



CITY OF SUFFOLK

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ADDENDUM NO. 1

City of Suffolk
IFB #19078-JS
March 18, 2019

Purchasing Division
442 Market Street, Room 1086
Suffolk, VA 23434-5237
Phone: (757) 514-7520 / Fax: (757) 514-7524
<http://www.suffolkva.us/purchasing>

The Invitation for Bid (IFB) for IFB 19078-JS for Demolition of the City Assessor Building for the Department of Capital Programs has been amended. The following changes, additions, and/or deletions are hereby made a part of the Contract Documents for IFB 19078-JS as fully and completely as if the same were fully set forth therein:

DELETE

General Conditions (Pages 33 – 56 in original IFB)

REPLACE WITH:

Revised General Conditions (Attached)

It is not required for the Revised General Conditions to be included in the bid.

Contract Officer:


Jay Smigielski, Purchasing Agent,

All other specifications, provisions, terms and conditions are unchanged.

Bidder shall acknowledge receipt of addendum on Bid Form. Failure to do so may result in disqualification of bid.

If you have any questions regarding this Addendum, please contact Jay Smigielski, Purchasing Agent at jsmigielski@suffolkva.us

GENERAL CONDITIONS

Rev: 3/18/2019

1. DEFINITION OF TERMS:

- (A) THE "CONTRACT DOCUMENTS" SHALL CONSIST OF THE ITEMS IDENTIFIED IN SECTIONS A, B AND C HEREIN, ADDENDA, BID, NOTICE OF AWARD, NOTICE TO PROCEED, INCLUDING ALL MODIFICATIONS THERETO INCORPORATED IN ANY OF THE DOCUMENTS BEFORE AND AFTER EXECUTION OF THE AGREEMENT.
- (B) THE WORD "OWNER" IS USED TO DESIGNATE THE DULY CONSTITUTED MUNICIPAL GOVERNMENT OF THE CITY OF SUFFOLK, VIRGINIA, ACTING THROUGH THE PROPERLY AUTHORIZED REPRESENTATIVES.
- (C) THE WORD "ENGINEER" SHALL MEAN THE ENGINEER DESIGNATED BY THE OWNER, WHETHER ACTING DIRECTLY OR THROUGH PROPERLY AUTHORIZED AGENTS, INSPECTORS OR REPRESENTATIVES OF THE ENGINEER, ACTING WITHIN THE SCOPE OF DUTIES ENTRUSTED TO THEM. IN THE EVENT THE OWNER SHOULD NOT REQUIRE THE SERVICES OF THE ENGINEER FOR CONTRACT ADMINISTRATION OR INSPECTIONS, THEN THE POWERS, DUTIES, AND RESPONSIBILITIES CONFERRED HEREIN TO THE ENGINEER SHALL BE CONSTRUED TO BE THOSE OF THE OWNER.
- (D) THE WORD "BIDDER" SHALL BE USED TO DESIGNATE ANY PARTY OR PARTIES SUBMITTING IN PROPER FORM A BID TO PERFORM THE WORK HEREINAFTER SPECIFIED. THE SUCCESSFUL BIDDER, SELECTED BY THE OWNER TO PERFORM THE WORK SPECIFIED, WILL THEREAFTER BE KNOWN AS THE "CONTRACTOR."
- (E) THE WORD "CONTRACTOR" IS USED TO DESIGNATE THE PARTY OR PARTIES CONTRACTING TO PERFORM THE WORK OR HIS OR THEIR HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS, OR ASSIGNS.
- (F) THE WORD "SUPERINTENDENT" SHALL BE USED TO DESIGNATE THE PERSON APPOINTED BY THE CONTRACTOR, ACTING UNDER HIS INSTRUCTIONS AND IN DIRECT CHARGE OF THE WORK FOR THE CONTRACTOR.
- (G) THE TERM "SUBCONTRACTOR" SHALL MEAN ANY INDIVIDUAL, FIRM OR CORPORATION HAVING A DIRECT CONTRACT, WITH THE CONTRACTOR OR WITH ANY OTHER SUBCONTRACTOR FOR PERFORMANCE OF ANY PART OF THE WORK.
- (H) THE TERM "WORK" SHALL INCLUDE LABOR, MATERIALS, EQUIPMENT, TRANSPORTATION, SUPERVISION, OR OTHER FACILITIES, DUTIES, OR INCIDENTALS NECESSARY TO COMPLETE THE PROJECT IN COMPLIANCE WITH THE TERMS OF THE CONTRACT DOCUMENTS.

- (I) THE WORD "PROJECT" SHALL MEAN THE ENTIRE CONSTRUCTION TO BE PERFORMED AS PROVIDED IN THE CONTRACT DOCUMENTS.
- (J) "PROJECT AREA" SHALL MEAN THE AREA WHERE WORK IS BEING PERFORMED FOR THE CITY OF SUFFOLK, VIRGINIA.
- (K) "WRITTEN NOTICE" SHALL BE DEEMED TO HAVE BEEN DULY SERVED IF DELIVERED IN PERSON TO THE INDIVIDUAL OR TO A MEMBER OF THE FIRM OR TO AN OFFICER OF THE CORPORATION FOR WHOM IT IS INTENDED, OR IF DELIVERED AT OR SENT BY REGISTERED MAIL TO THE LAST BUSINESS ADDRESS KNOWN TO HIM WHO GIVES THE NOTICE.
- (L) THE WORDS "AS DIRECTED," "AS REQUIRED," "AS PERMITTED," "AS ALLOWED," OR PHRASES OF LIKE EFFECT OR IMPORT AS USED HEREIN SHALL MEAN THAT THE DIRECTION, REQUIREMENT, PERMISSION OR ALLOWANCE OF THE ENGINEER OR OWNER IS INTENDED, AND SIMILARLY THE WORDS "ACCEPTED," "APPROVED," "REASONABLE," "SUITABLE," "PROPERLY," "SATISFACTORY," OR WORDS OF LIKE EFFECT OR IMPORT, UNLESS OTHERWISE PARTICULARLY SPECIFIED HERE, SHALL MEAN ACCEPTABLE, APPROVED, REASONABLE, SUITABLE, PROPERLY OR SATISFACTORY IN THE JUDGMENT OF THE ENGINEER OR OWNER.
- (M) THE WORD "ADDENDUM" SHALL MEAN A MODIFICATION OF THE CONTRACT DOCUMENTS ISSUED IN WRITING BY THE ENGINEER OR OWNER PRIOR TO THE OPENING OF THE BIDS.
- (N) THE TERM "CHANGE ORDER" SHALL MEAN A MODIFICATION OF THE CONTRACT REQUIREMENTS ISSUED IN WRITING BY THE OWNER SUBSEQUENT TO THE FORMAL EXECUTION OF THE CONTRACT DOCUMENTS.
- (O) ALL TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE CONTRACT. UNLESS SPECIFICALLY NOTED OTHERWISE, ALL "DAYS" SHALL BE CONSTRUED TO MEAN CALENDAR DAYS.
- (P) THE WORDS "SUBSTANTIAL COMPLETION" SHALL MEAN THE WORK (OR A SPECIFIED PORTION THEREOF) HAS PROGRESSED TO THE POINT WHERE, IN THE OPINION OF THE ENGINEER, IT IS SUFFICIENTLY COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, SO THAT THE WORK CAN BE UTILIZED FOR THE PURPOSES FOR WHICH IT WAS INTENDED.
- (Q) THE TERM "OR APPROVED EQUAL" PERTAINS TO THE USE OF MATERIALS CURRENTLY ACCEPTED BY THE DEPARTMENTS OF PUBLIC UTILITIES AND PUBLIC WORKS. ITEMS NOT CURRENTLY ACCEPTED MUST BE SUBMITTED FOR REVIEW AND APPROVAL PRIOR TO INCORPORATION IN THE WORK.
- (R) THE TERM "FORCE ACCOUNT" SHALL MEAN WORK NOT SHOWN ON THE PLANS OR REQUIRED BY THE CONTRACT DOCUMENTS THAT IS NECESSARY FOR THE COMPLETION OF THE CONTRACT, WHICH SHALL BE CONSIDERED ADDITIONAL WORK AND WILL BE PAID FOR IN THE MANNER

SET FORTH HEREINAFTER.

- (S) THE TERM "FIELD ORDER" SHALL MEAN A WRITTEN ORDER ISSUED BY ENGINEER WHICH ORDERS MINOR CHANGES IN THE WORK WHICH ARE COMPATIBLE WITH THE DESIGN CONCEPT OF THE COMPLETED PROJECT AS A FUNCTIONING WHOLE AS INDICATED BY THE CONTRACT DOCUMENTS BUT WHICH DOES NOT INVOLVE A CHANGE IN CONTRACT PRICE OR THE CONTRACT TIMES.
- (T) THE TERM "SIGNIFICANT CHANGE" SHALL MEAN A CHANGE IN CONTRACT PRICE OR THE CONTRACT TIMES. WHEN THE CHARACTER OF THE WORK AS ALTERED DIFFERS MATERIALLY IN KIND OR NATURE FROM THAT INVOLVED OR INCLUDED IN THE ORIGINAL PROPOSED CONSTRUCTION.
- (U) THE TERM "NOTICE TO PROCEED" SHALL MEAN THE DATE THE CONTRACTOR WILL BEGIN THE WORK. CONTRACT TIME WILL COMMENCE ON THE DATE OF THE NOTICE TO PROCEED.

2. **EXECUTION, CORRELATION, AND INTENT OF CONTRACT DOCUMENTS:** THE CONTRACT DOCUMENTS SHALL BE EXECUTED BY THE OWNER AND THE CONTRACTOR IN SUCH NUMBERS AS REQUIRED BY THE OWNER.

THE CONTRACT DOCUMENTS ARE COMPLEMENTARY AND WHAT IS CALLED FOR BY ANY ONE SHALL BE AS BINDING AS IF CALLED FOR BY ALL. THE INTENTION OF THE DOCUMENTS IS TO INCLUDE ALL LABOR AND MATERIALS, EQUIPMENT, AND SUPPLIES NECESSARY FOR THE PROPER EXECUTION OF THE WORK. IT IS NOT INTENDED, HOWEVER, THAT MATERIALS OR WORK NOT COVERED BY OR PROPERLY INFERABLE FROM ANY HEADING, BRANCH, CLASS, OR TRADE OF THE SPECIFICATIONS SHALL BE SUPPLIED. MATERIALS OR WORK DESCRIBED IN WORDS WHICH SO APPLIED HAVE A WELL-KNOWN TECHNICAL OR TRADE MEANING SHALL BE HELD TO REFER TO SUCH RECOGNIZED STANDARDS. THE DESIGNATION "ARCHITECTURAL," "STRUCTURAL," "ELECTRICAL," AND THE LIKE, IN THE DRAWING TITLES ARE PROVIDED FOR CONVENIENCE ONLY, AND ARE NOT INTENDED TO DEFINE THE WORK TO BE DONE BY ANY TRADES OR SUBCONTRACTORS.

3. **CONTRACTOR'S UNDERSTANDING:** IT IS UNDERSTOOD AND AGREED THAT THE CONTRACTOR HAS, BY CAREFUL EXAMINATION, SATISFIED HIMSELF AS TO THE NATURE AND LOCATION OF THE WORK, THE CONFORMATION OF THE GROUND, THE CHARACTER, EQUIPMENT AND FACILITIES NEEDED PRELIMINARY TO AND DURING THE PROSECUTION OF THE WORK, THE GENERAL AND LOCAL CONDITIONS, AND ALL OTHER MATTERS WHICH CAN IN ANY WAY AFFECT THE WORK UNDER THIS CONTRACT. NO VERBAL AGREEMENT OR CONVERSATION WITH ANY OFFICER, AGENT OR EMPLOYEE OF THE OWNER, EITHER BEFORE OR AFTER THE EXECUTION OF THIS CONTRACT, SHALL AFFECT OR MODIFY ANY OF THE TERMS OR OBLIGATIONS HEREIN CONTAINED.

THE SUBMISSION OF A BID SHALL BE PRIMA FACIE EVIDENCE THAT THE CONTRACTOR THOROUGHLY UNDERSTANDS THE DRAWINGS (IF ANY), TERMS OF THE SPECIFICATIONS, AND HAS MADE HIMSELF FAMILIAR WITH ALL

FEDERAL AND STATE LAWS, LOCAL LAWS, ORDINANCES, AND REGULATIONS WHICH IN ANY MANNER AFFECT THE WORK OR ITS PROSECUTION.

4. **CONSTRUCTION STANDARDS:** THE CONTRACTOR WILL BE RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE BUILDING CODES AND STANDARDS AND ALL CONSTRUCTION MATERIALS AND PROCEDURES SHALL COMPLY WITH ALL GENERALLY ACCEPTED INDUSTRY STANDARDS. CONSTRUCTION STANDARDS SHALL INCLUDE, BUT ARE NOT LIMITED TO THE LATEST EDITION, AND ALL REVISIONS THERETO, OF THE FOLLOWING: BASIC BUILDING CODE - BUILDING OFFICIALS AND CODE ADMINISTRATION (BOCA), VIRGINIA UNIFORM STATEWIDE BUILDING CODE, AND VIRGINIA DEPARTMENT OF TRANSPORTATION'S (VDOT) ROAD AND BRIDGE SPECIFICATIONS DATED 2016; ROAD AND BRIDGE STANDARDS DATED 2016; WORK AREA PROTECTION MANUAL DATED JANUARY, 2011; COMMONWEALTH OF VIRGINIA/STATE BOARD OF HEALTH – WATERWORKS REGULATIONS; AMERICAN WATER WORKS ASSOCIATION; CITY OF SUFFOLK, DEPARTMENT OF PUBLIC UTILITIES PUBLIC FACILITIES MANUAL. SHOULD CONFLICTS OCCUR WITH THE STANDARDS AND THE SPECIFICATIONS SET FORTH HEREIN, THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND THE OWNER SHALL DETERMINE WHICH SHALL BE APPLICABLE. GENERALLY THE MORE RESTRICTIVE SHALL APPLY AND WAIVER OF ANY REQUIREMENTS SET FORTH BY THE STANDARDS WILL BE AT THE DISCRETION OF THE OWNER.

5. **DISCREPANCIES:** IF DRAWINGS AND SPECIFICATIONS ARE PROVIDED, ANY DISCREPANCIES FOUND BETWEEN THE DRAWINGS AND SPECIFICATIONS AND SITE CONDITIONS OR ANY INCONSISTENCIES OR AMBIGUITIES IN THE DRAWINGS OR SPECIFICATIONS SHALL BE IMMEDIATELY REPORTED TO THE ENGINEER, IN WRITING, WHO SHALL PROMPTLY CORRECT SUCH INCONSISTENCIES OR AMBIGUITIES IN WRITING. WORK DONE BY THE CONTRACTOR AFTER HIS DISCOVERY OF SUCH DISCREPANCIES, INCONSISTENCIES OR AMBIGUITIES SHALL BE DONE AT THE CONTRACTOR'S RISK.

IF THE CONTRACTOR, IN THE COURSE OF THE WORK, FINDS ANY DISCREPANCY BETWEEN THE DRAWINGS AND THE PHYSICAL CONDITIONS OF THE LOCALITY, OR ANY ERRORS, OR OMISSIONS IN DRAWINGS OR IN THE LAYOUT AS GIVEN BY POINTS AND INSTRUCTIONS, IT SHALL BE HIS DUTY TO IMMEDIATELY INFORM THE ENGINEER AND THE OWNER IN WRITING, AND THE ENGINEER AND OWNER SHALL PROMPTLY VERIFY THE SAME. ANY WORK DONE AFTER SUCH DISCOVERY, UNTIL AUTHORIZED, WILL BE DONE AT THE CONTRACTOR'S RISK AND EXPENSE.

6. **OWNERSHIP OF DRAWINGS:** IF ANY DRAWINGS AND SPECIFICATIONS ARE FURNISHED BY THE ENGINEER, THEY ARE PROPERTY OF THE OWNER. THEY ARE NOT TO BE USED ON OTHER WORK AND, WITH THE EXCEPTION OF THE SIGNED CONTRACT SET, ARE TO BE RETURNED TO THE OWNER ON REQUEST, AT THE COMPLETION OF THE WORK. ALL MODELS ARE THE PROPERTY OF THE OWNER.

7. **PROGRESS OF THE WORK:** IT IS UNDERSTOOD AND AGREED THAT THE CONTRACTOR WILL EXECUTE THE AGREEMENT WITHIN TEN (10) WORKING DAYS AFTER WRITTEN NOTICE OF AWARD. THE CONTRACTOR SHALL PROVIDE AN ADEQUATE FORCE OF LABOR AND EQUIPMENT TO PROSECUTE THE WORK AT AS MANY DIFFERENT POINTS AS MAY BE NECESSARY TO INSURE THE COMPLETION OF SAME WITHIN THE TIME LIMIT FOR THE COMPLETION AS SET FORTH IN THIS AGREEMENT.

THE CONTRACTOR SHALL FURNISH A PROGRESS SCHEDULE, BASED ON A MINIMUM OF EIGHT (8) HOURS PER DAY UNLESS OTHERWISE MUTUALLY AGREED UPON, FOR APPROVAL BY THE OWNER AND THE ENGINEER. IT SHALL BE INCUMBENT UPON THE CONTRACTOR TO PROVIDE THE MANPOWER, EQUIPMENT, AND PROJECT MANAGEMENT TO MAINTAIN THIS SCHEDULE. IN THE EVENT PERIODIC ESTIMATES INDICATE THE SCHEDULE IS NOT BEING MET, THE CONTRACTOR MAY BE REQUIRED TO FURNISH IN WRITING TO THE ENGINEER THE METHOD HE PROPOSES TO EMPLOY TO RETURN THE PROJECT TO THE ORIGINAL SCHEDULE. THE OWNER MAY WITHHOLD PAYMENTS IF THE WORK IS NOT PROCEEDING IN ACCORDANCE WITH TERMS OF THIS AGREEMENT. ALL WORK SHALL BE FAITHFULLY UNDERTAKEN, PERFORMED AND COMPLETED WITHIN THE TIME DESIGNATED IN THE CONTRACT, AS TIME IS UNDERSTOOD TO BE THE ESSENCE OF THE CONTRACT.

DELAYS IN WORK RESULTING FROM THE CONTRACTOR'S FAILURE TO PROVIDE THE PROGRESS SCHEDULE WILL NOT BE CONSIDERED JUST CAUSE FOR EXTENSION OF THE CONTRACT TIME LIMIT OR FOR ADDITIONAL COMPENSATION.

8. **ORDER OF COMPLETION:** THE CONTRACTOR SHALL SUBMIT AT SUCH TIME AS MAY BE REQUESTED BY THE OWNER, SCHEDULES WHICH SHALL SHOW THE ORDER IN WHICH THE CONTRACTOR WILL START THE SEVERAL PARTS OF THE WORK AND ESTIMATED DATES OF COMPLETION OF THE SEVERAL PARTS. WHEN APPROVED, SUCH SCHEDULE SHALL GOVERN THE WORK. THE PLANTERS CLUB SHALL BE PRIORITIZED FOR COMPLETION FIRST, FOLLOWED BY THE GOLF COURSE AND THEN THE FISHING PIER SITES.
9. **SUPERINTENDENCE, SUPERVISION:** THE CONTRACTOR SHALL KEEP ON HIS WORK DURING ITS PROGRESS A COMPETENT SUPERINTENDENT AND ANY NECESSARY ASSISTANTS, ALL SATISFACTORY TO THE OWNER. THE SUPERINTENDENT SHALL NOT BE CHANGED EXCEPT WITH THE CONSENT OF THE OWNER, UNLESS THE SUPERINTENDENT PROVES TO BE UNSATISFACTORY TO THE CONTRACTOR AND CEASES TO BE IN HIS EMPLOY. THE SUPERINTENDENT SHALL REPRESENT THE CONTRACTOR IN HIS ABSENCE AND ALL DIRECTIONS GIVEN TO HIM SHALL BE AS BINDING AS IF GIVEN TO THE CONTRACTOR. IMPORTANT DIRECTIONS SHALL BE CONFIRMED UPON WRITTEN REQUEST IN EACH CASE. THE CONTRACTOR SHALL GIVE EFFICIENT SUPERVISION TO THE WORK, USING HIS BEST SKILL AND ATTENTION.
10. **MATERIALS, APPLIANCES, EMPLOYEES:** UNLESS OTHERWISE STIPULATED, THE CONTRACTOR SHALL PROVIDE AND PAY FOR ALL MATERIALS, LABOR, WATER, TOOLS, EQUIPMENT, LIGHT, POWER TRANSPORTATION, SANITARY FACILITIES, AND OTHER FACILITIES NECESSARY FOR THE EXECUTION AND

COMPLETION OF THE WORK.

UNLESS OTHERWISE SPECIFIED, ALL MATERIALS SHALL BE NEW AND BOTH WORKMANSHIP AND MATERIALS SHALL BE OF GOOD QUALITY. THE CONTRACTOR SHALL, IF REQUIRED, FURNISH SATISFACTORY EVIDENCE AS TO THE KIND AND QUALITY OF MATERIALS.

THE CHARACTER, CONDITIONS, ADAPTABILITY, AND QUANTITY OF EQUIPMENT USED BY THE CONTRACTOR SHALL BE SUCH AS MAY BE NECESSARY FOR THE PROPER EXECUTION OF THE WORK WITHIN THE SPECIFIED WORKING TIME. THE EQUIPMENT USED SHALL BE MAINTAINED IN GOOD CONDITION AND SHALL BE SUBJECT TO APPROVAL OF THE OWNER PRIOR TO AND DURING ITS USE IN CONNECTION WITH THE WORK TO BE PERFORMED UNDER THIS CONTRACT.

CONTRACTOR SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR SAFETY OF ALL PERSONS AND PROPERTY ON THE JOB SITE CONTINUOUSLY DURING THE PROGRESS OF WORK. SPECIFIC ATTENTION SHALL BE PAID TO OVERHEAD WORK AND EQUIPMENT; EQUIPMENT AND PROCEDURES TO BE OF THE TYPE APPROVED BY DOMINION VIRGINIA POWER, VERIZON, CHARTER COMMUNICATIONS, OSHA, THE NATIONAL ELECTRIC SAFETY CODE, VDOT, AND THE CITY OF SUFFOLK.

THE CONTRACTOR SHALL AT ALL TIMES ENFORCE STRICT DISCIPLINE AND GOOD ORDER AMONG HIS EMPLOYEES. NO PERSON UNDER THE AGE OF EIGHTEEN (18) YEARS, NO PERSON WHO, AT THE TIME, IS SERVING A SENTENCE IN A PENAL OR CORRECTIONAL INSTITUTION, AND NO PERSON WHO HAS BEEN CONVICTED OF COMMISSION OF FRAUD OR A CRIMINAL OFFENSE IN CONNECTION WITH OBTAINING, ATTEMPTING TO OBTAIN, OR PERFORMING A PUBLIC CONTRACT OR SUBCONTRACT, SHALL BE EMPLOYED ON THE WORK COVERED BY THIS CONTRACT.

NEITHER PARTY SHALL EMPLOY OR HIRE ANY EMPLOYEES OF THE OTHER PARTY WITHOUT HIS CONSENT. THE CONTRACTOR SHALL AT ALL TIMES ENFORCE STRICT DISCIPLINE AND GOOD ORDER AMONG HIS EMPLOYEES. IF THE CONTRACTOR OR ANY OF HIS EMPLOYEES AT ANY TIME IN ANY WAY ABUSES PHYSICALLY OR VERBALLY ANY CITY EMPLOYEE ENGAGED IN PERFORMANCE OF HIS DUTIES WITH REFERENCE TO SUPERVISION OR INSPECTION OF THE PROJECT OR PERFORMANCE OF ANY OTHER DUTIES RELATED TO THE CITY, THE CONTRACTOR MAY BE ORDERED BY THE CITY TO REMOVE HIS PERSON AND/OR ANY OF HIS EMPLOYEES ENGAGING IN SUCH CONDUCT FROM THE JOB SITE FOR THE DURATION OF THE CONTRACT. SHOULD THE CONTRACTOR REFUSE TO DO SO, THE CONTRACT MAY IMMEDIATELY AND WITHOUT ADVANCE NOTICE TO SURETIES BE TERMINATED BY THE CITY.

11. **ROYALTIES AND PATENTS:** THE CONTRACTOR SHALL PAY ROYALTIES AND LICENSE FEES. HE SHALL DEFEND ALL SUITS OR CLAIMS FOR THE INFRINGEMENT OF ANY PATENT RIGHTS AND SHALL SAVE THE OWNER HARMLESS FROM LOSS ON ACCOUNT THEREOF, EXCEPT THAT THE OWNER SHALL BE RESPONSIBLE FOR ALL SUCH LOSS WHEN A PARTICULAR PROCESS OR THE PRODUCT OF A PARTICULAR MANUFACTURER OR MANUFACTURERS IS

SPECIFIED, BUT IF THE CONTRACTOR HAS INFORMATION THAT THE PROCESS OR ARTICLE SPECIFIED IS INFRINGEMENT OF A PATENT, HE SHALL BE RESPONSIBLE FOR SUCH LOSS UNLESS HE PROMPTLY GIVES SUCH INFORMATION IN WRITING TO THE ENGINEER AND OWNER.

12. **SURVEYS, PERMITS, AND REGULATIONS:** PERMITS AND LICENSES NECESSARY FOR THE PROSECUTION OF THE WORK SHALL BE SECURED AND PAID FOR BY THE CONTRACTOR, UNLESS OTHERWISE SECURED AND PAID FOR BY THE OWNER. EASEMENTS AND RIGHT-OF-WAY FOR PERMANENT STRUCTURES OR PERMANENT CHANGES IN EXISTING FACILITIES SHALL BE SECURED AND PAID FOR BY THE OWNER, UNLESS OTHERWISE SPECIFIED.

THE CONTRACTOR WILL HAVE IN HAND, ON SITE, AN APPROVED TRAFFIC CONTROL PLAN AND AN APPROVED RIGHT OF WAY PERMIT PRIOR TO COMMENCEMENT OF CONSTRUCTION. NO CONSTRUCTION WILL BE PERFORMED UNTIL THESE REQUIREMENTS ARE MET.

THE CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, AND REGULATIONS BEARING ON THE CONDUCT OF THE WORK AS DRAWN AND SPECIFIED. IF THE CONTRACTOR OBSERVES THAT THE DRAWINGS AND SPECIFICATIONS, IF FURNISHED, ARE AT VARIANCE THEREWITH, HE SHALL PROMPTLY NOTIFY THE ENGINEER AND OWNER IN WRITING, AND ANY NECESSARY CHANGES SHALL BE ADJUSTED AS PROVIDED IN THE CONTRACT FOR CHANGES IN THE WORK. IF THE CONTRACTOR PERFORMS ANY WORK KNOWING IT TO BE CONTRARY TO SUCH LAWS, ORDINANCES, RULES AND REGULATIONS AND WITHOUT SUCH NOTICE TO THE ENGINEER AND OWNER, HE AGREES TO BEAR ALL COSTS AND PENALTIES ARISING THEREFROM.

UNLESS OTHERWISE SPECIFIED, THE OWNER SHALL FURNISH ALL LAND SURVEYS AND ESTABLISH ALL BASE LINES FOR LOCATING THE PRINCIPAL COMPONENT PARTS OF THE WORK TOGETHER WITH A SUITABLE NUMBER OF BENCH MARKS ADJACENT TO THE WORK. FROM THE INFORMATION PROVIDED BY THE OWNER, THE CONTRACTOR SHALL DEVELOP AND MAKE ALL DETAIL SURVEYS NEEDED FOR CONSTRUCTION.

13. **POINTS AND INSTRUCTIONS:** THE CONTRACTOR SHALL PROVIDE REASONABLE AND NECESSARY OPPORTUNITIES AND FACILITIES FOR SETTING POINTS AND MAKING MEASUREMENTS. HE SHALL NOT PROCEED UNTIL HE HAS MADE TIMELY DEMAND UPON THE OWNER FOR, AND HAS RECEIVED FROM HIM, SUCH POINTS AND INSTRUCTIONS AS MAY BE NECESSARY AS THE WORK PROGRESSES. THE WORK SHALL BE DONE IN STRICT CONFORMITY WITH SUCH POINTS AND INSTRUCTIONS.
14. **EXISTING STRUCTURES:** THE LOCATION OF EXISTING SEWERS, WATER AND GAS PIPES, CONDUITS AND OTHER STRUCTURES ACROSS OR ALONG THE LINE OF THE PROPOSED WORK ARE NOT NECESSARILY SHOWN ON THE PLANS, AND IF SHOWN, THE LOCATION, DEPTH AND DIMENSION OF SUCH STRUCTURE ARE ONLY APPROXIMATELY CORRECT. THE CONTRACTOR SHALL HAVE A WORKING PIPE LOCATOR ON THE JOB AT ALL TIMES.

THE CONTRACTOR SHALL DIG THE NECESSARY TEST HOLES FOR THE PURPOSE OF LOCATING EXISTING UNDERGROUND STRUCTURES. SUCH EXCAVATION SHALL NOT BE UNDERTAKEN WITHOUT FORTY-EIGHT (48) HOURS PRIOR NOTICE TO THE OWNER.

NO CLAIMS FOR DAMAGES OR EXTRA COMPENSATION SHALL ACCRUE TO THE CONTRACTOR FROM THE PRESENCE OF SUCH PIPE OR OTHER OBSTRUCTION OR FROM ANY DELAY DUE TO REMOVAL OR REARRANGEMENT OF SAME.

15. **CARE OF EXISTING STRUCTURES:** THE CONTRACTOR SHALL BE LIABLE FOR ALL DAMAGE DONE TO ANY STRUCTURES OR PROPERTY ARISING THROUGH HIS NEGLIGENCE OR CARELESSNESS. HE SHALL TAKE CARE OF AND MAINTAIN ALL UNDERGROUND, OVERHEAD OR SURFACE UTILITIES ENCOUNTERED IN THE PERFORMANCE OF THE WORK. PRIOR TO COMMENCING WORK, CONTRACTOR SHALL CONTACT THE UTILITY INFORMATION CENTER ("MISS UTILITY"), TELEPHONE 811 FOR ASSISTANCE IN LOCATING EXISTING UNDERGROUND UTILITIES.

THE CONTRACTOR SHALL OBSERVE ALL PRECAUTIONS WITH RESPECT TO FIRE AND AVOID THE INDISCRIMINATE MUTILATION, OR CUTTING DOWN OF TREES, WITHIN AND OUTSIDE OF PROJECT WORK AREAS OR EASEMENTS. ANY DAMAGE TO PROPERTY OR EASEMENTS NOT IN THE WORK AREA ARISING FROM THE CONTRACTOR'S NEGLIGENCE OR CARELESSNESS IN PERFORMANCE OF THE WORK WILL BE THE CONTRACTOR'S RESPONSIBILITY.

THE CONTRACTOR SHALL NOT USE PRIVATE PROPERTY IN CONNECTION WITH THE WORK UNLESS PRIOR WRITTEN PERMISSION IS OBTAINED FROM THE PROPERTY OWNER. A COPY OF THE WRITTEN PERMISSION SHALL BE FURNISHED TO THE DEPARTMENT OF PUBLIC UTILITIES. THE WRITTEN STATEMENT OF PERMISSION SHALL ALSO INDICATE THE NAME, ADDRESS, AND PHONE NUMBER OF THE PROPERTY OWNER. IT WILL BE THE RESPONSIBILITY OF THE CONTRACTOR TO TAKE PHOTOGRAPHS OF THE PROPERTY PRIOR TO ITS USE IN CASE OF DISPUTES ARISING FROM THE USE OF THE PROPERTY. VERIFICATION OF OWNERSHIP SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.

16. **PROTECTION OF WORK AND PROPERTY:** THE CONTRACTOR SHALL PROVIDE AND MAINTAIN ALL NECESSARY WATCHMEN, BARRICADES, LIGHTS AND WARNING SIGNS, AND TAKE ALL NECESSARY PRECAUTIONS FOR THE PROTECTION AND SAFETY OF THE PUBLIC. HE SHALL CONTINUOUSLY MAINTAIN ADEQUATE PROTECTION OF ALL WORK FROM DAMAGE AND SHALL TAKE ALL REASONABLE PRECAUTIONS TO PROTECT THE OWNER'S PROPERTY FROM INJURY OR LOSS ARISING IN CONNECTION WITH THIS CONTRACT. HE SHALL MAKE GOOD ANY DAMAGE, INJURY OR LOSS TO HIS WORK AND TO THE PROPERTY OF THE OWNER RESULTING FROM LACK OF REASONABLE PROTECTIVE PRECAUTIONS, EXCEPT SUCH AS MAY BE DUE TO ERRORS IN THE CONTRACT DOCUMENTS, OR CAUSED BY AGENT OR EMPLOYEES OF THE OWNER. HE SHALL ADEQUATELY PROTECT ADJACENT PRIVATE AND PUBLIC PROPERTY, AS PROVIDED BY LAW AND THE CONTRACT DOCUMENTS.

IN AN EMERGENCY AFFECTING THE SAFETY OF LIFE OR LOSS OR DAMAGE TO THE WORK OR TO THE ADJOINING PROPERTY, THE CONTRACTOR WITHOUT SPECIAL INSTRUCTION OR AUTHORIZATION FROM THE ENGINEER OR OWNER, IS HEREBY PERMITTED TO ACT, AT HIS DISCRETION, TO PREVENT SUCH THREATENED LOSS OR INJURY, AND HE SHALL SO ACT, WITHOUT APPEAL AS IF INSTRUCTED OR AUTHORIZED. THE CONTRACTOR SHALL PROVIDE WRITTEN DOCUMENTATION CONCERNING THE CIRCUMSTANCES OF THE EMERGENCY TO THE OWNER AS SOON AS PRACTICAL. ANY COMPENSATION, CLAIMED BY THE CONTRACTOR ON ACCOUNT OF EMERGENCY WORK, SHALL BE DETERMINED BY AGREEMENT OR LITIGATION. IN CASE OF EMERGENCY IN WHICH THE CONTRACTOR IS NOT AVAILABLE TO TAKE CORRECTIVE ACTION, THE OWNER RESERVES THE RIGHT TO CORRECT PROBLEMS AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY ASSOCIATED COST FOR CORRECTIVE ACTION REASONABLY RELATED TO HIS RESPONSIBILITIES UNDER THE CONTRACT.

THE CONTRACTOR SHALL CAREFULLY PRESERVE BENCH MARKS, REFERENCE POINTS AND STAKES, AND IN CASE OF WILLFUL OR CARELESS DESTRUCTION, HE SHALL BE CHARGED WITH THE RESULTING EXPENSE AND SHALL BE RESPONSIBLE FOR ANY MISTAKES THAT MAY BE CAUSED BY THEIR UNNECESSARY LOSS OR DISTURBANCE.

17. **PROJECT COORDINATION:** THE CONTRACTOR SHALL SUBMIT THEIR WORKFLOW PLAN AND CONSTRUCTION SCHEDULE TO THE PROJECT ENGINEER FOR REVIEW AND APPROVAL ONE (1) WEEK PRIOR TO THE PRE-CONSTRUCTION MEETING.
18. **INSPECTION OF SITE AND WORK:** THE OWNER AND HIS REPRESENTATIVES SHALL AT ALL TIMES HAVE ACCESS TO THE WORK WHEREVER AND WHENEVER IT IS, IN PREPARATION OR PROGRESS, AND THE CONTRACTOR SHALL PROVIDE FOR SUCH ACCESS AND FOR INSPECTION.

THE OWNER WILL APPOINT SUCH PERSON OR PERSONS AS HE MAY DEEM NECESSARY TO PROPERLY INSPECT THE MATERIALS FURNISHED AND WORK DONE UNDER THE CONTRACT, AND TO SEE THAT THE SAME STRICTLY CORRESPONDS WITH THE DRAWINGS (IF ANY HAVE BEEN FURNISHED) AND SPECIFICATIONS WORK AND MATERIALS WILL BE INSPECTED PROMPTLY, BUT IF, FOR ANY REASON DELAY SHOULD OCCUR, THE CONTRACTOR SHALL HAVE NO CLAIM FOR DAMAGES OR EXTRA COMPENSATION.

THE FAILURE OF THE INSPECTOR TO REJECT OR CONDEMN IMPROPER MATERIALS AND WORKMANSHIP SHALL NOT PREVENT THE OWNER FROM REJECTING MATERIALS AND WORKMANSHIP FOUND DEFECTIVE AT ANY TIME PRIOR TO THE FINAL ACCEPTANCE OF THE COMPLETED WORK, NOR SHALL IT BE CONSIDERED AS A WAIVER OF ANY DEFECTS WHICH MAY BE DISCOVERED LATER, OR AS PREVENTING THE CITY AT ANY TIME PRIOR TO THE EXPIRATION OF THE GUARANTEE PERIOD FROM RECOVERING DAMAGES FOR WORK ACTUALLY DEFECTIVE.

IF THE SPECIFICATIONS, OWNER'S INSTRUCTIONS, LAWS, ORDINANCES, OR ANY PUBLIC AUTHORITY REQUIRE ANY WORK TO BE SPECIFICALLY TESTED OR

APPROVED, THE CONTRACTOR SHALL GIVE THE OWNER TIMELY NOTICE OF ITS READINESS FOR INSPECTION AND, IF THE INSPECTION IS BY ANOTHER AUTHORITY THAN THE OWNER, OF THE DATE FIXED FOR SUCH INSPECTION. INSPECTIONS BY THE OWNER SHALL BE PROMPTLY MADE, AND WHERE PRACTICABLE AT THE SOURCE OF SUPPLY. IF ANY WORK SHOULD BE COVERED UP WITHOUT APPROVAL OR CONSENT OF THE OWNER, IT MUST, IF REQUIRED BY THE OWNER, BE UNCOVERED FOR EXAMINATION.

REEXAMINATION OF QUESTIONED WORK MAY BE ORDERED BY THE OWNER AND IF SO ORDERED, THE WORK MUST BE UNCOVERED BY THE CONTRACTOR. IF SUCH WORK BE FOUND IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, THE OWNER SHALL PAY THE COST OF REEXAMINATION AND REPLACEMENT. IF SUCH WORK BE FOUND NOT IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL PAY SUCH COST, UNLESS HE SHALL SHOW THAT THE DEFECT IN THE WORK WAS CAUSED BY ANOTHER CONTRACTOR, AND IN THAT EVENT THE OWNER SHALL SEEK CORRECTIVE ACTION FROM THE OTHER CONTRACTOR. IF A CONTRACT INSPECTOR IS UTILIZED ON THIS JOB HE SHALL BE TREATED AND CONSIDERED TO BE A CITY EMPLOYEE IN ALL ASPECT AS REQUIRED BY THIS CONTRACT.

19. **ENGINEER'S/OWNER'S STATUS:** THE ENGINEER AND/OR OWNER SHALL MAKE PERIODIC VISITS TO THE JOB TO FAMILIARIZE HIMSELF GENERALLY WITH THE PROGRESS AND QUALITY OF THE WORK BEING CONSTRUCTED. HE WILL CARRY OUT REASONABLE INSPECTIONS OF THE WORK TO DETERMINE IF, IN GENERAL, THE CONTRACTOR IS PROCEEDING IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. THE OWNER MAY STOP THE PROCEEDING IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. THE OWNER MAY STOP THE WORK WHENEVER SUCH STOPPAGE MAY BE NECESSARY TO INSURE THE PROPER EXECUTION OF THE CONTRACT. HE SHALL ALSO HAVE AUTHORITY TO REJECT ALL WORK AND MATERIALS WHICH DO NOT CONFORM TO THE CONTRACT, TO REQUIRE THE APPLICATION OF FORCES TO ANY PORTION OF THE WORK AS IN HIS JUDGEMENT IS NECESSARY, AND TO DECIDE QUESTIONS WHICH ARISE IN THE EXECUTION OF THE WORK.
20. **CORRECTION OF WORK BEFORE FINAL PAYMENT:** THE CONTRACTOR SHALL PROMPTLY REMOVE FROM THE PREMISES ALL MATERIALS CONDEMNED BY THE OWNER AS FAILING TO CONFORM TO THE CONTRACT, WHETHER INCORPORATED IN THE WORK OR NOT, AND THE CONTRACTOR SHALL PROMPTLY REPLACE AND RE-EXECUTE HIS OWN WORK IN ACCORDANCE WITH THE CONTRACT AND WITHOUT EXPENSE TO THE OWNER AND SHALL BEAR THE EXPENSE OF MAKING GOOD ALL WORK OF OTHERS DESTROYED OR DAMAGED BY SUCH REMOVAL OR REPLACEMENT.

IF THE CONTRACTOR DOES NOT REMOVE SUCH CONDEMNED WORK AND MATERIALS WITHIN A REASONABLE TIME, FIXED BY WRITTEN NOTICE, THE OWNER MAY REMOVE AND THEN MAY STORE THE MATERIALS AT THE EXPENSE OF THE CONTRACTOR. IF THE CONTRACTOR DOES NOT PAY THE EXPENSE OF SUCH REMOVAL AND STORAGE WITHIN TEN (10) DAYS TIME THEREAFTER, THE OWNER MAY UPON TEN (10) DAYS WRITTEN NOTICE, SELL SUCH MATERIALS AT AUCTION OR AT PRIVATE SALE AND SHALL ACCOUNT

FOR THE NET PROCEEDS THEREOF AFTER DEDUCTING ALL THE COSTS AND EXPENSES THAT SHOULD HAVE BEEN BORNE BY THE CONTRACTOR.

21. **SUSPENSION OF WORK:** THE OWNER MAY AT ANY TIME SUSPEND THE WORK, OR ANY PART THEREOF BY GIVING TEN (10) DAYS NOTICE TO THE CONTRACTOR IN WRITING. THE WORK SHALL BE RESUMED BY THE CONTRACTOR WITHIN TEN (10) DAYS AFTER THE DATE FIXED IN THE WRITTEN NOTICE FROM THE OWNER TO THE CONTRACTOR TO DO SO.

BUT IF THE WORK OR ANY PART THEREOF SHALL BE STOPPED BY THE NOTICE IN WRITING AFORESAID, AND IF THE OWNER DOES NOT GIVE NOTICE IN WRITING TO THE CONTRACTOR TO RESUME WORK AT A DATE WITHIN NINETY (90) DAYS OF THE DATE FIXED IN THE WRITTEN NOTICE TO SUSPEND, HE WILL BE ENTITLED TO PAYMENT FOR ALL WORK COMPLETED UP TO THE DATE OF NOTICE TO SUSPEND IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.

22. **CHANGED CONDITIONS:** NOTWITHSTANDING ANY OTHER PROVISION OR CONDITION SET FORTH IN THE CONTRACT DOCUMENTS AS HEREIN DEFINED, IT IS UNDERSTOOD AND AGREED THAT SHOULD THE CONTRACTOR ENCOUNTER OR THE OWNER DISCOVER, DURING THE PROGRESS OF THE WORK, SUBSURFACE AND/OR LATENT CONDITIONS AT THE SITE MATERIALLY DIFFERING FROM THOSE SHOWN ON THE DRAWINGS (IF FURNISHED) OR INDICATED IN THE PROJECT MANUAL, OR UNKNOWN CONDITIONS OF AN UNUSUAL NATURE DIFFERING MATERIALLY FROM THOSE ORDINARILY ENCOUNTERED AND GENERALLY RECOGNIZED AS INHERENT IN WORK OF THE CHARACTER PROVIDED FOR IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL IMMEDIATELY INFORM THE ENGINEER VERBALLY AND SHALL THEN FOLLOW UP IN WRITING WITHIN TEN (10) DAYS OF THE FIRST OBSERVATION OF ANY SUCH CONDITION. IF THE CONTRACTOR SHOULD FAIL TO NOTIFY THE ENGINEER AS REQUIRED ABOVE, THEN ANY WORK PERFORMED SHALL BE DONE AT THE CONTRACTOR'S RISK AND EXPENSE. IF IT IS FOUND CONDITIONS DO MATERIALLY DIFFER, THE CONTRACT SHALL BE MODIFIED VIA WRITTEN CHANGE ORDER TO PROVIDE ANY INCREASE OR DECREASE OF COST AND/OR DIFFERENCE IN TIME RESULTING FROM SUCH CONDITION; THE OWNER MAY TERMINATE THE CONTRACT DUE TO CHANGED CONDITIONS BY DELIVERY OF WRITTEN NOTICE TO THE CONTRACTOR AND THE CONTRACTOR WILL BE ENTITLED ONLY TO PAYMENT FOR WORK COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AS OF THE RECEIPT OF SUCH NOTICE.

23. **CHANGE OF PLANS:** IT IS AGREED THAT THE ENGINEER, WITH THE APPROVAL OF THE OWNER, MAY MAKE ALTERATIONS FOR LINE, GRADE, PLAN POSITIONS, DIMENSIONS OR MATERIALS OF WORK HEREIN CONTEMPLATED OR ANY PART THEREOF, EITHER BEFORE OR AFTER COMMENCEMENT OF THE CONSTRUCTION UNDER THIS AGREEMENT SO LONG AS SUCH CHANGES DO NOT RENDER THE TERMS OF THE AGREEMENT INAPPLICABLE.

24. **ENGINEER'S/OWNER'S DECISIONS:** THE OWNER SHALL WITHIN FIFTEEN (15) DAYS TIME AFTER PRESENTATION TO HIM IN WRITING, RENDER DECISIONS, IN WRITING, ON ALL CLAIMS OF THE CONTRACTOR, OR OTHER MATTERS RELATING TO THE EXECUTION AND PROGRESS OF THE WORK.

QUESTIONS WHICH ARISE AND PERTAIN TO THE INTERPRETATION OF THE CONTRACT DOCUMENTS SHALL BE SUBMITTED IN WRITING TO THE ENGINEER. THE ENGINEER SHALL WITHIN FIFTEEN (15) DAYS TIME RENDER A DECISION AS TO THE INTERPRETATION OF THE CONTRACT DOCUMENTS.

25. **CLEANING UP AND RESTORATION OF SITE:** THE CONTRACTOR SHALL, DURING THE PROGRESS OF THE WORK AND AS DIRECTED BY THE OWNER, REMOVE FROM THE OWNER'S PROPERTY AND FROM ALL PUBLIC AND PRIVATE PROPERTY AND RIGHTS-OF-WAY, AT HIS OWN EXPENSE, ALL TEMPORARY STRUCTURES, RUBBISH, DEBRIS, PILES OF EARTH, FOREIGN MATTER, AND WASTE MATERIALS RESULTING FROM HIS OPERATIONS. THE SITE OF THE WORK SHALL BE RESTORED TO THE CONDITIONS EXISTING BEFORE THE WORK WAS STARTED, TO THE SATISFACTION OF THE OWNER. LAWNS, PAVEMENTS, SIDEWALKS, AND OTHER SURFACES SHALL BE PRESERVED WHERE PRACTICABLE BUT IF DAMAGED SHALL BE FULLY RESTORED. IF THE CONTRACTOR FAILS TO PERFORM CLEANUP AND RESTORATION IN AN ORDERLY, CONTINUOUS, AND EXPEDITIOUS MANNER, THE OWNER MAY TAKE CORRECTIVE ACTION THREE (3) DAYS AFTER DELIVERY OF NOTICE TO DO SO TO THE CONTRACTOR; ANY EXPENSE RESULTING FROM CORRECTIVE ACTION TAKEN BY THE OWNER FOR CLEANUP OR RESTORATION SHALL BE DEDUCTED FROM PAYMENTS DUE TO THE CONTRACTOR.
26. **SUBSTANTIAL COMPLETION:** PRIOR TO FINAL PAYMENT, BUT FOLLOWING COMPLETION OF ALL REQUIRED TESTS AND INSPECTIONS, THE CONTRACTOR MAY REQUEST IN WRITING THAT THE OWNER CERTIFY THAT THE ENTIRE PROJECT OR ANY PHASE OF THE PROJECT IS SUBSTANTIALLY COMPLETE AND REQUEST THE OWNER ISSUE A CERTIFICATE OF SUBSTANTIAL COMPLETION. WITHIN FIVE (5) WORKING DAYS THE OWNER WILL CONDUCT AN INSPECTION OF THE PROJECT WITH THE CONTRACTOR AND EITHER ISSUE A CERTIFICATE OF SUBSTANTIAL COMPLETION OR NOTIFY THE CONTRACTOR IN WRITING OF THE INCOMPLETE ITEMS. THE CERTIFICATE AND ATTACHMENTS SHALL INCLUDE THE FOLLOWING:
- A. A LISTING OF RESPONSIBILITIES FOR THE SECURITY, OPERATION, SAFETY, MAINTENANCE, UTILITIES AND INSURANCE ON THE SUBSTANTIALLY COMPLETED PORTION;
 - B. A TENTATIVE LIST OF ITEMS TO BE COMPLETED OR CORRECTED PRIOR TO FINAL PAYMENT; AND,
 - C. THE MAXIMUM TIME FOR ITEMS TO BE COMPLETED OR CORRECTED PRIOR TO FINAL PAYMENT.

THE OWNER SHALL HAVE THE RIGHT TO EXCLUDE THE CONTRACTOR FROM THE PROJECT OR PHASE OF THE WORK CERTIFIED TO BE SUBSTANTIALLY COMPLETE; HOWEVER, THE OWNER WILL ALLOW THE CONTRACTOR REASONABLE ACCESS TO COMPLETE OR CORRECT THE WORK.

27. **FINAL INSPECTION:** THE OWNER SHALL SCHEDULE A FINAL INSPECTION OF THE WORK INCLUDED IN THE CONTRACT WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTIFICATION FROM THE CONTRACTOR THAT

THE WORK IS COMPLETED. IF THE WORK IS NOT ACCEPTABLE TO THE ENGINEER OR OWNER, THE CONTRACTOR SHALL BE ADVISED AS TO THE PARTICULAR DEFECTS TO BE REMEDIED BEFORE FINAL ACCEPTANCE CAN BE MADE.

FAILURE OF THE OWNER TO MAKE THIS INSPECTION WITHIN THE TIME SPECIFIED IN NO WAY RELIEVES THE CONTRACTOR OF ANY OF HIS OBLIGATIONS UNDER THE CONTRACT.

ONLY WRITTEN NOTIFICATION FROM THE OWNER WILL CONSTITUTE FINAL ACCEPTANCE OF ANY PART OF THE WORK UNDER THIS CONTRACT.

28. **GUARANTEE OF WORK:** CONTRACTOR WARRANTS AND GUARANTEES TO THE OWNER AND TO THE ENGINEER THAT ALL WORK WILL BE IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND WILL BE WITHOUT DEFECT. THE GUARANTEE PERIOD SHALL BE NOT LESS THAN ONE (1) YEAR AFTER THE DATE OF SUBSTANTIAL COMPLETION. SHOULD ANY MANUFACTURER'S WARRANTY BE GREATER THAN ONE (1) YEAR OR SHOULD ANY PERMIT, SPECIFICATION, OR REGULATORY WARRANTY REQUIREMENT BE GREATER THAN ONE (1) YEAR, THE CONTRACTOR SHALL GUARANTEE THE WORK FOR THE LONGER PERIOD. IF DURING THE GUARANTEE PERIOD ANY WORK IS FOUND TO BE DEFECTIVE, CONTRACTOR SHALL PROMPTLY, WITHOUT COST TO OWNER, AND IN ACCORDANCE WITH OWNER'S WRITTEN INSTRUCTION, EITHER CORRECT SUCH DEFECTIVE WORK OR REMOVE IT FROM THE SITE AND REPLACE IT WITH NON-DEFECTIVE WORK. IF CONTRACTOR DOES NOT PROMPTLY COMPLY WITH THE TERM OF SUCH INSTRUCTION, OR IN AN EMERGENCY WHERE DELAY WOULD CAUSE SERIOUS RISK OF LOSS OR DAMAGE, OWNER MAY HAVE THE DEFECTIVE WORK CORRECTED OR THE REJECTED WORK REMOVED AND REPLACED, AND ALL DIRECT AND INDIRECT COSTS OF SUCH REMOVAL AND REPLACEMENT, INCLUDING COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES, SHALL BE PAID BY CONTRACTOR.
29. **STATUTE OF LIMITATIONS; WARRANTIES:** AS BETWEEN THE OWNER AND THE CONTRACTOR:
- (A) ANY APPLICABLE STATUTE OF LIMITATIONS SHALL COMMENCE TO RUN AND ANY ALLEGED CAUSE OF ACTION SHALL BE DEEMED TO HAVE ACCRUED IN ANY AND ALL EVENTS NO EARLIER THAN THE DATE OF FINAL PAYMENT.
 - (B) AS TO ACTS OR FAILURES TO ACT OCCURRING AFTER THE DATE OF FINAL PAYMENT, ANY APPLICABLE STATUTE OF LIMITATIONS SHALL COMMENCE TO RUN AND ANY ALLEGED CAUSE OF ACTION SHALL BE DEEMED TO HAVE ACCRUED IN ANY AND ALL EVENTS NO EARLIER THAN THE DATE OF ANY ACT OR FAILURE TO ACT BY THE CONTRACTOR PURSUANT TO ANY REQUIRED OR OTHERWISE PROVIDED WARRANTY, THE DATE OF ANY CORRECTION OF THE WORK OR FAILURE TO CORRECT THE WORK BY THE CONTRACTOR, OR THE DATE OF ACTUAL COMMISSION OF ANY OTHER ACT OR FAILURE TO PERFORM ANY DUTY OR OBLIGATION BY THE CONTRACTOR OR OWNER, WHICHEVER OCCURS LAST.

30. **SUBMISSION OF DAILY PERFORMANCE RECORDS:** THE CONTRACTOR SHALL AT THE START OF EACH WORK DAY PROVIDE THE PROJECT INSPECTOR A COPY OF HIS DAILY PERFORMANCE RECORD FOR WORK PERFORMED ON THE PRECEDING WORK DAY. THE PERFORMANCE RECORD SHALL BE SUBMITTED IN FORMAT AS PRESCRIBED BY THE DEPARTMENT OF PUBLIC WORKS.

A COPY OF THE PRESCRIBED FORMAT WILL BE PROVIDED TO THE CONTRACTOR BY THE OWNER.

THE SUBMISSION OF THE DAILY RECORD DOES NOT PRECLUDE THE SUBMISSION OF ADDITIONAL DOCUMENTATION, REPORTS, OR INFORMATION WHEN REQUESTED BY THE OWNER; OR AS SPECIFICALLY PROVIDED FOR OR REQUIRED BY THE CONTRACT DOCUMENTS.

31. **PARTIAL PAYMENTS:**

- (A) PARTIAL PAYMENTS WILL BE MADE EACH MONTH FOR THE QUANTITY OF WORK PERFORMED IN THE PRECEDING MONTH LESS FIVE PERCENT (5%) TO BE RETAINED UNTIL FINAL COMPLETION OF THE WORK.

REQUESTS FOR PAYMENTS SHALL BE SUBMITTED TO THE OWNER BY THE 10TH OF THE MONTH FOR PAYMENT BY MONTH END. REQUESTS FOR PAYMENTS SHALL BE SUBMITTED IN A FORMAT ACCEPTABLE TO THE DEPARTMENT OF PUBLIC UTILITIES AND SHALL INCLUDE:

1. CONTRACTOR'S ESTIMATE AND INVOICE TRANSMITTAL SHEET.
2. STANDARD CONTRACTOR'S ESTIMATE VOUCHER.

32. **METHOD OF MEASUREMENT:** EXCEPT WHEN STIPULATED OTHERWISE, ALL QUANTITIES OF WORK PERFORMED AND TO BE PAID FOR UNDER THIS CONTRACT SHALL BE CONSTRUED AS THOSE MEASURED IN PLACE BY THE OWNER.

33. **INCREASED OR DECREASED QUANTITIES AND METHOD OF PAYMENT - UNIT PRICES:** THE OWNER RESERVES THE RIGHT TO INCREASE OR DECREASE THE ESTIMATED VALUE OF THE CONTRACT IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE PERCENT (25%). SUCH INCREASE OR DECREASE MAY BE BROUGHT ABOUT EITHER BY VARYING QUANTITIES WITHIN THE ORIGINAL UNITS OF THE CONTRACT OR BY AN EXTENSION OR REDUCTION IN THE ORIGINAL LIMITS OF THE PROJECT.

NO CLAIM FOR EXTRA COMPENSATION WILL BE ALLOWED FOR SUCH INCREASE OR DECREASE IN THE VALUE OF THE CONTRACT NOT EXCEEDING TWENTY-FIVE PERCENT (25%).

CHANGES IN THE ESTIMATED VALUE OF ANY MAJOR OR MINOR ITEM OF MORE THAN TWENTY-FIVE PERCENT (25%) NOT CONSISTENT WITH THE ABOVE, OR CHANGES IN EITHER TOTAL COST OR THE AMOUNT OF ANY ITEM MAJOR OR MINOR WHICH ARE THE RESULTS OF MORE ACCURATE MEASUREMENTS AND ARE NOT DUE TO ANY CHANGE IN PLAN OR IN CHARACTER OF THE WORK

SHALL NOT BE CONSIDERED A BASIS OF DEMAND FOR REVISION IN CONTRACT PRICE BY EITHER PARTY TO THE CONTRACT.

FOR ANY INCREASED OR DECREASED QUANTITIES, SETTLEMENT SHALL BE MADE FOR THE ACTUAL AMOUNT OF WORK PERFORMED AT THE UNIT PRICES SHOWN IN THE PROPOSAL FOR THE WORK UNDER CONSIDERATION.

34. **EXTRA WORK AND METHOD OF PAYMENT:** THE OWNER MAY AT ANY TIME BY A WRITTEN ORDER, AND WITHOUT NOTICE TO SURETIES, MAKE CHANGES IN DRAWINGS OR SPECIFICATIONS, WITHIN THE GENERAL SCOPE THEREOF. ANY EXTRA WORK DONE PRIOR TO THE EXECUTION OF THE CITY'S STANDARD CHANGE ORDER FORM BY THE CITY MANAGER IS DONE AT THE CONTRACTOR'S TOTAL RISK AND WITH NO OBLIGATION ON THE PART OF THE CITY TO PAY FOR THE WORK.

THE CONTRACTOR SHALL PERFORM UNFORESEEN WORK OR WORK WHICH MAY EXCEED THE TWENTY-FIVE PERCENT (25%) STATED IN ARTICLE 39 OR WORK FOR WHICH THERE IS NO PRICE INCLUDED IN THE CONTRACT, WHENEVER IT IS DEEMED NECESSARY OR DESIRABLE IN ORDER TO COMPLETE FULLY THE WORK AS CONTEMPLATED. SUCH WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE SPECIFICATIONS AND AS DIRECTED BY THE OWNER, AND WILL BE PAID FOR AS STIPULATED HEREINAFTER.

EXTRA WORK SHALL BE PAID FOR AT THE UNIT PRICES OR LUMP SUM AS AGREED TO BY THE CONTRACTOR AND THE OWNER, OR IN LIEU OF SUCH AGREEMENT, THE OWNER MAY REQUIRE THE CONTRACTOR TO DO SUCH WORK ON A FORCE ACCOUNT BASIS TO BE COMPENSATED FOR IN THE FOLLOWING MANNER.

- (A) LABOR. FOR ALL LABOR AND FOREMEN IN DIRECT CHARGE OF THE SPECIFIC OPERATIONS, THE CONTRACTOR SHALL RECEIVE THE RATE OF WAGE (OR SCALE) AS SET FORTH IN HIS MOST RECENT PAYROLL ON WHICH THE APPLICABLE CLASS OF LABOR AND FOREMEN WERE USED FOR EACH HOUR OF REGULAR TIMES AND 1- 1/2 TIMES SUCH RATES FOR OVERTIME WHEN SUCH OVERTIME WORK IS AUTHORIZED, THAT SAID LABOR AND FOREMEN ARE ACTUALLY ENGAGED IN SUCH WORK. IN THE EVENT THE CLASS OF LABOR NEEDED HAS NOT BEEN EMPLOYED ON THE PROJECT, MUTUALLY AGREED UPON RATES WILL BE ESTABLISHED, PROVIDED, HOWEVER, THAT THE RATES SHALL CONFORM TO PREDETERMINED RATES AUTHORIZED FOR THE PROJECT. AN AMOUNT EQUAL TO TEN PERCENT (10%) OF THE SUM THEREFORE SHALL BE ADDED TO THESE RATES.
- (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 AN AMOUNT EQUAL TO TWENTY PERCENT (20%) THE BASE COST FOR LABOR.
- (C) MATERIALS. FOR MATERIALS ACCEPTED BY THE OWNER AND USED, THE CONTRACTOR SHALL RECEIVE THE ACTUAL COST OF SUCH MATERIALS

DELIVERED ON THE WORK, INCLUDING TRANSPORTATION, AND HANDLING CHARGES PAID BY HIM (EXCLUSIVE OF EQUIPMENT RENTALS AS HEREINAFTER SET FORTH), TO WHICH COST TEN PERCENT (10%) WILL BE ADDED.

- (D) EQUIPMENT. FOR ANY MACHINERY OR SPECIAL EQUIPMENT (OTHER THAN SMALL TOOLS AND OPERATOR) INCLUDING FUEL, LUBRICANTS AND REPAIRS, THE CONTRACTOR SHALL RECEIVE HOURLY RENTAL RATES WHICH SHALL NOT EXCEED THE RENTAL RATES BASED ON 1/40TH OF THE WEEKLY RATE OF THE CURRENT SCHEDULE PUBLISHED BY THE ASSOCIATED EQUIPMENT DISTRIBUTORS (AED) PLUS TRANSPORTATION COST FOR EQUIPMENT NOT ALREADY ON THE PROJECT. SUCH RATE WILL BE PAID FOR THE ACTUAL TIME THE EQUIPMENT IS IN OPERATION ON THE FORCE ACCOUNT WORK.

THE RATES FOR LICENSED TRUCKS AND SPECIAL EQUIPMENT NOT LISTED IN THE AED SCHEDULE USED ON THE FORCE ACCOUNT WORK SHALL NOT EXCEED THE HOURLY RATE BEING PAID FOR SUCH TRUCKS AND EQUIPMENT BY THE CONTRACTOR AT THE TIME OF THE FORCE ACCOUNT AUTHORIZATION. IN THE ABSENCE OF SUCH RATES, THE PREVAILING RATES BEING PAID IN THE AREA WHERE THE WORK IS CONTEMPLATED SHALL BE USED.

- (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 COMPENSATION AS SET FORTH IN THIS SECTION SHALL BE ACCEPTED BY THE CONTRACTOR AS PAYMENT IN FULL INCLUDING PROFIT FOR EXTRA WORK DONE ON A FORCE ACCOUNT BASIS. AT THE END OF EACH DAY THE CONTRACTOR'S REPRESENTATIVE AND THE INSPECTOR SHALL COMPARE RECORDS OF THE COST OF WORK DONE AS ORDERED ON A FORCE ACCOUNT BASIS.
- (G) STATEMENTS. NO PAYMENT WILL BE MADE FOR WORK PERFORMED ON A FORCE ACCOUNT BASIS UNTIL THE CONTRACTOR HAS FURNISHED THE ENGINEER OR OWNER 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. DESIGNATION, DATES, DAILY HOURS, TOTAL HOURS, RENTAL RATE, AND EXTENSION FOR EACH UNIT OF EQUIPMENT
 3. QUANTITIES OF MATERIALS, PRICES AND EXTENSIONS
 4. TRANSPORTATION OF MATERIAL
 5. COST OF PROPERTY DAMAGE, LIABILITY AND WORKERS' COMPENSATION INSURANCE PREMIUMS, UNEMPLOYMENT INSURANCE

CONTRIBUTIONS, AND SOCIAL SECURITY TAX STATEMENTS SHALL BE ACCOMPANIED AND SUPPORTED BY RECEIPTED INVOICES FOR ALL MATERIALS USED AND TRANSPORTATION CHARGES. HOWEVER, IF MATERIALS USED ON THE FORCE ACCOUNT WORK ARE NOT SPECIFICALLY PURCHASED FOR SUCH WORK BUT ARE TAKEN FROM THE CONTRACTOR'S STOCK THEN, IN LIEU OF THE INVOICES, THE CONTRACTOR SHALL FURNISH AN AFFIDAVIT CERTIFYING THAT SUCH MATERIALS WERE TAKEN FROM HIS STOCK, THAT THE QUANTITY CLAIMED WAS ACTUALLY USED AND THAT THE PRICE AND TRANSPORTATION AND HANDLING CLAIMED REPRESENT THE ACTUAL COST TO THE CONTRACTOR.

35. **WORK OUTSIDE REGULAR HOURS:** IF THE CONTRACTOR DESIRES TO PERFORM WORK OUTSIDE THE REGULAR HOURS OR ON SATURDAY, HE SHALL REQUEST PERMISSION TO WORK FORTY-EIGHT (48) HOURS IN ADVANCE TO ALLOW ARRANGEMENTS TO BE MADE FOR PROPER INSPECTION. THE OWNER MAY REFUSE THE CONTRACTOR PERMISSION TO WORK IF THE FORTY-EIGHT (48) HOUR NOTICE IS NOT GIVEN OR FOR OTHER JUST CAUSE. REASONABLE EFFORTS SHALL BE MADE BY THE CONTRACTOR TO AVOID UNDUE NOISE DURING THE NIGHT AND ON SUNDAYS, IF IT IS NECESSARY TO WORK AT SUCH TIMES. UNDER NORMAL CIRCUMSTANCES THE CONTRACTOR WILL NOT BE PERMITTED TO WORK ON SUNDAYS OR CITY HOLIDAYS.

NORMAL WORKING HOURS ARE DEFINED AS 7:00 AM TO 5:00 PM MONDAY THROUGH SATURDAY, EXCLUDING CITY HOLIDAYS.

THE OWNER RESERVES THE RIGHT TO SCHEDULE THE CONTRACTOR TO WORK OUTSIDE NORMAL WORKING HOURS IN THE INTEREST OF PUBLIC SAFETY OR CONVENIENCE. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE MADE BY THE CONTRACTOR WHEN SUCH OCCASIONS OCCUR.

36. **DEDUCTIONS FOR UNCORRECTED WORK:** IF THE OWNER DEEMS IT INEXPEDIENT TO CORRECT WORK DAMAGED OR NOT DONE IN ACCORDANCE WITH THE CONTRACT, AN EQUITABLE DEDUCTION FROM THE CONTRACT PRICE SHALL BE MADE THEREFOR.
37. **DAMAGES:** ANY CLAIM FOR DAMAGE ARISING UNDER THIS CONTRACT SHALL BE MADE IN WRITING TO THE PARTY LIABLE WITHIN FIFTEEN (15) DAYS TIME OF THE FIRST OBSERVANCE OF SUCH DAMAGE AND NOT LATER THAN THE TIME OF FINAL PAYMENT EXCEPT AS EXPRESSLY STIPULATED OTHERWISE IN GUARANTEE OF WORK AS IN THE CASE OF THE DEFECTIVE WORK OR MATERIALS, AND SHALL BE ADJUSTED BY AGREEMENT OR LITIGATION.
38. **LIENS:** NEITHER THE FINAL PAYMENT NOR ANY PART OF THE RETAINED PERCENTAGE SHALL BECOME DUE UNTIL THE CONTRACTOR, IF REQUIRED, SHALL DELIVER TO THE OWNER A COMPLETE RELEASE OF ALL LIENS ARISING OUT OF THIS CONTRACT, OR RECEIPTS IN FULL IN LIEU THEREOF, AND IF REQUIRED IN EITHER CASE AN AFFIDAVIT THAT SO FAR AS HE HAS KNOWLEDGE OR INFORMATION THE RELEASES AND RECEIPTS INCLUDE ALL THE LABOR AND MATERIAL FOR WHICH A LIEN COULD BE FILED; BUT THE CONTRACTOR MAY IF ANY SUBCONTRACTOR REFUSES TO FURNISH A

RELEASE OR RECEIPT IN FULL, FURNISH A BOND SATISFACTORY TO THE OWNER TO INDEMNIFY THE OWNER AGAINST ANY LIEN. IF ANY LIEN REMAINS UNSATISFIED AFTER ALL PAYMENTS ARE MADE, THE CONTRACTOR SHALL REFUND TO THE OWNER ALL MONIES THAT THE LATTER MAY BE COMPELLED TO PAY IN DISCHARGING SUCH A LIEN, INCLUDING ALL COST AND A REASONABLE ATTORNEY'S FEE.

39. **PAYMENTS WITHHELD:** THE OWNER MAY WITHHOLD OR, ON ACCOUNT OF SUBSEQUENTLY DISCOVERED EVIDENCE, NULLIFY THE WHOLE OR PART OF ANY PAYMENT TO SUCH EXTENT AS MAY BE NECESSARY TO PROTECT HIMSELF FROM LOSS ON ACCOUNT OF:

- (A) DEFECTIVE WORK NOT REMEDIED
- (B) CLAIMS OR LIENS THAT HAVE BEEN FILED OR EVIDENCE INDICATING THAT THERE IS REASONABLE CAUSE TO BELIEVE SUCH MAY BE FILED
- (C) FAILURE OF THE CONTRACTOR TO PAY FOR LABOR OR MATERIALS, OR TO MAKE PAYMENTS PROPERLY TO SUBCONTRACTORS
- (D) A REASONABLE DOUBT THAT THE CONTRACT CAN BE COMPLETED FOR THE BALANCE THEN UNPAID
- (E) DAMAGE TO ANOTHER CONTRACTOR
- (F) THE OWNER HAVING BEEN REQUIRED TO CORRECT DEFECTIVE WORK, COMPLETE ANY WORK, PERFORM EMERGENCY WORK, OR PERFORM OTHER WORK
- (G) UNSATISFACTORY PROSECUTION OF THE WORK, INCLUDING FAILURE TO FURNISH ACCEPTABLE SUBMITTALS, FAILURE TO MAKE ADEQUATE PROGRESS TOWARDS COMPLETING THE WORK WITHIN THE CONTRACT TIME OR FAILURE TO MAINTAIN THE WORK SITE AT ALL TIMES IN A NEAT, ORDERLY, AND WORKMAN- LIKE APPEARANCE.
- (H) FAILURE TO KEEP NEAT, ACCURATE, AND COMPLETE SET OF "ASBUILTS" UPDATED ON A DAILY BASIS
- (I) FAILURE TO SUBMIT A DAILY PERFORMANCE RECORD IN SUITABLE FORMAT.

WHEN THE ABOVE GROUNDS ARE REMOVED, PAYMENT SHALL BE MADE FOR AMOUNTS WITHHELD BECAUSE OF THEM.

40. **THE OWNER'S RIGHT TO DO WORK:** IF THE CONTRACTOR SHOULD FAIL TO PROSECUTE THE WORK OR FAITHFULLY PERFORM ANY PROVISIONS OF THIS CONTRACT, IT SHALL BE CONSTRUED AS GROUNDS FOR THE OWNER'S RIGHT TO PERFORM WORK. THE OWNER, HAVING DULY SERVED WRITTEN NOTICE TO THE CONTRACTOR OF HIS INTENT TO PERFORM WORK, MAY REMEDY SUCH DEFICIENCIES AFTER THREE (3) DAYS FROM DELIVERY OF SAID NOTICE TO THE CONTRACTOR. THE COSTS INCURRED BY THE OWNER IN CORRECTING

THE DEFICIENCY SHALL BE PAID FOR BY THE CONTRACTOR.

41. **REMOVAL OF MATERIALS AND EQUIPMENT:** IN THE CASE OF ANNULMENT OF THIS CONTRACT BEFORE COMPLETION FROM ANY CAUSE WHATEVER OR IN THE CASE OF ACCEPTANCE OF THE WORK AFTER COMPLETION, THE CONTRACTOR WHEN NOTIFIED BY THE OWNER IN WRITING, SHALL WITHIN FIVE (5) DAYS AFTER RECEIPT OF NOTIFICATION REMOVE ALL OR ANY PORTION AS DIRECTED OF HIS EQUIPMENT AND MATERIALS FROM THE PROPERTY OF THE OWNER: SHOULD THE CONTRACTOR BE UNABLE OR UNWILLING TO COMPLY WITH THE OWNER'S REQUEST, THEN THE OWNER RESERVES THE RIGHT TO REMOVE AND/OR STORE SUCH EQUIPMENT AND MATERIALS AT THE CONTRACTOR'S EXPENSE.

42. **RIGHTS OF VARIOUS INTEREST:** WHEREVER WORK BEING DONE BY THE OWNER'S FORCES OR OTHER CONTRACTORS IS CONTIGUOUS TO WORK COVERED BY THIS CONTRACT, THE RESPECTIVE RIGHTS OF THE VARIOUS INTERESTS INVOLVED SHALL BE ESTABLISHED BY THE OWNER, TO SECURE THE COMPLETION OF THE VARIOUS PORTIONS OF THE WORK IN GENERAL HARMONY.

43. **SEPARATE CONTRACT:** THE OWNER RESERVES THE RIGHT TO LET OTHER CONTRACTS IN CONNECTION WITH THIS WORK. THE CONTRACTOR SHALL AFFORD OTHER CONTRACTORS REASONABLE OPPORTUNITY FOR THE INTRODUCTION AND STORAGE OF THEIR MATERIALS AND THE EXECUTION OF THEIR WORK, AND SHALL PROPERLY CONNECT AND COORDINATE HIS WORK WITH THEIRS.

IF ANY PART OF THE CONTRACTOR'S WORK DEPENDS FOR PROPER EXECUTION OR RESULTS UPON THE WORK OF ANY OTHER CONTRACTOR, THE CONTRACTOR SHALL INSPECT AND PROMPTLY REPORT TO THE OWNER ANY DEFECTS IN SUCH WORK THAT RENDER IT UNSUITABLE FOR SUCH PROPER EXECUTION AND RESULTS. HIS FAILURE SO TO INSPECT AND REPORT SHALL CONSTITUTE AN ACCEPTANCE OF THE OTHER CONTRACTOR'S WORK, AS FIT AND PROPER FOR THE RECEPTION OF HIS WORK, EXCEPT AS TO DEFECTS WHICH MAY DEVELOP IN THE OTHER CONTRACTOR'S WORK AFTER THE EXECUTION OF HIS WORK.

TO INSURE THE PROPER EXECUTION OF HIS SUBSEQUENT WORK, THE CONTRACTOR SHALL MEASURE WORK ALREADY IN PLACE AND SHALL AT ONCE REPORT IN WRITING TO THE OWNER ANY DISCREPANCY BETWEEN THE EXECUTED WORK AND THE SPECIFICATIONS.

44. **SUBCONTRACTS:** THE CONTRACTOR SHALL, WITHIN TEN (10) DAYS AFTER THE SIGNATURE OF THE CONTRACT, NOTIFY THE OWNER IN WRITING OF THE NAMES OF SUBCONTRACTORS PROPOSED FOR THE WORK AND SHALL NOT EMPLOY ANY THAT THE OWNER MAY WITHIN TEN (10) DAYS AFTER RECEIPT OF NOTIFICATION OBJECT TO AS INCOMPETENT OR UNFIT OR ANY THAT APPEAR ON THE HUD AREA OFFICE CONSOLIDATED LIST OF DEBARRED, SUSPENDED, AND INELIGIBLE CONTRACTORS.

THE CONTRACTOR AGREES THAT HE IS AS FULLY RESPONSIBLE TO THE OWNER FOR THE ACTS AND OMISSIONS OF HIS SUBCONTRACTORS AND PERSONS EITHER DIRECTLY OR INDIRECTLY EMPLOYED BY THEM AS HE IS FOR THE ACTS OR OMISSIONS OF PERSONS DIRECTLY EMPLOYED BY HIM.

WITH THE EXCEPTION OF SUBCONTRACTS FOR LESS THAN TEN THOUSAND DOLLARS (\$10,000) EACH, AND SUBCONTRACTS WITH A MANUFACTURER OR A FABRICATOR, ANY AGREEMENT BETWEEN THE CONTRACTOR AND ANY SUBCONTRACTOR SHALL REQUIRE OF THE SUBCONTRACTOR A PAYMENT BOND WITH SURETY THEREON IN THE AMOUNT OF ONE HUNDRED PERCENT (100%) OF THE WORK SUBLET TO THE SUBCONTRACTOR, WHICH SHALL BE CONDITIONED UPON THE PAYMENT TO ALL PERSONS WHO HAVE AND FULFILL, CONTRACTS WHICH ARE DIRECTLY WITH THE SUBCONTRACTOR FOR PERFORMING LABOR AND/OR FURNISHING MATERIALS IN THE PROSECUTION OF THE WORK PROVIDED FOR IN THE SUBCONTRACT, AND TO PAY THOSE PERSONS WHO FURNISH LABOR AND/OR MATERIALS AS AFORESAID. IN THE EVENT THE CONTRACTOR FAILS TO REQUIRE SAID BOND, ANY PERSON WHO HAS AND FULFILLS A CONTRACT DIRECTLY WITH SUCH SUBCONTRACTOR IN PERFORMING LABOR AND/OR FURNISHING MATERIALS IN THE PROSECUTION OF THE WORK PROVIDED FOR IN THE SUBCONTRACT SHALL HAVE A DIRECT RIGHT OF ACTION AGAINST THE OBLIGORS AND SURETIES ON THE PAYMENT BOND REQUIRED OF THE CONTRACTOR.

PAYMENTS TO SUBCONTRACTOR(S) SHALL BE MADE IN ACCORDANCE WITH § 2.2-4354 OF CODE OF VIRGINIA (1950), AS AMENDED. UNLESS OTHERWISE SPECIFIED IN THIS CONTRACT, INTEREST SHALL ACCRUE AT THE RATE OF ONE PERCENT (1%) PER MONTH.

NOTHING CONTAINED IN THE CONTRACT DOCUMENTS SHALL CREATE ANY CONTRACTUAL RELATION BETWEEN ANY SUBCONTRACTOR AND THE OWNER.

45. **AGREEMENT CONSTRUED UNDER VIRGINIA LAWS:** THE AGREEMENT AND BOND GIVEN TO SECURE IT ARE TO BE EXECUTED AND PERFORMED IN THE COMMONWEALTH OF VIRGINIA AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF VIRGINIA.
46. **NONDISCRIMINATION OF CONTRACTORS:** A BIDDER, OFFEROR, OR CONTRACTOR SHALL NOT BE DISCRIMINATED AGAINST IN THE SOLICITATION OR AWARD OF THIS CONTRACT BECAUSE OF RACE, RELIGION, COLOR, SEX NATIONAL ORIGIN, AGE OR DISABILITY OR AGAINST FAITH-BASED ORGANIZATIONS. IF THE AWARD OF THIS CONTRACT IS MADE TO A FAITH-BASED ORGANIZATION AND AN INDIVIDUAL, WHO APPLIES FOR OR RECEIVES GOODS, SERVICES, OR DISBURSEMENT PROVIDED PURSUANT TO THIS CONTRACT OBJECT TO THE RELIGIOUS CHARACTER OF THE FAITH-BASED ORGANIZATION FROM WHICH THE INDIVIDUAL RECEIVES OR WOULD RECEIVE THE GOODS, SERVICES, OR DISBURSEMENTS, THE PUBLIC BODY SHALL OFFER THE INDIVIDUAL, WITHIN A REASONABLE PERIOD OF TIME AFTER THE DATE OF HIS OBJECTION, ACCESS TO EQUIVALENT GOODS, SERVICES, OR DISBURSEMENTS FROM AN ALTERNATIVE PROVIDER.
47. **EXECUTIVE ORDERS:** CONTRACTOR AND ALL SUBCONTRACTORS WITH

CONTRACTS IN EXCESS OF \$10,000 SHALL ABIDE BY THE REQUIREMENTS UNDER EXECUTIVE ORDERS NO. 11246 AND 11375, AS SUPPLEMENTED IN DEPARTMENT OF LABOR REGULATIONS (41 CFR CHAPTER 60), INCLUDING SPECIFICALLY THE PROVISIONS OF EQUAL OPPORTUNITY CLAUSE AND SUBMITTAL OF WRITTEN AFFIRMATIVE ACTION PROGRAM. THE CONTRACTOR MUST CERTIFY THAT SEGREGATED FACILITIES ARE NOT PROVIDED OR MAINTAINED.

48. **COPELAND "ANTI-KICKBACK" ACT:** CONTRACTOR AND ALL SUBCONTRACTORS SHALL COMPLY WITH THE COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874) AS SUPPLEMENTED IN DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 3).
49. **CONTRACTORS WORK HOURS AND SAFETY STANDARDS:** CONTRACTOR AND ALL SUBCONTRACTORS WITH CONTRACTS IN EXCESS OF \$2,000 SHALL COMPLY WITH SECTIONS 103 AND 107 OF THE CONTRACTORS WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-330) AS SUPPLEMENTED BY DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 5).
50. **CLEAN AIR ACT:** CONTRACTOR AND ALL SUBCONTRACTORS WITH CONTRACTS IN EXCESS OF \$100,000 SHALL COMPLY WITH APPLICABLE STANDARDS, ORDERS, PROVISIONS OR REQUIREMENTS ISSUED UNDER SECTION 306 OF THE CLEAN AIR ACT, SECTION 508 OF THE CLEAN WATER ACT, EXECUTIVE ORDER 11738, AND ENVIRONMENTAL PROTECTION AGENCY REGULATIONS (40 CFR PART 15) OR IN ACCORDANCE WITH SUCH APPLICABLE SUCCESSOR PROVISIONS TO THE ABOVE.
51. **ENERGY EFFICIENCY:** CONTRACTOR SHALL COMPLY WITH ALL MANDATORY STANDARDS AND POLICIES RELATING TO ENERGY EFFICIENCY WHICH ARE CONTAINED IN THE STATE ENERGY CONSERVATION PLAN ISSUED IN COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT (PUB. L. 94-163).
52. **NOTICE TO PROCEED:** AFTER NOTIFICATION OF AWARD THE CONTRACTOR WILL ATTEND A PRE-CONSTRUCTION CONFERENCE SCHEDULED BY THE CITY TO DISCUSS AND SELECT THE NOTICE TO PROCEED DATE. THE CITY RETAINS FINAL AUTHORITY TO SELECT THE NOTICE TO PROCEED DATE.
53. **LIQUIDATED DAMAGES:** TIME IS OF THE ESSENCE ON THIS CONTRACT. FAILURE OF THE CONTRACTOR TO COMPLETE THE WORK WITHIN THE TIME ALLOWED WILL RESULT IN DAMAGES BEING SUSTAINED BY THE CITY. SUCH DAMAGES ARE, AND WILL CONTINUE TO BE, IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE. FOR EACH CONSECUTIVE CALENDAR DAY IN EXCESS OF THE TIME SPECIFIED FOR COMPLETION OF THE WORK, THE CONTRACTOR SHALL PAY TO THE CITY, OR HAVE WITHHELD FROM MONIES DUE IT, THE SUM PER CALENDAR DAY AS STIPULATED IN THE CONTRACT.

EXECUTION OF THE CONTRACT UNDER THESE SPECIFICATIONS SHALL CONSTITUTE AGREEMENT BY THE CITY AND CONTRACTOR THAT THIS AMOUNT PER DAY IS THE MINIMUM VALUE OF THE COSTS AND ACTUAL DAMAGE

CAUSED BY FAILURE OF THE CONTRACTOR TO COMPLETE THE WORK WITHIN THE ALLOTTED TIME, THAT SUCH SUM IS LIQUIDATED DAMAGES AND SHALL NOT BE CONSTRUED AS A PENALTY, AND THAT SUCH SUM MAY BE DEDUCTED FROM PAYMENTS DUE THE CONTRACTOR IF SUCH DELAY OCCURS.

PERMITTING THE CONTRACTOR TO CONTINUE AND FINISH THE WORK OR ANY PART THEREOF AFTER THE CONTRACT TIME OR ADJUSTED CONTRACT TIME, AS PERTINENT, HAS EXPIRED SHALL IN NO WAY OPERATE AS A WAIVER ON THE PART OF THE CITY OR ANY OF ITS RIGHTS UNDER THE CONTRACT.

PAYMENT OF LIQUIDATED DAMAGES SHALL NOT RELEASE THE CONTRACTOR FROM OBLIGATIONS IN RESPECT TO THE FULFILLMENT OF THE ENTIRE CONTRACT, NOR SHALL THE PAYMENT OF SUCH LIQUIDATED DAMAGES CONSTITUTE A WAIVER OF THE CITY'S RIGHT TO COLLECT ANY ADDITIONAL DAMAGES WHICH MAY BE SUSTAINED BY FAILURE OF THE CONTRACTOR TO CARRY OUT THE TERMS OF THE CONTRACT, IT BEING THE INTENT OF THE PARTIES THAT SAID LIQUIDATED DAMAGES BE FULL AND COMPLETE PAYMENT ONLY FOR FAILURE OF THE CONTRACTOR TO COMPLETE THE WORK ON TIME.