACT DOCUMENTS, any related work performed prior to ARCHITECT/ENGINEERS review and approval of the pertinent submittal will be at the sole expense and the responsibility of the CONTRACTOR.
- 4.5.4 Clarifications and Interpretations: ARCHITECT/ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the CONTRACT DOCUMENTS (in the form of DRAWINGS or otherwise) as ARCHITECT/ENGINEER may determine necessary, which shall be consistent with the intent of the CONTRACT DOCUMENTS. Such written clarifications and interpretations will be binding on the CITY and CONTRACTOR. If the CITY or CONTRACTOR believes that a written clarification or interpretation justifies an adjustment in the CONTRACT PRICE or the CONTRACT TIME and the parties are unable to agree to the amount or extent thereof, if any, the CITY or CONTRACTOR may make a written claim as provided in Sections 11 and 12 of these general conditions.
- 4.6 REUSE OF DOCUMENTS: CONTRACTOR, and any SUBCONTRACTOR or SUPPLIER or other person or organization performing or furnishing any of the WORK under a direct or indirect CONTRACT with the CITY (i) shall not have or acquire any title to or ownership rights in any of the PLANS, SPECIFICATIONS or other documents (or copies of any thereof) prepared by or bearing the seal of ARCHITECT/ENGINEER, and (ii) shall not reuse any of such PLANS, SPECIFICATIONS, other documents or copies on extensions of the PROJECT or any other PROJECT without written consent of the CITY and the ARCHITECT/ENGINEER.
- 4.7 SPECIAL PROVISIONS: Construction Procedures or conditions that have not been anticipated in these General Provisions will be covered by SPECIAL PROVISIONS that will be considered a part of the AGREEMENT.

DIVISION 1

General Provision

Section 5

Lands: Rights-of-way, Physical Conditions, Subsurface Conditions

- |     |  |     |   |
|-----|--|-----|---|
| 5.1 | Lands and Rights-of-way                      | 5.5 | Construction Stakes   |
| 5.2 | Subsurface and Physical Conditions           | 5.6 | Architect/Engineer's Level  |
| 5.3 | Limited Reliance on Technical Data           | 5.7 | ASBESTOS, PCB's, Petroleum, HAZARDOUS WASTE or Radioactive Material |
| 5.4 | Physical Conditions - Underground Facilities | 5.8 | Indemnity and Hold Harmless   |

5.1 LAND AND RIGHTS-OF-WAY: Prior to the issuance of the NOTICE TO PROCEED, the CITY shall obtain all land and rights-of-way necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed. The CITY shall provide to the CONTRACTOR information that delineates and describes the lands owned and rights-of-way required and shall identify any encumbrances or restrictions related to use of the land. The CONTRACTOR shall provide at his own expense and without liability to the CITY any additional land and access thereto that the CONTRACTOR may desire for construction facilities or for storage of materials.

5.2 SUBSURFACE AND PHYSICAL CONDITIONS: The SPECIAL PROVISIONS may include data, reports and DRAWINGS that contain point of test or measurement of Subsurface and Physical Conditions.

5.2.1 Subsurface Conditions: Those reports of explorations and tests of Subsurface Conditions at or contiguous to the site that have been utilized by ARCHITECT/ENGINEER in preparing the CONTRACT DOCUMENTS.

5.2.2 Physical Conditions: Those DRAWINGS of Physical Conditions in or relating to existing surface or subsurface structures at or contiguous to the site that have been utilized by ARCHITECT/ENGINEER in preparing the CONTRACT DOCUMENTS.

5.3 LIMITED RELIANCE ON TECHNICAL DATA: The CONTRACTOR may rely upon the general accuracy of the Technical Data contained in reports and DRAWINGS of Subsurface Conditions and Physical Conditions but such reports and DRAWINGS are not CONTRACT DOCUMENTS. The CONTRACTOR shall adjudge the Technical Data as Technical Data and may not rely upon said data for the purpose of making claims against the CITY or ARCHITECT/ENGINEER

with respect to the completeness of the reports and/or DRAWINGS as such might affect the means, methods, techniques, sequence or procedures of construction. If the CONTRACTOR believes that any Subsurface or Physical Condition exists or that is uncovered is of such a nature that the Technical Data is inaccurate, differs materially from that shown in the CONTRACT DOCUMENTS or is of an unusual nature differing from conditions normally encountered, and will require a change in the CONTRACT DOCUMENTS; the CONTRACTOR will promptly notify the ARCHITECT/ENGINEER in writing of such conditions. CONTRACTOR will not further disturb such conditions or perform any WORK until receipt of a written order. The ARCHITECT/ENGINEER will promptly review the pertinent conditions, determine if additional testing may be required or if CHANGE ORDERS reflecting CONTRACT TIME and CONTRACT PRICE should be recommended to the DIRECTOR OF PUBLIC WORKS. If the CITY and the CONTRACTOR are unable to agree on entitlement regarding CONTRACT PRICE or CONTRACT TIME, the CONTRACTOR may reserve the option to make a claim in accordance with Sections 11 and 12 of these General Provisions.

- 5.4 PHYSICAL CONDITIONS - UNDERGROUND FACILITIES: Various PROJECTS may involve Underground Facilities not in the ownership of the CITY. Where information and data provided by others is incomplete or inaccurate, the ARCHITECT/ENGINEER and the CITY shall not be held liable for damage to the facility during the course of construction. It shall be the responsibility of the CONTRACTOR to accurately locate and coordinate the WORK around these facilities with the owner of such Underground Facilities.
- 5.4.1 Underground Facilities - Not Shown: If an Underground Facility is uncovered or revealed which is not shown or indicated by the CONTRACT DOCUMENTS, CONTRACTOR will promptly notify the ARCHITECT/ENGINEER. If the owner of the Underground Facility is known or can be identified, the CONTRACTOR will notify said owner and document the consequences of the existence of the facilities as they may affect the WORK. If the ARCHITECT/ENGINEER concludes that a change in the CONTRACT DOCUMENTS is needed, ARCHITECT/ENGINEER shall recommend said change to the CITY as set forth in these General Provisions.
- 5.5 CONSTRUCTION STAKES: The ARCHITECT/ENGINEER will furnish and set the necessary construction stakes on original layouts, marking the general locations, alignments, elevations, and grade of the work. The CONTRACTOR, however, will be required to check all leading dimensions and clearances measured from such stakes and thereafter become responsible for the alignment, elevations, and dimensions of all parts of the work and their mutual agreement. The CONTRACTOR shall furnish, at his own expense, all batter boards, templates, and other material for marking, referencing, and maintaining points, lines and grades and shall furnish the ARCHITECT/ENGINEER with such incidental labor as he may require in establishing points, lines, and grades necessary to the prosecution of the WORK. The CONTRACTOR shall be held responsible for the

preservation of all takes, transit points, bench marks, hubs and guard stakes. If, in the opinion of the ARCHITECT/ENGINEER, any of the original construction stakes or markers have been carelessly or willfully destroyed or disturbed by the CONTRACTOR, the cost of replacing them shall be deducted from any money due the CONTRACTOR.

- 5.6 ENGINEER'S LEVEL: The CONTRACTOR shall have an ENGINEER's Level in working condition and acceptable to the ARCHITECT/ENGINEER on the PROJECT at all times for his use and the use of the PROJECT REPRESENTATIVE in checking forms and stakes that appear to be disturbed and in transferring grades.
- 5.7 ASBESTOS, PCB'S, PETROLEUM, HAZARDOUS WASTE, HAZARDOUS MATERIAL OR RADIOACTIVE MATERIAL: The CITY shall be responsible for any ASBESTOS, PCB's, Petroleum, HAZARDOUS WASTE, HAZARDOUS MATERIAL or Radioactive Material uncovered or revealed at the site which was not shown or indicated in DRAWINGS or SPECIFICATIONS or identified in the CONTRACT DOCUMENTS to be within the scope of WORK and which may present a substantial danger to persons or property in connection with WORK at the site. The CITY will not be responsible for any such material brought to the site by CONTRACTOR, SUBCONTRACTOR, SUPPLIER or anyone else for whom the CONTRACTOR is responsible. In the event of such incident, the CONTRACTOR will promptly notify the ARCHITECT/ENGINEER. CONTRACTOR will not be required to work at the site until it has been rendered safe. CONTRACTOR may be entitled to changes in the CONTRACT DOCUMENTS due to WORK stoppage. If the CITY and CONTRACTOR are unable to agree on CONTRACT PRICE or CONTRACT TIME due to the stoppage, either may make a claim as provided in these General Provisions. The CITY further reserves the right to redirect the CONTRACTOR to other work within the PROJECT and within the scope of the CONTRACT DOCUMENTS, if available and reasonable with minor mobilization reimbursement.
- 5.8 INDEMNITY AND HOLD HARMLESS: To the fullest extent permitted by laws and regulations the CITY shall indemnify and hold harmless CONTRACTOR, SUBCONTRACTORS, ARCHITECT/ENGINEER, ARCHITECT/ENGINEER CONSULTANTS, and the Officers, Directors, Employees, Agents, other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages arising out of or resulting from such hazardous condition, provided that: (i) any such claim, cost, loss or damage is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than WORK itself) including the loss of use resulting therefrom and (ii) nothing in this paragraph 5.8 shall obligate CITY to indemnify any person or entity from and against the consequences of that persons or entities on negligence.

# DIVISION 1

## General Provisions

### Section 6

#### Insurance, Partial Utilization, Preservation and Restoration

- 6.1 Insurance
- 6.2 Types of Insurance
- 6.3 Builder's Risk
- 6.4 Partial Utilization
- 6.5 Preservations and Restoration of Property, Trees, Monuments

6.1 INSURANCE: All Insurance required by the these GENERAL PROVISIONS are to be purchased by the CONTRACTOR shall be obtained from Insurance companies that are licensed or authorized in the STATE. The Insurance Carriers shall have a current A.M. Best Guide rating of A-V or better, unless otherwise authorized by the CITY in writing. This shall include "Self Insured Retention" Plans. CONTRACTOR shall deliver to the CITY with copies of each additional insured identified in the SPECIAL PROVISIONS, Certificates of Insurance which are required by these and the SPECIAL PROVISIONS.

6.2 TYPES OF INSURANCE: The CONTRACTOR, shall purchase and maintain such liability and other insurance as is appropriate for the WORK being performed and furnished, as well as provide protection from claims set forth below which may arise out of, or result from, CONTRACTORS performance and furnishing of the WORK and CONTRACTORS other obligations under the CONTRACT DOCUMENTS, whether it is to be performed or furnished by CONTRACTOR, any sub-contractor or supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the WORK, or by anyone for whose acts any of them may be liable:

6.2.1 Claims under Workers Compensation, disability benefits and other similar employee benefit acts;

6.2.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTORS EMPLOYEES;

6.2.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTORS EMPLOYEES;

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

6.2.5 Claims for damages, other than to the WORK itself, because of injury to or destruction of tangible property where ever located, including loss of use resulting therefrom;

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

The policies of insurance so required by this paragraph 6.2 to be purchased and maintained shall:

6.2.7 With respect to insurance required by paragraphs 6.2.3 through 6.2.5 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability.)

CITY, ARCHITECT/ENGINEER, and any other persons or entities identified in the special provisions, all of whom shall be listed as additional insureds, and include coverage for the respective officers and employees of all such additional insureds;

6.2.8 Include the specific coverages and be written for not less than the limits of liability provided in the special provisions, or required by laws or regulations, which ever is greater;

6.2.9 Include completed operations insurance;

6.2.10 Contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to CITY and CONTRACTOR and to each other additional insured identified in the special provisions to whom a certificate of insurance has been issued.

6.2.11 Remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing DEFECTIVE work;

6.2.12 With respect to completed operations insurance, and any insurance coverage written on a claims made basis, remain in effect for at least 2 years after final payment.

6.3 BUILDER'S RISK: Builder's Risk Insurance is not required; however, if this Insurance is not secured, the CONTRACTOR cannot request payment per invoice cost for materials stored on the PROJECT site. The CONTRACTOR may secure broad form "All Risk" type Builder's Risk Insurance for the WORK to be performed which is insurable under this type of coverage. The policy shall cover not less than the losses due to fire, explosion, theft, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the CONTRACT TIME, and until the WORK is accepted by the CITY. The materials and equipment for those work items which are not insurable once installed (e.g., facilities to be installed beneath the ground surface) must be insured for all named perils during

the CONTRACT TIME, and until the WORK is accepted by the CITY, regardless of the intended service of these items, and whether installed or not.

- 6.4 PARTIAL UTILIZATION - PROPERTY INSURANCE: If the CITY finds it necessary to occupy or use a portion or portions of the WORK prior to COMPLETION of all the WORK, such use or occupancy may be accomplished provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.
- 6.5 PRESERVATION AND RESTORATION OF PROPERTY, TREES, MONUMENTS: The CONTRACTOR shall be responsible for the preservation of all public and private property, trees and monuments, along and adjacent to the PROJECT and shall use every precaution necessary to prevent damage or injury thereto. He shall use suitable precaution necessary to prevent damage to pipes, conduits, and other underground structures and shall protect carefully from disturbance or damage all land monuments, CITY, STATE and United States benchmarks, Geodetic and Geological Survey Monuments and property markers until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed. Any utility lines injured by the CONTRACTOR shall be repaired at once at his own expense in accordance with requirements of the General Provisions. The CONTRACTOR shall not injure or destroy trees or shrubs nor remove or cut them without proper authority. The CONTRACTOR shall be responsible for any damage done to public or private property by or on account of any act of omission, neglect, or misconduct in the execution of the WORK, or on account of DEFECTIVE WORK or material. He shall restore at his own expense such property to a condition similar or equal to that existing before such damage was done, by repairing, rebuilding or otherwise restoring same, or he shall make good such damage or injury in an acceptable manner. In case of failure on the part of a CONTRACTOR to restore such property or make good such damages or injury, the ARCHITECT/ENGINEER may, after forty- eight (48) hours written notice, proceed to repair, rebuild or otherwise restore such property as may be deemed necessary and the cost therefor will be deducted from any monies due or which may become due the CONTRACTOR under this AGREEMENT. In case no money is due or to become due, his SURETY shall be held responsible until such time as all suits, claims or damages shall have been settled and suitable evidence to that effect furnished the ARCHITECT/ENGINEER.



DIVISION 1

General Provisions

Section 7

Contractor's Responsibilities and Prosecution of the Work

- |      |   |      |  |
|------|---|------|--|
| 7.1  | Supervision                             | 7.11 | Permits and Licenses                       |
| 7.2  | Subletting or Assignment                | 7.12 | LAWS and REGULATIONS                       |
| 7.3  | Character of Workmen and Equipment      | 7.13 | Taxes                                      |
| 7.4  | Source of Supply – Quality of Materials | 7.14 | Use of Premises                            |
| 7.5  | Materials Furnished by CONTRACTOR       | 7.15 | Sanitary Provisions                        |
| 7.6  | Storage of Materials                    | 7.16 | Record Documents                           |
| 7.7  | Defective Material                      | 7.17 | Safety and Protection                      |
| 7.8  | Samples and Tests                       | 7.18 | Traffic Safety Precautions                 |
| 7.9  | Substitutes and "OR EQUAL Items"        | 7.19 | SHOP DRAWINGS and SAMPLES                  |
| 7.10 | SUBCONTRACTORS, SUPPLIERS and Others    | 7.20 | Indemnification                            |
|      |   | 7.21 | Cooperation with Public Utilities          |
|      |   | 7.22 | CONTRACTORS General Warranty and Guarantee |

7.1 SUPERVISION: CONTRACTOR shall supervise, inspect and direct the WORK competently and efficiently devoting such attention 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, consequences and procedures of construction. CONTRACTOR shall not be responsible for the negligence of others in the design or specification of a specific means, method, technique, sequence or procedure of construction which has been expressly required in the CONTRACT DOCUMENTS. CONTRACTOR shall be responsible to see that the completed WORK complies with the CONTRACT DOCUMENTS. CONTRACTOR shall keep on the PROJECT, at all times, during its progress a competent resident superintendent, who shall not be replaced without written notice to the CITY and the ARCHITECT/ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications to the superintendent shall be as binding as if given to CONTRACTOR.

7.2 SUBLETTING OR ASSIGNMENT: The CONTRACTOR shall not assign, sell, transfer or otherwise dispose of the AGREEMENT, or any portion thereof, or his rights, title or interest therein, without previous written approval of the CITY. The CONTRACTOR will not be permitted to sublet any portion of the AGREEMENT

except for the delivery of materials, without the written approval of the ARCHITECT/ENGINEER.

- 7.2.1 The purchase of sand, gravel, crushed stones, crushed slag, batched concrete aggregates, ready mixed concrete and/or materials produced at and furnished from established and recognized commercial plants, together with the delivery of such materials to the site of the WORK by means of vehicles owned or operated by such plants or by recognized commercial hauling companies, shall not be considered as subcontracting under these provisions.
- 7.2.2 No Subcontract will in any case relieve the CONTRACTOR of his responsibility under the AGREEMENT and BOND.
- 7.3 CHARACTER OF WORKMEN AND EQUIPMENT: The CONTRACTOR shall, at all times, employ sufficient labor and equipment for prosecuting the several classes of WORK to full completion in the manner and time specified. Failure by the CONTRACTOR to provide adequate equipment or labor may result in the annulment of the AGREEMENT.
  - 7.3.1 All workmen must have sufficient skill and experience to perform properly the WORK assigned them. All workmen engaged on special WORK or skilled WORK, such as bituminous courses or mixtures, concrete base courses, pavements or structures, or in any trade, shall have sufficient experience in such WORK to properly and satisfactorily perform it and operate the equipment involved and shall make due and proper effort to execute the WORK in the manner prescribed in these SPECIFICATIONS.
  - 7.3.2 All machinery and equipment owned or controlled by the CONTRACTOR, which is proposed to be employed by him on the WORK, shall be of sufficient size to meet the requirements of the WORK and shall be such as to produce a satisfactory quality of WORK.
- 7.4 SOURCE OF SUPPLY AND QUALITY OF MATERIALS: The source of supply of each of the materials shall be approved by the ARCHITECT/ENGINEER before the delivery is started. Representative preliminary SAMPLES of the character and quantity shall be submitted by the CONTRACTOR or produced for examination and testing in accordance with the methods referred to under tests of SAMPLES of materials. Only materials tested and found to conform to the requirements of the SPECIFICATIONS and approved by the ARCHITECT/ENGINEER shall be used in the WORK. All materials proposed to be used may be inspected or tested at any time during their preparation and use. If after trial, it is found that sources of supply that have been approved do not furnish a uniform product, or if the product from any source proves unacceptable at any time, the CONTRACTOR shall furnish approved materials from other approved sources. No material which, after approval, has in any way become unfit for use shall be used in the WORK. Stored material, even though approved before being stored, shall be inspected prior to

use in the WORK and shall meet the requirements of the SPECIFICATIONS at the time of its use.

- 7.5 MATERIALS FURNISHED BY THE CONTRACTOR: Unless otherwise specifically stated in the CONTRACT, all materials needed in the WORK will be furnished by the CONTRACTOR. The CONTRACTOR will assume full responsibility in ordering materials of the quantity specified and required in the CONTRACT DOCUMENTS. The CONTRACTOR will assume full responsibility for the payment of all materials ordered by him in accordance with the CONTRACT, and this shall include the payment of all freight and demurrage charges incurred in the shipment. The CONTRACTOR will be responsible for the proper storage and handling of the material to insure the required quality before and during incorporation into the WORK.
- 7.6 STORAGE OF MATERIALS: Materials shall be stored so as to insure the preservation of their quality and fitness for the WORK, and in a manner that leaves the material accessible to inspection. With the approval of the ARCHITECT/ENGINEER, material may be stored on the right-of-way provided such storage does not interfere with the prosecution of the WORK or with public travel.
- 7.7 DEFECTIVE MATERIALS: All materials not conforming to the requirements of these SPECIFICATIONS shall be considered as DEFECTIVE and all such materials whether in place or not, shall be rejected and shall be removed immediately from the site of the WORK unless otherwise permitted in writing by the ARCHITECT/ENGINEER. Upon failure on the part of the CONTRACTOR to comply forthwith with any order by the ARCHITECT/ENGINEER made under the provisions of this article, the ARCHITECT/ENGINEER shall have the authority to remove and replace DEFECTIVE material and to deduct the cost of removal and replacement from any monies due or to become due the CONTRACTOR.
- 7.8 SAMPLES AND TESTS: The CONTRACTOR shall give sufficient notification of the placing of orders for materials to permit testing; shall afford such facilities as the ARCHITECT/ENGINEER may require for collecting and forwarding SAMPLES; shall not make use of or incorporate in the WORK the materials represented by the SAMPLES until the tests have been made and the materials found to be in accordance with the requirements of the SPECIFICATIONS; and shall furnish, without charge, all the SAMPLES required.
- 7.8.1 When required by the ARCHITECT/ENGINEER, representative preliminary SAMPLES of the character and quantity prescribed shall be submitted by the CONTRACTOR or produced for examination and shall be tested in accordance with the methods referred to herein. The acceptance of a preliminary SAMPLE shall not be construed as acceptance of materials from the same source delivered later. Only the materials actually delivered for the WORK will be considered and

their acceptance or rejection will be based solely on the results of the tests prescribed in the SPECIFICATIONS.

- 7.8.2 For the verification of weights or proportions and character of materials, and determinations of temperatures used in the preparation of the materials and mixtures, the ARCHITECT/ENGINEER shall have access at all times to all parts of any plants connected with the WORK. The CONTRACTOR shall facilitate and assist the verification of all scales, measures and other devices that he operates.
- 7.8.3 Unless otherwise specifically provided, all sampling and testing and laboratory methods required under this CONTRACT shall be in accordance with the latest revision of the standard Specifications of the American Society for Testing Materials, as amended to date of CONTRACT, and, when not covered therein, shall be sampled and tested in accordance with the Standard Specifications for Highway Materials and Methods of Sampling and Testing of the American Association of State Highway Officials, with subsequent revisions to date of CONTRACT. All tests not covered by the above shall be performed as specified by the ARCHITECT/ENGINEER.
- 7.9 SUBSTITUTES AND "OR EQUAL ITEMS": Whenever materials or equipment are specified or described in the CONTRACT DOCUMENTS by using the name of a proprietary item or the name of a particular SUPPLIER, the naming of the item is intended to establish the type, function and quality required. Unless the name, if followed by words indicating that no substitution is permitted, materials or equipment of other SUPPLIER may be accepted by ARCHITECT/ENGINEER if sufficient information is submitted by CONTRACTOR to allow ARCHITECT/ENGINEER to determine that the material or equipment proposed is equivalent or EQUAL to that named. The procedure for review by ARCHITECT/ENGINEER will include the following as supplemented in the General Provisions. Requests for review of substitute items of material and equipment, CONTRACTOR shall make written application to ARCHITECT/ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the CONTRACTOR's achievement of SUBSTANTIAL COMPLETION on time, whether or not acceptance of the substitute for use in the WORK will require a change in any of the CONTRACT DOCUMENTS (or in the provisions of any other direct CONTRACT with CITY for WORK on the PROJECT) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the WORK is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified and the service will be indicated. The application will also contain an itemized estimate of costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by ARCHITECT/ENGINEER in evaluating the proposed substitute.

ARCHITECT/ENGINEER may require CONTRACTOR to furnish at CONTRACTOR's expense additional data about the proposed substitute.

- 7.9.1 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the CONTRACT DOCUMENTS, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to ARCHITECT/ENGINEER if CONTRACTOR submits sufficient information to allow ARCHITECT/ENGINEER to determine that the substitute proposed is equivalent to that indicated or required by the CONTRACT DOCUMENTS.
- 7.9.2 ARCHITECT/ENGINEER will be allowed a reasonable time within which to evaluate each proposed substitute. ARCHITECT/ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without ARCHITECT/ENGINEER's prior written acceptance that will be evidenced by either a CHANGE ORDER or an approved SHOP DRAWING. The CITY may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other Surety with respect to any substitute. ARCHITECT/ENGINEER will record the time required by ARCHITECT/ENGINEER in evaluating substitutions proposed by CONTRACTOR and in making changes in the CONTRACT DOCUMENTS occasioned thereby. CONTRACTOR shall reimburse the CITY for the charges of ARCHITECT/ENGINEER for evaluating each proposed substitute.
- 7.10 SUBCONTRACTORS, SUPPLIERS AND OTHERS: CONTRACTOR shall not employ any SUBCONTRACTOR, SUPPLIER or other person against whom the ARCHITECT/ENGINEER or the CITY may have a reasonable objection. CONTRACTOR shall not be required to employ any SUBCONTRACTOR, SUPPLIER or other person against whom the CONTRACTOR has a reasonable objection.
- 7.10.1 CONTRACTOR shall be fully responsible to CITY and ARCHITECT/ENGINEER for all acts and omissions of the SUBCONTRACTORS, SUPPLIERS and other persons and organizations performing or furnishing any of the work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTORS on acts and omissions. Nothing in the CONTRACT DOCUMENTS shall create for the benefit of any such SUBCONTRACTOR, SUPPLIER, or other person or organization in any contractual relationship between CITY or ARCHITECT/ENGINEER and any such SUBCONTRACTOR, SUPPLIER or other person or organization, nor shall it create any obligation on the part of the CITY or ARCHITECT/ENGINEER to pay or to see to the payment of any monies due any such SUBCONTRACTOR, SUPPLIER or other person or organization except as may otherwise be required by laws and regulations.
- 7.10.2 CONTRACTOR shall be solely responsible for scheduling and coordinating the work of SUBCONTRACTORS, SUPPLIERS and other persons and organizations

performing or furnishing any of the work under a direct or indirect contract with CONTRACTOR. CONTRACTOR shall require all SUBCONTRACTORS, SUPPLIER and other such persons or organizations performing or furnishing any of the work to communicate with ARCHITECT/ENGINEER through CONTRACTOR.

7.11 PERMITS AND LICENSES: The CONTRACTOR shall procure all permits and licenses, pay all charges and fees and give all notices incident to the lawful prosecution of the WORK.

7.12 LAWS AND REGULATIONS: The CONTRACTOR is presumed to have made himself familiar with, and at all time shall observe and comply with all Federal, STATE and Local laws and bylaws, ordinances and regulations in any manner affecting the conduct of the WORK, and shall indemnify and save harmless the CITY and its representatives against any claim or liability arising from or based on the violation of any such law, bylaw, ordinance or regulation, whether by himself or by his employees or SUBCONTRACTORS.

7.12.1 CONTRACTOR shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the WORK. Except for otherwise expressly required by applicable laws and regulations, neither CITY nor ARCHITECT/ENGINEER shall be responsible for monitoring CONTRACTORS compliance with any laws or regulations.

7.12.2 If CONTRACTOR performs any work knowing or having reason to know that it is contrary to laws or regulations, CONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom; however, it shall not be CONTRACTORS primary responsibility to make certain that the specifications and drawings are in accordance with laws and regulations, but this shall not relieve CONTRACTOR of CONTRACTORS obligations under the CONTRACT DOCUMENTS.

7.13 TAXES: CONTRACTOR shall pay all sales, consumer, use or other similar taxes required to be paid by the CONTRACTOR under LAWS AND REGULATIONS.

7.14 USE OF PREMISES: The CONTRACTOR shall, at all times, conduct his WORK in such a manner and in such sequence as will insure the least practicable interference with traffic. He shall not open up WORK to the prejudice of WORK already started and this feature of the prosecution shall be governed by the order of the ARCHITECT/ENGINEER.

7.14.1 The CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site and land and areas identified in and permitted by the contract documents and other land and areas permitted by laws and regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment

or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any adjacent land or areas, resulting from the performance of the WORK. Should any claim be made by any such owner or occupant because of the performance of the WORK, CONTRACTOR shall promptly settle with each other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law. CONTRACTOR shall, to the fullest extent permitted by laws and regulations, indemnify and hold harmless CITY, ARCHITECT/ENGINEER, ARCHITECT/ENGINEERS' CONSULTANT and anyone directly or indirectly employed by any of them from and against all claims, cause, losses and damages arising out of or resulting from any claim or action, legal or equitable, brought by such owner or occupant against CITY, ARCHITECT/ENGINEER, or any other party indemnify here-under to the extent caused by or based upon CONTRACTORS performance of the work.

- 7.14.2 During the progress of the WORK, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the WORK. At the completion of the WORK, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premise as well as all tools, appliances, construction equipment and machinery and surplus materials. CONTRACTOR shall leave the site clean and ready for occupancy by CITY at completion of the WORK. CONTRACTOR shall restore to original condition all property not designated for alteration by the CONTRACT DOCUMENTS.
- 7.14.3 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.
- 7.15 SANITARY PROVISIONS: The CONTRACTOR shall observe all rules and regulations of the STATE Board of Health, or any bodies having jurisdiction, and of all local health officials and must take such precautions as are necessary to avoid unhealthful conditions.
- 7.16 RECORD DOCUMENTS: CONTRACTOR shall maintain in a safe place at the site one record copy of all DRAWINGS, SPECIFICATIONS, ADDENDA, WRITTEN AMENDMENTS, CHANGE ORDERS, FIELD ORDERS and written interpretations and clarifications in good order annotated to reflect changes during construction. These records along with approved SAMPLES and SHOP DRAWINGS will be available to the ARCHITECT/ENGINEER for reference. Upon completion of the WORK, these record documents, SAMPLES and SHOP DRAWINGS will be delivered to ARCHITECT/ENGINEER for CITY.
- 7.17 SAFETY AND PROTECTION: CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. CONTRACTOR shall take all necessary precautions for the

safety of, and provide the necessary protection to prevent damage, entry or loss to:

- 7.17.1 All persons on the WORK site or who may be affected by the WORK;
- 7.17.2 All the WORK and material and equipment to be incorporated therein, whether in storage on or off the site; and
- 7.17.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, road ways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction. CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of underground facilities and utility owners when prosecution of the WORK may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss of any property referred to in this paragraph caused directly or indirectly, in all or in part by CONTRACTOR, any SUBCONTRACTOR, SUPPLIER, or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the work of 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 CITY, or ARCHITECT/ENGINEER, or anyone employed by 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 any person or organization directly or indirectly employed by any of them". CONTRACTORS duties and responsibilities for safety and for protection of the work shall continue until such time as all the work is completed and ARCHITECT/ENGINEER is issued a notice to CITY and CONTRACTOR in accordance with the contract documents that the WORK is acceptable.
- 7.18 TRAFFIC SAFETY PRECAUTIONS: The CONTRACTOR shall at all times so conduct his WORK as to insure the least practicable obstruction to traffic. The convenience of the general public, the residents along and adjacent to the PROJECT, and the protection of persons and property are of prime importance and shall be adequately provided for by the CONTRACTOR. Fire hydrants on or adjacent to the PROJECT shall be kept accessible to the Fire Department at all times and no material or obstructions shall be placed within ten feet of any such hydrant. Materials stored upon the street shall be placed so as to cause no unnecessary obstruction to the traveling public. When a street under CONTRACT is already open to the traveling public, the CONTRACTOR shall maintain the existing road, the subgrade and the new pavement in such condition that the public can travel over same safely. In dry weather, he shall be responsible for



wetting the roadway at frequent intervals to settle the dust. The CONTRACTOR shall cooperate with the ARCHITECT/ENGINEER in the regulation of traffic.

7.18.1 Satisfactory provisions for local traffic must be made by the CONTRACTOR at all times during construction, seeking at all times to inconvenience the public as little as possible.

7.18.2 The CONTRACTOR will not be allowed to obstruct private driveways or approaches, or to dig up or occupy the streets with materials more than is absolutely necessary for the prosecution of the WORK. Barricades shall be erected and maintained as provided in Section 7.17.3.

7.18.3 The CONTRACTOR shall provide, erect and maintain all necessary barricades, danger signals, signs, sufficient number of watchmen and take all necessary precautions for the protection of the WORK and workmen and the safety of the public. All traffic and pedestrian warning signs, devices and procedures shall be in accordance with the "Manual on Uniform Traffic Control Devices, (MUTCD), for Streets and Highway". The CONTRACTOR will be held responsible for all damage to the PROJECT due to failure of the signs and/or barricades to properly protect the WORK from traffic, pedestrians, animals and from all other sources and whenever evidence of any such traffic is found damaging the unaccepted WORK, the ARCHITECT/ENGINEER will order that WORK be immediately removed and replaced by the CONTRACTOR without cost to the CITY. The CONTRACTOR's responsibility for the maintenance of barricades, signs and lights shall not cease until the PROJECT shall have been completed and accepted. The CONTRACTOR shall notify the chief of the Fire and Police Departments whenever a section of street is closed to traffic and again when it is opened to public travel.

7.19 SHOP DRAWINGS AND SAMPLES: CONTRACTOR shall submit four (4) copies of SHOP DRAWINGS to ARCHITECT/ENGINEER for review and approval in accordance with the accepted schedule of SHOP DRAWINGS and SAMPLES. All submittals will be identified as ARCHITECT/ENGINEER may require. The data shown on the SHOP DRAWINGS will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to show ARCHITECT/ENGINEER the materials and equipment CONTRACTOR proposes to provide and to enable ARCHITECT/ENGINEER to review the information for the purposes intended.

7.19.1 CONTRACTOR shall also submit SAMPLES to ARCHITECT/ENGINEER for review and approval in accordance with said accepted schedule of SHOP DRAWINGS and SAMPLE submittals. Each SAMPLE will be identified clearly as to material, SUPPLIER, pertinent data such as catalog numbers and the use for which intended and otherwise as ARCHITECT/ENGINEER may require to enable ARCHITECT/ENGINEER to review the submittal for the limited purposes

intended. The numbers of each SAMPLE to be submitted will be as specified in the SPECIFICATIONS.

7.19.2 Submittal Procedures: Before submitting each SHOP DRAWING or SAMPLE, CONTRACTOR shall have determined and verified:

7.19.2.1 All field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar information with respect thereto,

7.19.2.2 All materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the WORK, and

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

7.19.3 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, the CONTRACT DOCUMENTS, and in accordance with Section 4.5.2 of these general provisions.

7.19.3.1 Each submittal will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the CONTRACT DOCUMENTS with respect to CONTRACTOR's review and approval of that submittal.

7.19.3.2 At the time of each submission, CONTRACTOR shall give ARCHITECT/ENGINEER specific written notice of such variations, if any, that the SHOP DRAWINGS or SAMPLE submitted may have from the requirements of the CONTRACT DOCUMENTS, such notice to be 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 ARCHITECT/ENGINEER for review and approval of each such variation.

7.20 INDEMNIFICATION: To the fullest extent permitted by LAWS AND REGULATIONS, CONTRACTOR shall indemnify and hold harmless the CITY, ARCHITECT/ENGINEER, and the officers, directors, employees, agents and other consultants of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of Architect/Engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the performance of the WORK, provided that any such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the WORK itself), including the

loss of use resulting therefrom, and (ii) is caused in whole or in part by any negligent act or omission of CONTRACTOR, or SUBCONTRACTOR, any SUPPLIER, any person or organization directly or indirectly employed by any of them to perform or furnish any of the WORK or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by LAWS AND REGULATIONS regardless of the negligence of any such person or entity.

7.20.1 In any and all claims against CITY or ARCHITECT/ENGINEER or any of their respective consultants, agents, officers, directors or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any SUBCONTRACTOR, any SUPPLIER, any person or organization directly or indirectly employed by any of them to perform or furnish any of the WORK, or anyone for whose acts any of them may be liable, the indemnification obligation under Section 7.20 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such SUBCONTRACTOR, SUPPLIER, or other person or organization under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.21 COOPERATION WITH PUBLIC UTILITIES: It shall be the CONTRACTOR's responsibility to notify all public utilities or other parties interested to make all necessary adjustments of public utility fixtures and appurtenances within or adjacent to the limits of construction. Unless otherwise specified, these adjustments are to be made by the CITY. The location of utilities on the plan is incomplete and general and the CITY will not be responsible for any delay or extra cost due to errors in location, omission or unforeseen utilities.

7.21.1 The CONTRACTOR will be responsible for any damage done by him to any telephone, telegraph, power pole or lines, fire hydrant, gas, water, storm water or sanitary sewer line and service line, conduit and other accessories and appurtenances of a similar nature that are fixed or controlled by the CITY, a public utility company or a corporation. He shall perform and carry on his WORK in such a manner as not to interfere with or damage fixtures mentioned herein, or as shown on the DRAWINGS, or discovered during construction, which are to be left within the limits of the PROJECT. The CITY will not be responsible for any delay or damage incurred by the CONTRACTOR due to working around or joining his WORK to fixtures left in place.

7.21.2 The CITY will not be responsible for any delays or inconveniences to the CONTRACTOR in carrying on his WORK in the above mentioned manner and/or while the public utilities companies or the CITY are making necessary adjustments of their fixtures or appurtenances. Any additional cost incurred shall be at the expense of the CONTRACTOR and shall be considered as completely

covered by the UNIT PRICES for the various pay items provided for in the proposal and AGREEMENT.

7.21.3 The CONTRACTOR shall contact the Water Department before using any water from any fire hydrants. A deposit must be paid and a hydrant meter obtained. Damage to fire hydrants due to improper use by the CONTRACTOR shall be paid for by the CONTRACTOR.

7.22 CONTRACTORS GENERAL WARRANTY AND GUARANTEE: CONTRACTOR warrants and guarantees to owner, and ARCHITECT/ENGINEER that all WORK will be in accordance with the CONTRACT DOCUMENTS and will not be defective. CONTRACTORS warranty and guarantee here-under excludes defects or damage caused by (i) abuse, modification or improper maintenance or operations by persons other than CONTRACTOR, SUBCONTRACTOR or SUPPLIERS; or (ii) normal wear and tear under normal usage.

7.22.1 CONTRACTORS 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 CONTRACTORS obligation to perform the work in accordance with the CONTRACT DOCUMENTS:

7.22.1.1 Observations by ARCHITECT/ENGINEER;

7.22.1.2 Recommendation of any progress or final payment by ARCHITECT/ENGINEER;

7.22.1.3 Issuance of a certificate of completion or any payment by CITY to CONTRACTOR under the CONTRACT DOCUMENTS;

7.22.1.4 Use or occupancy of the WORK or any part thereof by CITY;

7.22.1.5 Any acceptance by CITY of any failure to do so;

7.22.1.6 Any review and approval of a SHOP DRAWING or SAMPLE submittal or the issuance of a notice of acceptability by ARCHITECT/ENGINEER;

7.22.1.7 Any inspection, test or approval by other; or

7.22.1.8 Any correction of defective WORK by CITY.

DIVISION 1

General Provisions

Section 8

ARCHITECT/ENGINEER'S Status During Construction

- |   |   |
|---|---|
| 1.1 STATE                               | 1.26 EFFECTIVE DATE OF AGREEMENT  |
| 1.2 PARISH                              | 1.27 FIELD ORDER  |
| 1.3 CITY                                | 1.28 HAZARDOUS WASTE  |
| 1.4 COUNCIL                             | 1.29 LAWS AND REGULATIONS   |
| 8.1 CITY'S Representative               | 8.6 Rejecting DEFECTIVE WORK  |
| 8.2 Visits to SITE                      | 8.7 Determinations for Unit Price   |
| 8.3 PROJECT REPRESENTATIVE              | 8.8 Decisions on Disputes   |
| 8.4 Clarifications &<br>Interpretations | 8.9 Impartiality  |
| 8.5 Authorized Variations in WORK       | 8.10 Limitations on<br>ARCHITECT/ENGINEER'S<br>Authority and Responsibilities |

8.1 CITY'S REPRESENTATIVE: ARCHITECT/ENGINEER will be CITY'S representative during the construction period. The duties and responsibilities and the limitations of authority of ARCHITECT/ENGINEER as CITY'S representative during construction are set forth in the CONTRACT DOCUMENTS and shall not be extended without written consent of CITY and ARCHITECT/ENGINEER.

8.2 VISITS TO SITE: ARCHITECT/ENGINEER will make visits to the site at intervals appropriate to the various stages of construction as ARCHITECT/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, ARCHITECT/ENGINEER will endeavor for the benefit of CITY to determine, in general, if the WORK is proceeding in accordance with CONTRACT DOCUMENTS. ARCHITECT/ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality of quantity of the WORK. ARCHITECT/ENGINEER'S efforts will be directed toward providing for CITY at a greater degree of confidence that the completed WORK will conform generally to CONTRACT DOCUMENTS. On the basis of such visits and on-site observations, ARCHITECT/ENGINEER will keep CITY informed of the progress of the WORK and will endeavor to guard CITY against DEFECTIVE WORK. ARCHITECT/ENGINEER'S visits and on-site observations are subject to all the limitations on ARCHITECT/ENGINEER'S authority and responsibility set forth in paragraph. And particularly, without limitation, during or as a result of

ARCHITECT/ENGINEER'S on-site visits or observations of CONTRACTORS work, ARCHITECT/ENGINEER will not supervise, direct, control or have authority over or be responsible for CONTRACTORS means, methods, techniques, sequences, or procedures of construction, of the safety precautions and programs incidental thereto, or for any failure of CONTRACTOR to comply with laws and regulations applicable to the furnishing or performance of the work.

- 8.3 PROJECT REPRESENTATIVE: If CITY and ARCHITECT/ENGINEER agree, ARCHITECT/ENGINEER will furnish a resident project representative to assist ARCHITECT/ENGINEER in providing more continuous observation of the WORK. The responsibilities and authorities and limitations thereon of any such resident project representative and assistance will be provided in this Section 8 and in SPECIAL PROVISIONS. If CITY designates another representative or agent to represent CITY at the site, who is not ARCHITECT/ENGINEER'S CONSULTANT, agent or employee, the responsibilities and authority and limitations thereon of such other person will be as provided in the SPECIAL PROVISIONS.
- 8.3.1 PROJECT REPRESENTATIVE shall be authorized to inspect all WORK done and all materials furnished. Such inspection may extend to all or any parts of the WORK and to the preparation or manufacture of the materials to be used. A PROJECT REPRESENTATIVE shall be stationed on the construction SITE to report to the ARCHITECT/ENGINEER as to the progress of the WORK and the manner in which it is being performed; also to report whenever it appears that the material furnished and the WORK performed by the CONTRACTOR fails to fulfill the requirements of the CONTRACT, and to call to the attention of the CONTRACTOR any such failure or other infringement, but such inspection shall not relieve the CONTRACTOR from any obligations to perform all the WORK in accordance with the requirements of the CONTRACT DOCUMENTS. In case of any dispute arising between the CONTRACTOR and the PROJECT REPRESENTATIVE as to materials furnished or the manner of performing the WORK, the PROJECT REPRESENTATIVE shall have the authority to reject the material or suspend the WORK until the question at issue can be referred to the ARCHITECT/ENGINEER. The PROJECT REPRESENTATIVE shall not, however, be authorized to revoke, alter, enlarge, relax or release any requirements of the DOCUMENTS, nor to approve or accept any portion of the WORK, nor to issue instructions contrary to the DRAWINGS and SPECIFICATIONS. He shall in no case act as foreman or perform other duties for the CONTRACTOR, nor interfere with the management of the WORK. Any advice that the PROJECT REPRESENTATIVE may give the CONTRACTOR shall in no way be construed as binding on the ARCHITECT/ENGINEER or the CITY in any way, or as releasing the CONTRACTOR from the fulfillment of the terms of the AGREEMENT.
- 8.3.2 INSPECTION: The ARCHITECT/ENGINEER and PROJECT REPRESENTATIVE shall have free access at all times to all parts of the WORK, and to materials intended for use in the WORK. The CONTRACTOR shall furnish the

ARCHITECT/ENGINEER with every reasonable facility for ascertaining whether or not the WORK performed is in accordance with the requirements and intent of the CONTRACT DOCUMENT. The WORK will be inspected as it progresses, but failure to reject or condemn DEFECTIVE WORK or materials at the time it is done will in no way prevent its rejection whenever it is discovered. If the ARCHITECT/ENGINEER requests, the CONTRACTOR shall at any time before the acceptance of WORK, remove or uncover such portions of the finished WORK as may be directed. After examination, the CONTRACTOR shall restore said portions of the finished WORK to the standard required by the SPECIFICATIONS. Should the WORK thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed, shall be paid for as Extra Work, but should the WORK so exposed or examined prove unacceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed shall be at the CONTRACTOR's expense.

- 8.3.3 The CONTRACTOR shall notify the ARCHITECT/ENGINEER at least forty-eight (48) hours in advance of his intention to begin construction to assure the presence of a PROJECT REPRESENTATIVE on the SITE.
- 8.4 CLARIFICATIONS AND INTERPRETATIONS: ARCHITECT/ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the CONTRACT DOCUMENTS (in the form of DRAWINGS or otherwise) as ARCHITECT/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 CITY and CONTRACTOR. If CITY or CONTRACTOR believes that a written clarification or interpretation justifies and adjustment in the CONTRACT PRICE or the CONTRACT TIME and the parties are unable to agree to the amount or extent thereof, if any, OWNER or CONTRACTOR may make a written claim therefor as provided in Article 11.
- 8.5 AUTHORIZED VARIATIONS IN WORK: ARCHITECT/ENGINEER may authorize minor variations in the WORK from the requirements of the CONTRACT DOCUMENTS which do not involve an adjustment in the CONTRACT PRICE or the CONTRACT TIME and are 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 CITY and also on CONTRACTOR who shall perform the WORK involved. If CITY or CONTRACTOR believes that a FIELD ORDER justifies an adjustment in the CONTRACT PRICE or the CONTRACT TIME and the parties are unable to agree on the amount or extent thereof, CITY or CONTRACTOR may make a written claim therefor as provided in Article 11.
- 8.6 REJECTING DEFECTIVE WORK: ARCHITECT/ENGINEER will have authority

to disapprove or reject WORK which ARCHITECT/ENGINEER believes to be DEFECTIVE, or that ARCHITECT/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.

ARCHITECT/ENGINEER will also have authority to require special inspection or testing of the WORK as provided in these general provisions whether or not the WORK is fabricated, installed, or completed.

- 8.7 DETERMINATIONS FOR UNIT PRICES: ARCHITECT/ENGINEER will determine the actual quantities and classifications of unit price WORK performed by CONTRACTOR. ARCHITECT/ENGINEER will review with CONTRACTOR the ARCHITECT/ENGINEER'S preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an application for payment or otherwise). ARCHITECT/ENGINEER'S written decision thereon will be final and binding upon CITY and CONTRACTOR, unless, within ten days after the date of any such decision, either CITY or CONTRACTOR delivers to the other and to ARCHITECT/ENGINEER written notice of intention to appeal from ARCHITECT/ENGINEER'S decision and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect to ARCHITECT/ENGINEER'S decision, unless otherwise agreed in writing by CITY and CONTRACTOR. Such appeal will not be subject to the procedures of paragraph 8.8.
- 8.8 DECISIONS ON DISPUTES: ARCHITECT/ENGINEER will be the initial interpreter of the requirements of the CONTRACT DOCUMENTS and judge of the acceptability of the WORK thereunder. Claims, disputes and other matters relating to the acceptability of the WORK or the interpretations of the requirements of the CONTRACT DOCUMENTS pertaining to the performance and furnishing of the WORK and claims under Article 11 in respect of changes in the CONTRACT PRICE or CONTRACT TIMES will be referred initially to ARCHITECT/ENGINEER in writing with a request for formal decision in accordance with this paragraph. Written notice of each such claim, dispute or other matter will be delivered by the claimant to ARCHITECT/ENGINEER and the other party to the AGREEMENT promptly (but in no event later than thirty days) after the start of the occurrence or event giving rise thereto, and written supporting data will be submitted to ARCHITECT/ENGINEER and the other party within sixty days after the start of such occurrence or event unless ARCHITECT/ENGINEER allows an additional period of time for the submission of additional or more accurate data in support of such claim, dispute or other matter. The opposing party shall submit any response to ARCHITECT/ENGINEER and the claimant within thirty days of the last submittal (unless ARCHITECT/ENGINEER allow an additional time). ARCHITECT/ENGINEER will render a formal decision in writing within thirty days after receipt of the opposing party's submittal, if any, in accordance with this paragraph. ARCHITECT/ENGINEER'S written decision on such claim, dispute or



other matter will be final and binding upon CITY and CONTRACTOR unless a written notice of intention to appeal from ARCHITECT/ENGINEER'S written decision is delivered by CITY or CONTRACTOR to the other and to ARCHITECT/ENGINEER within thirty days after the date of such decision and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect of such claim, dispute or other matter in accordance with applicable laws and regulations within sixty days of the date of such decision, unless otherwise agreed in writing by CITY and CONTRACTOR.

- 8.9 IMPARTIALITY: When functioning as interpreter and judge under paragraphs 8.7 and 8.8, ARCHITECT/ENGINEER will not show partiality to CITY 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 ARCHITECT/ENGINEER pursuant to paragraphs 8.7 and 8.8 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment) will be a condition precedent to any exercise by CITY 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.
- 8.10 LIMITATIONS ON ARCHITECT/ENGINEER'S AUTHORITY AND RESPONSIBILITIES: Neither ARCHITECT/ENGINEER'S authority or responsibility under this Section 8 or under any other provision of the CONTRACT DOCUMENTS nor any decision made by ARCHITECT/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 ARCHITECT/ENGINEER shall create, impose or give rise to any duty owed by ARCHITECT/ENGINEER to CONTRACTOR, any SUBCONTRACTOR, any SUPPLIER, any other person or organization, or to any surety for or employee or agent of any of them.
- 8.10.1 ARCHITECT/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 incidental thereto, or for any failure of CONTRACTOR to comply with law and regulations applicable to the furnishing or performance of the WORK. ARCHITECT/ENGINEER will not be responsible for CONTRACTOR'S failure to perform or furnish the WORK in accordance with the CONTRACT DOCUMENTS.
- 8.10.2 ARCHITECT/ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any SUBCONTRACTOR, and SUPPLIER, or of any other person or organization performing or furnishing any of the WORK.
- 8.10.3 ARCHITECT/ENGINEER'S review of the final application for payment and accompanying documentation and all maintenance and operating instructions,

schedules, guarantees, bonds and certificates of inspection, tests and approvals and other documentation required to be delivered by these CONTRACT DOCUMENTS 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.

8.10.4 The limitations upon authority and responsibility set forth in this Section 8 shall also apply to ARCHITECT/ENGINEER'S, Resident Project Representative, assistants and professional consultants.

DIVISION 1

General Provisions

Section 9

City's Responsibility

- |     |                                   |     |   |
|-----|-----------------------------------|-----|---|
| 9.1 | Method of Communications          | 9.5 | CHANGE ORDERS                               |
| 9.2 | Termination of ARCHITECT/ENGINEER | 9.6 | SAMPLES and Tests                           |
| 9.3 | Processing Payments               | 9.7 | Stop WORK, Suspend WORK, Terminate Services |
| 9.4 | Lands, Rights-of-way, Easements   | 9.8 | Prosecution of the WORK                     |

- 9.1 METHOD OF COMMUNICATIONS: Except as otherwise provided in these General Provisions, the CITY shall issue all communications to the CONTRACTOR through the ARCHITECT/ENGINEER.
- 9.2 TERMINATION OF ARCHITECT/ENGINEER: In the case of termination of the employment of the ARCHITECT/ENGINEER, the CITY shall appoint an ARCHITECT/ENGINEER against whom CONTRACTOR makes no reasonable objection, whose status under the CONTRACT DOCUMENTS shall be that of the former ARCHITECT/ENGINEER.
- 9.3 PROCESSING PAYMENTS: The CITY shall make payments to the CONTRACTOR in accordance with Section 12.1 and 12.1.1.
- 9.4 LANDS, RIGHTS-OF-WAY, EASEMENTS: The CITY shall make available to the CONTRACTOR such lands and rights-of-way or easements, as specified in Section 5.1 and exploratory reports set forth in Section 5.2. In addition, the CITY, through the ARCHITECT/ENGINEER, will provide reference points and construction stakes as provided in Section 5.5.
- 9.5 CHANGE ORDERS: When the ARCHITECT/ENGINEER and the CONTRACTOR agree that a CHANGE ORDER is required due to changes in CONTRACT PRICE or CONTRACT TIME, the ARCHITECT/ENGINEER shall process such documents as may be required to process the CHANGE ORDER promptly as provided in Section 4.3 of these General Provisions.
- 9.6 SAMPLES AND TESTS: The CITY'S responsibility in respect to certain Tests and SAMPLES is set forth in Section 7.8 of these General Provisions.
- 9.7 STOP WORK, SUSPEND WORK, TERMINATE SERVICES: The CITY reserves the right to Stop WORK, Suspend WORK or Terminate Services under certain circumstances as provided by these General Provisions.

9.8 PROSECUTION OF THE WORK: The CITY shall not supervise, direct, control nor have authority over the CONTRACTOR's means, method, techniques, sequences or procedures of construction.

# DIVISION 1

## General Provisions

### Section 10

#### Change in Contract Time

- |                                    |                                       |
|------------------------------------|---------------------------------------|
| 10.1 Change in CONTRACT TIME       | 10.4 Extension of CONTRACT TIME       |
| 10.2 Delays                        | 10.5 Failure to Complete WORK on Time |
| 10.3 Temporary Supervision of WORK |                                       |

10.1 CHANGE IN CONTRACT TIME: The CONTRACT TIME may be changed only by CHANGE ORDER or WRITTEN AMENDMENT within the guidelines of the CITY COUNCIL Policy. Any claim for an adjustment of CONTRACT TIME shall be based on a written notice by the CONTRACTOR to the ARCHITECT/ENGINEER not later than thirty (30) days after the occurrence of the event giving rise to the claim. Written justification of the extent of the claim shall be delivered to the ARCHITECT/ENGINEER within sixty (60) days of such occurrence. All claims for adjustments to CONTRACT TIME shall be determined in accordance with Sections 1.51, 3.11, 4.2, 4.4, 4.8, 8.1, 9.5, 9.7 and 11.4.

10.2 DELAYS: Where the CONTRACTOR is prevented from completing any part of the WORK within the CONTRACT TIME due to delay beyond the control of the CONTRACTOR, the CONTRACT TIME will be extended in an amount equal to the time lost due to such delay. Delays beyond the control of the CONTRACTOR shall include, but not be limited to, acts or neglect by the CITY, acts or neglect of utility owners, fires, floods, epidemics, abnormal weather conditions or acts of God. Delays attributable to and within the control of a SUBCONTRACTOR or SUPPLIER shall be deemed to be delays within the control of the CONTRACTOR.

10.3 TEMPORARY SUSPENSION OF WORK: The ARCHITECT/ENGINEER shall have the authority to suspend the WORK wholly or in part. The order to suspend the WORK for periods exceeding one (1) day shall be in writing and shall include the specific reasons for suspension.

10.3.1 If the WORK is suspended by the ARCHITECT/ENGINEER because of the failure or refusal of the CONTRACTOR to comply with the order of the ARCHITECT/ENGINEER or with the DRAWINGS and SPECIFICATIONS, the time elapsed during such suspension shall remain charged against the CONTRACTOR.

10.3.2 When the WORK is suspended, the CONTRACTOR shall store all material in such manner that they will not obstruct or impede the traveling public

unnecessarily nor become damaged in any way and he shall take every precaution to prevent damage or deterioration of the WORK performed. The WORK shall be resumed when conditions are favorable and methods are corrected as ordered or approved in writing by the ARCHITECT/ENGINEER. Liquidated damages shall not accrue during the period in which WORK is suspended unless suspension is due to the failure of the CONTRACTOR to perform any of the provisions of the CONTRACT.

10.3.3 If the WORK is suspended by the CITY in order to remove or replace unknown subsurface hazards or utilities or to correct funding deficiencies caused by said conditions, the time elapsed during such suspension shall not be charged against the CONTRACTOR. In addition, the CONTRACTOR may claim partial remobilization cost if the suspension exceeds five (5) working days as defined elsewhere in these General Provisions.

10.4 EXTENSION OF CONTRACT TIME: The date of beginning and the time of completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on the date specified in the NOTICE TO PROCEED.

10.4.1 The CONTRACTOR will proceed with the WORK at such rate of progress to insure full completion within the CONTRACT TIME. It is expressly understood and agreed, by and between the CONTRACTOR and the CITY, that the CONTRACT TIME for the completion of the WORK described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK.

10.4.2 In the event there is an overrun in the contractual amount, the CONTRACT TIME shall automatically be extended by a period proportional to the positive difference in dollars obtained by subtracting the CONTRACT amount from the total amount of the final estimate.

10.5 FAILURE TO COMPLETE WORK ON TIME: Should the CONTRACTOR fail to complete the WORK within the CONTRACT TIME or extension of time granted by the CITY, the CONTRACTOR will pay to the CITY the amount for liquidated damages as specified in the BID for each WORKING DAY that the CONTRACTOR shall be delinquent after the time stipulated in the CONTRACT DOCUMENTS.

10.5.1 An amount of \$240.00 per WORKING DAY, for each day after the expiration of the CONTRACT TIME or extended CONTRACT TIME, will be deducted as liquidated damages from any money due the CONTRACTOR under this CONTRACT. The CONTRACTOR and his SURETY shall be liable for any liquidated damages in excess of the amount due the CONTRACTOR. Liquidated damages will be deducted from the CONTRACTOR's partial estimate when CONTRACT TIME expires and funds deducted may only be paid to the

CONTRACTOR for liquidated damages upon approval of additional WORKING DAYS to his CONTRACT TIME and payment made for only those additional WORKING DAYS approved.

10.5.2 Permitting the CONTRACTOR to continue and finish the WORK or any part of it after the time affixed for its completion, or after the date to which the time of completion may have been extended, shall in no way be considered as a waiver on the part of the CITY of any of its rights under this AGREEMENT.

DIVISION 1

General Provisions

Section 11

Changes in Contract Price

- |                                |  |
|--------------------------------|--|
| 11.1 CONTRACT PRICE            | 11.3 Value of WORK                     |
| 11.2 Changes in CONTRACT Price | 11.4 Increased or Decreased Quantities |

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

11.2 CHANGES IN CONTRACT PRICE: The CONTRACT PRICE may be changed only by a CHANGE ORDER or by a WRITTEN AMENDMENT. Any claim for an adjustment in the CONTRACT PRICE shall be based on written notice delivered by the CONTRACTOR to the ARCHITECT/ENGINEER promptly (but in no event later than thirty (30) days) after the start of the occurrence or event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty (60) days after the start of such occurrence or event (unless ARCHITECT/ENGINEER allows additional time for claimant to submit additional or more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the adjustment claimed covers all known amounts to which the claimant is entitled as a result of said occurrence or event. All claims for adjustment in the CONTRACT PRICE shall be determined by ARCHITECT/ENGINEER but final approval shall not be formally constituted until final action of approval by the CITY COUNCIL.

11.3 VALUE OF WORK: The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- Method (A) - By agreed unit prices; or
- Method (B) - By agreed lump sum; or
- Method (C) - If neither Method (A) nor Method (B) can be agreed upon before the Extra WORK is commenced, then the CONTRACTOR shall be paid the "Actual Field Cost" of the WORK plus twenty percent (20%).

11.3.1 When the CITY requires the CONTRACTOR to do such work on a force account basis, the CONTRACTOR will be compensated as follows:



- (a) **LABOR:** For labor and working foremen in direct charge of operations, the CONTRACTOR shall receive the wage rates agreed upon in writing before beginning WORK for each hour that said labor and foremen are engaged in such WORK. The CONTRACTOR shall receive the actual costs paid to, or in behalf of, workmen for subsistence and travel allowances, health and welfare benefits, pension fund benefits or other benefits when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the WORK, but limited to a maximum daily rate for subsistence and travel allowances, which maximum will be agreed upon prior to incurring such charges. An amount equal to twenty percent (20%) of the sum of the above items will also be paid the CONTRACTOR.
- (b) **BOND, INSURANCE AND TAX:** For property damage, liability and workmen's compensation insurance premiums, unemployment insurance contributions and social security taxes on force account work, the CONTRACTOR shall receive the actual cost thereof, to which six percent (6%) will be added. The CONTRACTOR shall furnish satisfactory evidence of the rates paid for such BOND, insurance and tax.
- (c) **MATERIALS:** For materials accepted by the ARCHITECT/ENGINEER and used, the CONTRACTOR shall receive the actual cost of such materials delivered on the WORK including transportation charges paid by him (exclusive of machinery rentals), to which fifteen percent (15%) will be added.
- (d) **EQUIPMENT:** For machinery or special equipment (other than small tools) including fuel, lubricants and transportation costs, the use of which has been authorized by the ARCHITECT/ENGINEER, the CONTRACTOR shall receive the rental rates agreed upon in writing before such WORK is begun for the actual time such equipment is in operation on the WORK.
- (e) **MISCELLANEOUS:** No additional allowance will be made for General Superintendence, the use of small tools or other costs for which no specific allowance is herein provided.
- (f) **COMPENSATION:** The PROJECT REPRESENTATIVE and the ARCHITECT/ENGINEER shall compare records of the cost of WORK done as ordered on a force account basis. Such comparison shall be made daily if required by the ARCHITECT/ENGINEER. Should any work be performed by an approved SUBCONTRACTOR, the CONTRACTOR will be paid the actual and reasonable cost of such subcontracted work computed as outlined above, plus an additional allowance of ten percent (10%) for materials cost and for direct labor cost to cover the CONTRACTOR's profit, superintendent, administration, insurance and overhead.

(g) STATEMENTS: No payment will be made for WORK performed on a force account basis until the CONTRACTOR has furnished the ARCHITECT/ENGINEER with duplicate itemized statements of the cost of such force account work detailed as follows:

- (1) Name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.
- (2) Designations, dates, daily hours, total hours, rental rate and extension for each unit of machinery and equipment.
- (3) Quantities of materials, prices and extensions.
- (4) Transportation of materials.
- (5) Cost of property damage, liability and workmen's compensation insurance premiums, unemployment insurance contributions and social security tax.

Statements shall be accompanied and supported by invoices for all materials used and all transportation charges. If materials used on force account work are not purchased for such work but are taken from the CONTRACTOR's stock, in lieu of invoices, the CONTRACTOR shall furnish an itemized list of such materials showing that the quantity claimed was actually used, and that the price and transportation costs claimed represent the actual cost to the CONTRACTOR. All invoices submitted shall be accompanied by the CONTRACTOR's notarized statement that payment in full has been made for the materials.

11.4 INCREASED OR DECREASED QUANTITIES: When alterations in DRAWINGS or quantities of WORK not requiring SUPPLEMENTAL AGREEMENTS, as hereinabove provided, are ordered and performed and when such alterations result in increase or decrease of the quantity of WORK performed, the CONTRACTOR shall accept payment in full at the CONTRACT Unit Price for the actual quantities of WORK done and no allowance will be made for anticipated profits. Increased or decreased quantities of WORK involving CONTRACT PRICE changes, as set forth in Sections 8 and 11 of the General Provisions shall be paid for as stipulated in such agreements.

## DIVISION 1

### General Provisions

#### Section 12

##### Payments and Completion

- |                        |                                   |
|------------------------|-----------------------------------|
| 12.1 Progress Payments | 12.5 Acceptance and Final Payment |
| 12.2 Scope of Payments | 12.6 Waiver of Claims             |
| 12.3 Final Cleaning Up | 12.7 CONTRACTOR'S Guarantee       |
| 12.4 Final Inspection  |                                   |

12.1 PROGRESS PAYMENTS: On or before the last day of each month, the CONTRACTOR shall prepare and submit to the ARCHITECT/ENGINEER for approval or modification, a monthly statement or estimate showing as completely as practical the total value of the WORK done by the CONTRACTOR up to the last day of the month; said estimate shall also include the value of all stockpiled materials delivered on the SITE and accepted by the ARCHITECT/ENGINEER.

12.1.1 The CITY shall then pay the CONTRACTOR within thirty (30) days the total amount of the approved estimate, less retainage as required per LA Revised Statutes 38:2248, and further less all previous payments and further sums that may be retained by the CITY under the terms of the CONTRACT.

12.2 SCOPE OF PAYMENTS: The CONTRACTOR shall receive and accept the compensation provided for in the CONTRACT as full payment for furnishing all materials, labor, tools and equipment and for performing all WORK contemplated and embraced under the CONTRACT in a complete and acceptable manner in accordance with the CONTRACT, for all loss or damage arising out of the nature of the WORK as herein specified, or from any unforeseen difficulties or obstructions which may arise or be encountered during the prosecution of the WORK and for all risks of every description connected with the prosecution of the WORK until final acceptance by the ARCHITECT/ENGINEER. The payment of any Progress Payment or the acceptance of any portion of the WORK as provided in the CONTRACT shall in no way affect the obligation of the CONTRACTOR, who, at his own cost and expense, shall repair, correct, renew or replace any defects or imperfections in the construction, strength, or quality of materials used in or about the construction of the WORK under the CONTRACT and this payment shall in no way affect his responsibility for all damages due or attributable to such defects or imperfections which may be discovered before the final acceptance of the whole WORK and the ARCHITECT/ENGINEER shall be the judge of such defects or imperfections. No monies under the CONTRACT shall become due, if the ARCHITECT/ENGINEER so elects, until the CONTRACTOR has satisfied the ARCHITECT/ENGINEER that he has fully

settled for materials, equipment and other services in or upon the WORK and labor done in connection therewith.

- 12.2.1 All WORK indicated on the DRAWINGS as necessary to the completion of the improvement shall be performed by the CONTRACTOR, unless otherwise provided. All fences, buildings, bridges and structures of any character not necessary to the construction of the PROJECT or other encumbrances upon or within the limits of the construction, where indicated on the DRAWINGS to be removed, unless otherwise provided, shall be removed by the CONTRACTOR and disposed of as directed. All unsightly material removed shall be disposed of in such a manner that meets the approval of the ARCHITECT/ENGINEER. This WORK will be paid for as specifically provided for in the various pay items appearing in the proposal and CONTRACT but should no specific provisions be made for the payment of this WORK, it will be considered subsidiary WORK and as such shall be included by the CONTRACTOR in the BID prices for pay items appearing in the proposal and CONTRACT.
- 12.3 FINAL CLEANING UP: Upon completion of the WORK and before acceptance and final payment is made, the CONTRACTOR shall clean and remove from the roadway, neutral ground and adjacent property all surplus and discarded materials, weeds, bushes, rubbish, forms and temporary structures. He shall restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the WORK, and shall leave the site of the WORK in a neat and presentable condition throughout.
- 12.3.1 Upon completion, and unless otherwise instructed, structures, all superfluous material, cofferdams, construction buildings and other temporary structures and debris resulting from construction shall be removed. False work timbers and piles shall be removed to the ground level. Upon completion of WORK in connection with drainage structures, the CONTRACTOR will be required to remove all debris, such as drifts, weeds, dirt, scraps of building material, or any other obstruction whether old or new.
- 12.3.2 All drainage culverts within the limits of the PROJECT shall be cleaned and flushed whether it is new culverts installed in the PROJECT or culverts found in place and/or designated by the ARCHITECT/ENGINEER to remain.
- 12.3.3 All materials shall be disposed of as directed by the ARCHITECT/ENGINEER and stream channels, structures and roadway shall be left in a neat and presentable condition. Obstructions to the end of drainage structures shall be removed unless the CONTRACTOR is otherwise directed by the ARCHITECT/ENGINEER.
- 12.3.4 No special payment will be made for this work; its cost being included in the prices paid for the construction work.

- 12.4 FINAL INSPECTION: Whenever the WORK provided for and contemplated by the CONTRACT shall have been satisfactorily completed and the final cleaning up performed, the CONTRACTOR shall notify the ARCHITECT/ENGINEER, requesting Final Inspection.
- 12.5 ACCEPTANCE AND FINAL PAYMENT: Within ten (10) days after the CONTRACTOR has given notice to the ARCHITECT/ENGINEER that the WORK has been completed, the ARCHITECT/ENGINEER and the PROJECT REPRESENTATIVE shall inspect the WORK and within said time, if the WORK is found to be completed in accordance with the CONTRACT DOCUMENTS, the ARCHITECT/ENGINEER shall provide to the CITY a CERTIFICATE OF ACCEPTANCE. Upon completion of all WORK, and upon certification by the CITY that the WORK has been accepted, the CITY will record the CERTIFICATE OF ACCEPTANCE of the WORK in the office of the Clerk of Court of Rapides Parish, Louisiana. If, upon or after the expiration of forty-five (45) days after the recordation of acceptance, the CONTRACTOR submits to the CITY a Certificate from the Clerk of Court of the Parish of Rapides to the effect that there are no claims or liens recorded against the CONTRACT or the CONTRACTOR, then Final Payment of all amounts due the CONTRACTOR shall be made by the CITY. Final Payment will be made within thirty (30) days of receipt of the Clear Lien Certificate from the CONTRACTOR through the ARCHITECT/ENGINEER. Neither the CERTIFICATE OF ACCEPTANCE nor the Final Payment, nor any provision in the CONTRACT DOCUMENTS shall relieve the CONTRACTOR of the obligations for fulfillment of any warranty that may be required in these General Provisions, the SPECIAL PROVISIONS or the SPECIFICATIONS.
- 12.6 WAIVER OF CLAIMS: The acceptance by the CONTRACTOR of Final Payment shall be and shall operate as a release to the CITY of all claims and all liability to the CONTRACTOR, other than claims in stated amount as may be specifically accepted by the CONTRACTOR, for all things done or furnished in connection with this WORK and for every act and neglect of the CITY and others relating to or arising out of this WORK. Any payment, however, final or otherwise, shall not release the CONTRACTOR or its SURETIES from any obligations under the CONTRACT DOCUMENTS or the Performance and Payment BONDS.
- 12.7 CONTRACTOR'S GUARANTEE: The CONTRACTOR shall guarantee all materials and equipment furnished and WORK for a period of one (1) year from the date of recordation of the CERTIFICATE OF ACCEPTANCE. The CONTRACTOR warrants that the completed WORK is free from all defects due to faulty materials and workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of the damage of other parts of the system resulting from such defects. The CITY will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other WORK that may be made necessary by such defects, the CITY may do so

and charge the CONTRACTOR the cost thereby incurred. The Performance BOND shall remain in full force and effect through the guaranty period.

DIVISION 1

General Provisions

Section 13

Termination and Default

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|-------------------------------|--|
| 13.1 Termination              | 13.3 Default of CONTRACT                           |
| 13.2 CONTRACTOR May Terminate | 13.4 Termination of CONTRACTOR'S<br>Responsibility |

13.1 TERMINATION: The CITY may elect to terminate an AGREEMENT with a CONTRACTOR when the CONTRACTOR persistently fails to perform the WORK in accordance with the CONTRACT DOCUMENTS. Such failure shall include, but not be limited to failure to supply sufficient skilled workers or suitable material or equipment or failure to adhere to progress schedules; failure to obey LAWS AND REGULATIONS; failure to regard the authority of the ARCHITECT/ENGINEER; or failure to comply in a substantial way with the provisions of the CONTRACT DOCUMENTS.

13.1.1 The CITY may, after giving CONTRACTOR and the SURETY, seven (7) days' written notice and to the extent permitted by LAWS AND REGULATIONS, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site and take possession of the WORK and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the Site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the WORK all materials and equipment stored at the Site or for which the CITY has paid CONTRACTOR but which are stored elsewhere, and finish the WORK as the CITY may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT PRICE exceeds all claims, costs, losses and damages sustained by the CITY arising out of or resulting from completing the WORK such excess will be paid to CONTRACTOR. If such claims, costs, losses and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to the CITY. Such claims, costs, losses and damages incurred by the CITY will be reviewed by ARCHITECT/ENGINEER as to their reasonableness and when so approved by ARCHITECT/ENGINEER incorporated in a CHANGE ORDER, provided that when exercising any rights or remedies under this paragraph the CITY shall not be required to obtain the lowest price for the WORK performed.

13.1.2 Where CONTRACTOR's services have been so terminated by the CITY, the termination will not affect any rights or remedies of the CITY against CONTRACTOR then existing or which may thereafter accrue. Any retention or

payment of monies due CONTRACTOR by the CITY will not release CONTRACTOR from liability.

- 13.1.3 Upon seven (7) days' written notice to CONTRACTOR the CITY may, without cause and without prejudice to any other right or remedy of the CITY, elect to terminate the AGREEMENT. In such case, CONTRACTOR shall be paid (without duplication of any items):
  - 13.1.3.1 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;
  - 13.1.3.2 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;
  - 13.1.3.3 For all claims, costs, losses and damages incurred in settlement of terminated contracts with SUBCONTRACTORS, SUPPLIERS and others; and
  - 13.1.3.4 For reasonable expenses directly attributable to termination.
- 13.1.4 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.
- 13.2 CONTRACTOR MAY TERMINATE: If, through no act or fault of CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the CITY or under an order of court or other public authority, or ARCHITECT/ENGINEER fails to act on any Application for Payment within thirty (30) days after it is submitted or the CITY fails for thirty (30) days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven (7) days' written notice to the CITY and provided the CITY or ARCHITECT/ENGINEER do not remedy such suspension or failure within that time, terminate the AGREEMENT and recover from the CITY payment on the same terms as provided in Section 13.1.3.1, 13.1.3.2, 13.1.3.3, 13.1.3.4 and 13.1.4.
- 13.3 DEFAULT OF CONTRACT: If the CONTRACTOR fails to begin WORK within the time specified or if the construction or WORK to be done under this CONTRACT shall be abandoned, or if this CONTRACT, or any part thereof, shall be sublet without the previous written consent of the ARCHITECT/ENGINEER, or if the CONTRACT shall be assigned by the CONTRACTOR otherwise than as specified, or if at any time the ARCHITECT/ENGINEER shall be of the opinion that the WORK or any part thereof is unnecessarily or unreasonably delayed or that the CONTRACTOR has violated any provisions of this CONTRACT; or if the CONTRACTOR shall discontinue the prosecution of the WORK without authority; or shall become insolvent or be declared bankrupt, or shall commit any act of



bankruptcy, or insolvency, the ARCHITECT/ENGINEER may give notice in writing to the CONTRACTOR and his SURETY of such delay, neglect or default, specifying the same. If the CONTRACTOR within a period of ten (10) days after such notice shall not proceed in accordance therewith, then the CITY shall upon written certificate from the ARCHITECT/ENGINEER of the fact of such delay, neglect or default of the CONTRACTOR'S failure to comply with such notice, have full power and authority, without violating the CONTRACT, to take the prosecution of the WORK out of the hands of the CONTRACTOR and to appropriate or use any and all materials and equipment on the ground as may be suitable and acceptable and enter into an AGREEMENT for the completion of the CONTRACT according to the terms and provisions thereof or use such other methods as in his opinion may be required for the completion for the CONTRACT in an acceptable manner.

13.3.1 All costs and charges that may be incurred under this article or any damages that should be borne by the CONTRACTOR, shall be withheld or deducted from any monies then due or to become due the CONTRACTOR, under this CONTRACT or any part thereof; and in such accounting the CITY shall not be held to obtain the lowest cost of the WORK for completing the CONTRACT or any part thereof, but all sums actually paid therefor shall be charged to the CONTRACTOR. In case the costs and charges incurred are less than the sum that would have been payable under the CONTRACT, if the same had been completed by the CONTRACTOR, the CONTRACTOR or his SURETY shall be entitled to receive the difference and in case such costs and charges exceed the said sum, the CONTRACTOR or his SURETY shall pay the amount of excess to the CITY for the completion of the WORK.

13.4 TERMINATION OF CONTRACTOR'S RESPONSIBILITY: The CONTRACT will be considered complete when all WORK has been satisfactorily completed, the Final Inspection made, the WORK accepted by the ARCHITECT/ENGINEER and the CITY. The CONTRACTOR will then be released from further obligation except as set forth in his CONTRACT DOCUMENTS.