

EXHIBIT 2 – SAMPLE CONTRACT



CONTRACT DOCUMENTS AND SPECIFICATIONS

FOR THE

Project Name Here

Contract No. C1900XX

PREPARED BY:

SAN ANTONIO RIVER AUTHORITY
100 EAST GUENTHER STREET
SAN ANTONIO, TEXAS 78204

PROJECT NAME HERE

PART 1 – GENERAL PROVISIONS

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AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

THIS AGREEMENT is dated as of the _____ day of _____ in the year _____ by and between the SAN ANTONIO RIVER AUTHORITY, acting through its General Manager, thereunto duly authorized so to do, Party of the First Part, hereinafter called "AUTHORITY/OWNER," and _____, Party of the Second Part, hereinafter called "CONTRACTOR."

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

ARTICLE 1. WORK.

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

ARTICLE 2. PROJECT MANAGER.

The Project has been designed by the San Antonio River Authority. PROJECT MANAGER shall have the right to delegate the duties, responsibilities, and authority to others, as he deems necessary.

ARTICLE 3. CONTRACT TIME.

3.1 The Contractor shall achieve Substantial Completion of the construction of the _____ within _____ calendar days after the date when the Contract Time commences to run as provided in Article 2.3 of the General Conditions, and shall achieve Final Completion of the construction of the _____ within _____ calendar days after the date when the Contract Time commences to run as provided in Article 2.3 of the General Conditions.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence with respect to the Substantial Completion and Final Completion dates for the Project. Failure to achieve the applicable dates specified in ARTICLE 3.1 above, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions will result in the assessment of delay liquidated damages ("Delay Liquidated Damages"), established in this agreement, or as otherwise agreed upon by the Parties in any amendment ("Amendment"). They also recognize the delays, expense, and difficulties involved in quantifying the actual loss suffered by OWNER if the Work is not substantially complete on Time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that CONTRACTOR shall pay OWNER liquidated damages for delay (but not as a penalty) in the applicable amounts set forth in Article 14 of the Supplementary Conditions.

ARTICLE 4. CONTRACT PRICE.

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with Exhibit "A" and the Contract Documents in current funds. The bid prices based on estimated quantities and the CONTRACTORS unit prices are:

MATERIALS: \$

SERVICES: \$

As shown in Exhibit "A" CONTRACTORS Bid.

ARTICLE 5. PAYMENT PROCEDURES.

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

- 5.1 Progress Payments. OWNER shall make progress payments on account of the Contract Price based on CONTRACTORS Applications for Payment as recommended by PROJECT MANAGER and in accordance with Article 13 of the General Conditions. All progress of the Work shall be measured by the schedule of values provided for in Article 13.1 of the General Conditions.

- 5.1.1 Prior to Substantial Completion progress payments will be in an amount equal to:

NINETY percent (90%) of the Work completed, and

NINETY percent (90%) of the approved materials and equipment on hand not incorporated in the Work but delivered and suitably stored in accordance with Article 5 of the Supplementary Conditions, less in each case the aggregate of payments previously made.

- 5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with Article 13.13 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by PROJECT MANAGER as provided in said Article 13.13.

- 5.3 The San Antonio River Authority will not pay any indirect charges over the subcontractor bill. A copy of all subcontractor invoices must be included with request for reimbursement.

ARTICLE 6. INTEREST.

All moneys not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

ARTICLE 7. CONTRACTORS REPRESENTATIONS.

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

- 7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the Work.
- 7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the sites or otherwise affecting cost, progress, or performance of the Work which were relied upon by PROJECT MANAGER in the preparation of the Plans and Specifications and which have been identified in the Supplementary Conditions.
- 7.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in Article 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has given PROJECT MANAGER written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by PROJECT MANAGER is acceptable to CONTRACTOR.

ARTICLE 8. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between OWNER and CONTRACTOR, are attached to this Agreement, made a part hereof and consists of the following:

- 8.1 This Agreement (AB-1 to AB-5, inclusive).
- 8.2 Exhibits to this Agreement:

House Bill 89 – GC 2270 Verification identified as Exhibit “B,” Senate Bill 252 – GC 2252 Certification identified as Exhibit “C,” Performance, Payment and Maintenance Bonds identified as Exhibits “D,” “E,” and “F,” and Certificate of Insurance identified as Exhibit “G”.
- 8.3 CONTRACTORS Bid (not numbered) marked Exhibit “A.” (Attached separately)
- 8.4 Notice of Award.
- 8.5 Notice to Proceed. (Provided separately)
- 8.6 General Conditions (GC-1 to GC-39, inclusive).
- 8.7 Supplementary Conditions (SC-1 to SC-3, inclusive).
- 8.8 Wage Determination Decision (W-1 to W-5).

- 8.9 Measurement and Payment (MP-1 to MP-2).
- 8.10 Addenda.
- 8.11 Specifications bearing the title Contract Documents and Specifications for the [REDACTED].
- 8.12 Plans, consisting of the attached plan sheets: [REDACTED]
- 8.13 Any Modification, including Change Orders, duly authorized and delivered after execution of Agreement.

There are no Contract Documents other than those listed above in Article 8. The Contract Documents may only be altered, amended, or repealed by a Modification (as defined in Article 3.1 of the General Conditions).

ARTICLE 9. MISCELLANEOUS.

- 9.1 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, shall have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds himself, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4 CONTRACTOR is required to make any information created or exchanged with the San Antonio River Authority pursuant to this contract, and not otherwise subject to exception from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the San Antonio River Authority.

ARTICLE 10. OTHER PROVISIONS.

IN WITNESS WHEREOF, duly authorized representatives of the parties hereto have signed this Agreement. The original copy has been delivered to OWNER and a copy sent to CONTRACTOR and PROJECT MANAGER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 20__.

SAN ANTONIO RIVER AUTHORITY:

[SEAL]

By _____
GENERAL MANAGER

Attest _____
ASSISTANT GENERAL MANAGER

Approved as to form
Allison Elder, Director of Legal Services

CONTRACTOR:

[SEAL]

By _____
(Title) _____

Attest _____
SECRETARY

SAN ANTONIO RIVER AUTHORITY'S
ADDRESS FOR GIVING NOTICES:

100 E. Guenther St.

San Antonio, Texas 78204

CONTRACTORS ADDRESS FOR
GIVING NOTICES:

License No. _____

Agent for service of process:

Name: _____

HOUSE BILL 89 - GC 2270 VERIFICATION

I, _____, the undersigned representative of _____ (hereafter referred to as company), being an adult over the age of eighteen (18) years of age, verify that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

- 1. Does not boycott Israel currently; and
- 2. Will not boycott Israel during the term of the contract the above-named Company, business or individual with the San Antonio River Authority.

Pursuant to Section 2270.001, Texas Government Code:

- 1. *“Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
- 2. *“Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Name of Company Representative (Print)

Signature of Company Representative

Date

SENATE BILL 252 – GC 2252 CERTIFICATION

I, _____, the undersigned representative of _____ (Company or business name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the San Antonio River Authority Contract Officer.

Name of Company Representative (Print)

Signature of Company Representative

Date

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, and _____, as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the SAN ANTONIO RIVER AUTHORITY, a political subdivision of the State of Texas domiciled in Bexar County, Texas, in the sum of _____ DOLLARS (\$_____) for the payment of which sum will and truly to be made in and unto said SAN ANTONIO RIVER AUTHORITY, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns and successors, jointly and severally;

THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said _____, hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said SAN ANTONIO RIVER AUTHORITY for the construction and completion for said SAN ANTONIO RIVER AUTHORITY of certain structures, work and improvements generally described as the _____ and for the performance and observance of diverse other matters and things in connection with said work; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation;

NOW, THEREFORE, if Contractor, the principal party of this obligation, shall faithfully construct and complete said structures, work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said contract and all included instruments according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, work and improvements then and thereupon this obligation shall be and become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the Principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had herein for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liabilities of the sureties of this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or

directed by the SAN ANTONIO RIVER AUTHORITY, nor by the exercise or failure to exercise by or on behalf of the SAN ANTONIO RIVER AUTHORITY any right or remedy provided by the contract or specifications or by any law or ordinance.

IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this _____ day of _____, A.D., 20__.

Contractor and Principals

By _____

Title _____

Sureties

By _____

Agent

5. The foregoing bond is APPROVED AND ACCEPTED this the _____ day of _____, A.D., 20__.

SAN ANTONIO RIVER AUTHORITY

By _____

GENERAL MANAGER

amount thereof shall have been exhausted; and the liabilities of the sureties of this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the SAN ANTONIO RIVER AUTHORITY, nor by the exercise or failure to exercise by or on behalf of the SAN ANTONIO RIVER AUTHORITY, any right or remedy provided by the contract or specifications or by any law or ordinance.

4. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this _____ day of _____, A.D., 20__.

Contractor and Principals

By _____

Title _____

Sureties

By _____

Agent

5. The foregoing bond is APPROVED AND ACCEPTED this the _____ day of _____, A.D., 20__.

SAN ANTONIO RIVER AUTHORITY

By _____

GENERAL MANAGER

recoveries may be had herein for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liabilities of the sureties of this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the SAN ANTONIO RIVER AUTHORITY, nor by the exercise or failure to exercise by or on behalf of the SAN ANTONIO RIVER AUTHORITY any right or remedy provided by the contract or specifications or by any law or ordinance.

4. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this _____ day of _____, A.D., 20__.

Contractor and Principals

By _____

Title _____
Sureties

By _____
Agent

5. The foregoing bond is APPROVED AND ACCEPTED this the _____ day of _____, A.D., 20__.

SAN ANTONIO RIVER AUTHORITY

By _____
GENERAL MANAGER

SAN ANTONIO RIVER AUTHORITY
 OUTLINE OF INSURANCE REQUIRED

(Actual certificate to be issued by Contractor's Insurance Company)

CONTRACTOR shall maintain, at its own cost and expense, such insurance as will protect CONTRACTOR from all claims for damages to persons and to property that may arise from any operations under this Contract, or any of its subcontracts. The following are the types of insurance policies and the minimum limits of insurance coverage that shall be maintained by CONTRACTOR during the entire term of the Contract:

TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS
Worker's Compensation and Employer's Liability Insurance				

A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the Authority.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity, which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the Authority prior to being awarded the contract.

D. If the coverage period shown on the Contractor's current certificate of coverage ends during the

duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Authority showing that coverage has been extended.

- E. The Contractor shall obtain from each period providing services on the project, and provide to the Authority:
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the Authority will have a file certificate of coverage showing coverage for all persons providing services on the project; and
 - 2. no later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The Contractor shall notify the Authority in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4. obtain from each other person with whom it contracts, and provide to the Contractor:
 - a. a certificate of coverage, prior to the other person beginning work on the project; and
 - b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6. notify the Authority in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - 7. contractually require each person with whom it contracts, to perform as required by paragraphs 1 - 7, with the certificates of coverage to be provided to the person for whom they are providing services
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the

Contractor is representing to the Authority that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Authority to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Authority.

(In accordance with all applicable State and Federal laws and endorsed specifically to include the following:

1. Employer's liability, including occupational disease, subject to a limit of liability of not less than \$500,000
2. Waiver of subrogation against the Authority.

TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS
Comprehensive General Liability Insurance				

(With limits of liability for bodily injury of not less than \$500,000 any one occurrence, and for property damage of not less than \$250,000 any one occurrence, and \$1,000,000 aggregate. Such insurance shall include the following:

1. Contractor's protective liability, covering liability for work sublet.
2. Contractual liability, insuring the indemnity agreements contained in this Contract.
3. Coverage for damage due to collapse of or structural injury to any building or structure due to excavation, tunneling, pile driving, cofferdam or caisson work or dredging; to moving, shoring, underpinning, raising, or demolition of any building or structure, or removal or rebuilding of any structural support thereof; to blasting or explosions; or to wires, conduits, pipes, mains, sewers, tanks, tunnels or any other property below the surface of the ground.
4. Waiver of subrogation against the Owner (SARA.)

TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS
Comprehensive Automobile Liability Insurance				

(With limits of liability for bodily injury of not less than \$500,000 combined, and for property damage of not less than \$250,000 any one occurrence. Such coverage shall include owned, hired, and non-owned vehicles. Policy shall be endorsed as follows:

1. Waiver of subrogation against the Owner (SARA)
2. Owner (SARA) shall be shown as additional insured.)

TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS
Builder's Risk Insurance				

(CONTRACTOR shall procure at his expense an "All Risk" Builder's Risk policy for the full value of this Contract to protect the work, and shall include the materials and supplies stored on and off the job site or in transit, and shall remain in force until final completion of the work and acceptance by the OWNER. Policy to be endorsed as follows:

1. Waiver of subrogation against the Owner (SARA)
2. Owner (SARA) shall be shown as additional insured and claims, if any, to be paid to Owner as trustee for the insured.)

TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS

(Any other insurance coverage as outlined in the Supplementary Conditions OR the Notice of Award of these Contract Documents)

All insurance shall contain a provision that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days' prior written notice has been given to OWNER and PROJECT MANAGER. All such insurance shall remain in effect until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with Article 12.12 of the General Conditions. In addition, CONTRACTOR shall maintain such completed operations insurance for at least two (2) years after final payment and furnish OWNER with evidence of continuation of such insurance at final payment and one (1) year thereafter.

Prior to commencing any work, CONTRACTOR shall furnish to OWNER at the address shown below Certificates of Insurance under all such policies, certifying compliance with the minimum coverage outlined above. All policies shall also be endorsed to provide that in the event of cancellation or reduction of coverage during the policy period, 30 days' advance written notice of such cancellation or reduction will be mailed to the San Antonio River Authority, Engineering Department, P.O. Box 839980, San Antonio, Texas, 78283-9980.

Insurance shall be carried with financially responsible insurance companies, licensed in the State of Texas, with an A.M. Best Rating of A (-) VI or better, if OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with Articles 5.3 and 5.4 of the General Conditions on the basis of its not complying with the Contract Documents, OWNER will notify CONTRACTOR in writing thereof. CONTRACTOR will provide to OWNER such additional information in respect of insurance provided by him as OWNER may reasonably request.

STATE AND LOCAL SALES TAX EXEMPTION CERTIFICATE

SAN ANTONIO RIVER AUTHORITY

PROJECT TITLE:

This contract is to be performed for an exempt organization as defined by Texas Tax Code § 151.309 and the undersigned hereby claims an exemption from payment of taxes under the said section and Texas Tax Code § 321.208.

The San Antonio River Authority is a political subdivision of the State of Texas, which is the reason for this claim of exemption from the Sales Tax. The San Antonio River Authority's tax-exempt number is 74-6011311.

The Contractor performing this contract may purchase all materials and supplies consumed in the performance of this contract by issuing to his retailer an exempt certificate in lieu of the tax, said exemption certificate complying with State Comptroller's Ruling No. 95-9.07. Any such exemption certificate issued by the Contractor in lieu of the tax shall be subject to the provisions of the State Comptroller's Ruling No. 95-0.09 as amended to be effective October 2, 1968.

The Contractor will be liable for payment of the Limited Sales and Use Tax if the Contractor uses the goods and services in some other manner for some other use than the reason listed above, and shall pay the tax based on the price paid for the goods and services.

Executed this the _____ day of _____, 20__.

SAN ANTONIO RIVER AUTHORITY

By _____
Sandy Yturri
CONTRACT OFFICER
San Antonio River Authority
P.O. Box 839980
San Antonio, Texas 78283-9980

GENERAL CONDITIONS

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS

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

AASHTO: American Association of State Highway and Transportation Officials.

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

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

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

ASTM: American Society of Testing Materials

Authority: The San Antonio River Authority, a political subdivision of the State of Texas.

AWS: American Welding Society.

Bid: The offer or proposal of the Bidder submitted in duplicate on the prescribed form setting forth the prices for the Work to be performed, as described in the plans and specifications

Bidder: Any individual, partnership, corporation, etc., submitting a bid.

Bid Guaranty: A cashiers or certified check in the amount of five (5%) percent of the total bid, payable to the San Antonio River Authority, or an acceptable bid bond for the same, as a guarantee that the bidder will enter into a contract and furnish all required bonds within a specific time.

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

Change Order: A written order to CONTRACTOR signed by OWNER/RIVER AUTHORITY authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after the effective date of the Agreement.

Contract: The agreement between the Owner and the Contractor covering the furnishing of material and performance of the work. The Contract will include the Plans, Specifications, Contract Bonds, and Change Orders.

Contract Documents: The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTORS Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications, the Drawings/Plans as the same are more specifically identified in the Agreement, together with all Modifications issued after the execution of the Agreement.

Contract Price: The moneys payable by OWNER/RIVER AUTHORITY to CONTRACTOR under the Contract Documents as stated in the Agreement.

Contract Time: The number of days (computed as provided in Article 16.2) or the date stated in the Agreement for the completion of the Work.

CONTRACTOR: The person, firm, or corporation with whom OWNER/RIVER AUTHORITY has entered into the Agreement.

Day (Calendar): A day of twenty-four hours measured from midnight to the following midnight.

Day (Working): A working day of eleven hours as measured from seven o'clock a.m. to six o'clock p.m. on weekdays, excluding federal holidays.

Defective: An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to PROJECT MANAGER recommendation of final payment.

Drawings: The documents which show the character and scope of the Work to be performed and which have been prepared or approved by PROJECT MANAGER and are referred to in the Contract Documents.

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

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

Field Order: A written order issued by PROJECT MANAGER which orders minor changes in the Work in accordance with Article 9.2 but which does not involve a change in the Contract Price or the Contract Time.

Field Representative: any person designated by general manager or chief Project Manager to oversee construction of project.

General Conditions: Detailed instructions to the Contractor setting forth their responsibility and the OWNERS responsibility for proper execution of the work.

General Requirements: Sections of Division 1 of the Specifications.

Laboratory: Any testing location that may be designated or approved by the Project Manager.

Local Authorities: Local municipalities, including but not necessarily limited to, Bexar County and the City of San Antonio. Also including local fire, police, water departments, and other utilities.

Major Item: "Major Item" shall be construed to be any individual bid item incurred in the bid that has a total cost equal to or greater than five percent (5%) of the total contract cost, computed based on the bid quantities and the contract unit price.

Modification: (a) a written amendment of the Contract Documents signed by both parties, (b) a Change Order, or (c) a Field Order. A modification may only be issued after the effective date of the Agreement.

Notice of Award: The written confirmation of award by OWNER/RIVER AUTHORITY to the successful Bidder, stating the amount of the award, the award date and when the contract will be executed.

Notice to Proceed: A written notice given by OWNER/RIVER AUTHORITY to CONTRACTOR and PROJECT MANAGER, fixing the date on which the Contract Time will commence and on which CONTRACTOR shall start to perform their obligation under the Contract Documents.

OSHA: The Occupational Safety and Health Administration.

OWNER/RIVER AUTHORITY: The public body or authority, corporation, association, partnership, or individual with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

Plans: The drawings or true reproductions thereof, which show the location, character, dimensions, and details of the work and which a part of the contract are.

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

PROJECT MANAGER: The person, firm, or corporation named as such in the Agreement.

Resident Project Representative/Inspector: The authorized representative of PROJECT MANAGER who is assigned to the site or any part thereof.

SAWS: San Antonio Water System. Water Works Board of Trustees of the City of San Antonio.

Separated Contract: A contract in which the agreed contract price is divided into the cost of materials and tangible equipment and skill and labor.

Sequence of Construction: The logical and proper order in which the work shall be accomplished, by stages and phases, by the Contractor, as outlined in the Supplementary Conditions and/or shown on the plans, unless ordered to do otherwise by a properly executed change order.

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

Special Provisions: Detailed instructions to the Contractor of a special nature that take precedence over Standard Construction Specifications.

Specifications: Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto. Where phrases "directed by," "ordered by" or "to the satisfaction of", "the Project Manager" or "the Inspector" occur, it is to be understood that the directions, order, or instructions to which they relate are within the limitations of, and authorized by the Contract. Where

reference is made to specifications of A.S.T.M., AASHTO, Texas State Department of Highways and Public Transportation Standard Specifications, etc., it shall be construed to mean the latest standard or tentative standard in effect on the date of bid.

Subcontractor: An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site. Can also refer to a sub consultant as part of a consulting contract.

Substantial Completion: The Work (or a specified part thereof) has progressed to the point where, in the opinion of PROJECT MANAGER as evidenced by his definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it was intended; or if there be no such certificate issued, when final payment is due in accordance with Article 13.13. The terms "Substantially Complete" and "Substantially Completed" as applied to any Work refer to Substantial Completion thereof.

Superintendent: The representative of the Contractor authorized to receive and fulfill instructions from the Inspector and who shall supervise and direct the construction.

Supplementary Conditions: Detailed instructions to the Contractor setting forth his additional responsibilities of a special nature particular to an individual project not covered elsewhere.

TCEQ: Texas Commission for Environmental Quality formerly the TNRCC - Texas Natural Resource Conservation Commission.

Test Method Tex. No. 113E: Texas Department of Transportation standard test number as outlined in the TxDOT Manual.

Wage Rates: The general prevailing wage rate, as established by the Davis-Bacon General Wage Decision (latest revision), a copy of which is included as the Wage Determination Decision section of these specifications.

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

ARTICLE 2 - PRELIMINARY MATTERS

Delivery of Bonds:

- 2.1 When OWNER delivers the executed Agreement to CONTRACTOR, CONTRACTOR shall provide to OWNER such Bonds as CONTRACTOR may be required to furnish in accordance with Exhibits B, C, and D if not already provided.

Copies of Documents:

- 2.2 OWNER shall furnish to CONTRACTOR, one (1) hard copy and one (1) digital copy (unless otherwise specified in the Supplementary Conditions and/or the General Requirements) of the Contract Documents as are reasonably necessary for the execution of the Work. Hard copies will be furnished, upon request, at the cost of reproduction.

Commencement of Contract Time; Notice to Proceed:

- 2.3 The Contract Time will commence the effective date of the Agreement, or, if a Notice to Proceed is given, on the Commencement Date indicated in the Notice to Proceed; but in no event shall the Contract Time commence to run later than the one hundred twentieth (120th) day after the day of the RIVER AUTHORITY board approval. A Notice to Proceed will normally be given at any time within thirty-days (30) after the effective date of the Agreement.

Starting the Project:

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

Before Starting Construction:

- 2.5 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to PROJECT MANAGER any conflict, error or discrepancy which CONTRACTOR may discover; however, CONTRACTOR shall not be liable to OWNER or PROJECT MANAGER for failure to report any conflict, error or discrepancy in the Drawings or Specifications, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.
- 2.6 If requested, within fourteen (14) days after the effective date of the Agreement (unless otherwise specified in the General Requirements/General Provisions), CONTRACTOR shall submit to PROJECT MANAGER for review and acceptance an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, a preliminary schedule of Shop Drawing submissions, and a preliminary schedule of values of the Work.
- 2.7 Before any Work at the site is started, CONTRACTOR shall deliver to OWNER, with a copy to PROJECT MANAGER, certificates (and other evidence of insurance requested by OWNER), which CONTRACTOR is required to purchase and maintain in accordance with Exhibit E of the agreement.

Preconstruction Conference:

- 2.8 Within thirty days after the effective date of the Agreement, but before CONTRACTOR starts the Work at the site, a conference will be held for review and acceptance of the schedules referred to in Article 2.6, to establish procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work.
- 2.9 The CONTRACTOR is and at all times shall remain an independent contractor, solely responsible for the manner and method of completing the work under this contract, with full power and authority to select the means, method and manner of performing such work, so long as such methods do not adversely affect the completed improvements, the OWNER being interested in the result obtained and conformity of such completed improvements to the plans, specifications, and contract.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT AND REUSE

Intent:

- 3.1 The Contract Documents comprise the entire Agreement between OWNER and CONTRACTOR concerning the Work. They may be altered only by a Modification.
- 3.2 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he shall report it to PROJECT MANAGER in writing at once and before proceeding with the Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or PROJECT MANAGER for failure to report any conflict, error or discrepancy in the Specifications or Drawings unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.
- 3.3 It is the intent of the Specifications and Drawings to describe a complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work that may reasonably be inferred from the Specifications or Drawings, as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words, which have a well-known technical or trade meaning, are used to describe Work, materials or equipment, such words shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual or code in effect at the time of opening of Bids (or, on the effective date of the Agreement if there were no Bids), except as may be otherwise specifically stated.

However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of OWNER, CONTRACTOR, or PROJECT MANAGER, or any of their agents or employees from those set forth in the Contract Documents. Clarifications and interpretations of the Contract Documents shall be issued by PROJECT MANAGER as provided for in Article 8.3.
- 3.4 In case of conflict, error or discrepancy in the Contract Documents, priority of interpretation shall be in the following order: Addenda (if applicable), Signed Agreement, Performance and Payment Bonds, Special Bonds (if any), Bid, Supplementary Conditions, Notice to Contractors, Measurement and Payment (if included in Contract Documents), Technical Specifications, Plans and General Conditions.
- 3.5 The Contract Documents will be governed by the law of the state of Texas.

Reuse of Documents:

- 3.6 Neither CONTRACTOR nor any Subcontractor, manufacturer, fabricator, supplier or distributor shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of PROJECT MANAGER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER and PROJECT MANAGER and specific written verification or adaptation by PROJECT MANAGER.

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

Availability of Lands:

- 4.1 OWNER shall secure, as indicated in the Contract Documents, rights of way, easements, and/or lands to be occupied by the finished construction, with only such additional construction easements as shown for use of the CONTRACTOR in carrying out his work. The CONTRACTOR shall take proper measures to protect all property within all construction easements which might be injured by any process of construction; and in case of any injury or damage, he shall restore at his own expense the damaged property to a condition similar or equal to that existing before such injury or damage was done, or he shall make good such injury or damage in an acceptable manner. If CONTRACTOR believes that any delay in OWNERS furnishing these lands or easements entitles him to an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Article 11. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Physical Conditions - Investigations and Reports:

- 4.2 Reference is made to the Supplementary Conditions for identification of those reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work that have been relied upon by PROJECT MANAGER in preparation of the Drawings and Specifications. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents. If reports were not required by the PROJECT MANAGER for preparation of the Drawings and Specifications, no reference is made in the Supplementary Conditions.
- 4.3 Unless otherwise specified, all loss or damage to the CONTRACTOR arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the CONTRACTOR at his own cost and expense.

Reference Points:

- 4.4 OWNER shall provide Engineering surveys for construction to establish only reference points that in his judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall provide the services of a Registered Professional Engineer (Texas Licensed) or a Registered Professional Land Surveyor (Texas Licensed). Said professional will direct contract surveying with all associated costs bore by the CONTRACTOR at no additional cost to the OWNER. CONTRACTOR shall report to PROJECT MANAGER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for replacement or relocation of such reference points by professionally qualified personnel such as a Registered Professional Engineer (Texas licensed) or Registered Professional Land Surveyor (Texas licensed). The OWNER will from time to time verify the layout of the Work and if found in error, the CONTRACTOR will bear all costs to the OWNER for the re-verification and correction of errors in layout of the Work.

ARTICLE 5 - CONTRACTORS RESPONSIBILITIES

Supervision and Superintendence:

- 5.1 CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.
- 5.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and PROJECT MANAGER except under extraordinary circumstances. The superintendent will be CONTRACTORS representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials, and Equipment:

- 5.3 CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site.

Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all Work at the site shall be performed during a working day as defined, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any federal holiday without OWNERS written consent given after prior written notice to PROJECT MANAGER.

- 5.4 CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.
- 5.5 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by PROJECT MANAGER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment.
- 5.6 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, supplier or distributor, except as otherwise provided in the Contract Documents.

Equivalent Materials and Equipment:

- 5.7 Whenever materials or equipment are specified or described in the Drawings or Specifications by using the name of a proprietary item or the name of a particular manufacturer, fabricator, supplier, or distributor, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted or equipment is identified on the "Major Equipment Schedule" of the Bid, materials or equipment of other manufacturers, fabricators, suppliers or distributors may be accepted by PROJECT

MANAGER if sufficient information is submitted by CONTRACTOR to allow PROJECT MANAGER to determine that the material or equipment proposed is equivalent to that named. For equipment identified in the "Major Equipment Schedule" the procedure for presenting and evaluating substitute equipment is established in Section 7 of the Instructions to Bidders. The procedure for review by PROJECT MANAGER of other equivalent materials and equipment will be as set forth in Articles 5.7.1 and 5.7.2 below as supplemented in the General Requirements.

- 5.7.1 Requests for review of substitute items of material and equipment will not be accepted by PROJECT MANAGER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment CONTRACTOR shall make written application to PROJECT MANAGER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions called for by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. The application will state whether or not acceptance of the substitute for use in the Work will require a change in the Drawings or Specifications to adapt the design to the 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 shall be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by PROJECT MANAGER in evaluating the proposed substitute. PROJECT MANAGER may require CONTRACTOR to furnish at CONTRACTORS expense additional data about the proposed substitute. PROJECT MANAGER will be the sole judge of acceptability, and no substitute will be ordered or installed without PROJECT MANAGERS prior written acceptance. OWNER may require CONTRACTOR to furnish at CONTRACTORS expense a special performance guaranty or other surety with respect to any substitute.
- 5.7.2 PROJECT MANAGER will record time required by PROJECT MANAGER and PROJECT MANAGERS consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Drawings or Specifications occasioned thereby. Whether or not PROJECT MANAGER accepts a proposed substitute, CONTRACTOR shall reimburse OWNER for the charges of PROJECT MANAGER and PROJECT MANAGERS consultants for evaluating any proposed substitute.

Concerning Subcontractors:

- 5.8 CONTRACTOR shall not employ any Subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom OWNER or PROJECT MANAGER may have reasonable objection. A Subcontractor or other person or organization identified in writing to OWNER and PROJECT MANAGER by CONTRACTOR prior to the Notice of Award and not objected to in writing by OWNER or PROJECT MANAGER prior to the Notice of Award will be deemed acceptable to OWNER and PROJECT MANAGER. Acceptance of any Subcontractor, other person, or organization by OWNER or PROJECT MANAGER shall not constitute a waiver of any right of OWNER or PROJECT MANAGER to reject defective Work. If OWNER or PROJECT MANAGER after due investigation has reasonable objection to any Subcontractor, other person or organization proposed by CONTRACTOR after the Notice of Award, the CONTRACTOR will be required to submit an acceptable substitute. The Contract Price will not be increased as a result of

such substitution. CONTRACTOR shall not be required to employ any Subcontractor, other person, or organization against whom CONTRACTOR has reasonable objection.

- 5.9 CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that CONTRACTOR is responsible for the acts and omissions of persons directly employed by CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between OWNER or PROJECT MANAGER and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of OWNER or PROJECT MANAGER to pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by law. OWNER or PROJECT MANAGER may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to CONTRACTOR on account of specific Work done.
- 5.10 The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.
- 5.11 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor, which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and PROJECT MANAGER.

Patent Fees and Royalties:

- 5.12 CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use of the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device, which is the subject of patent rights or copyrights, held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or PROJECT MANAGER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. CONTRACTOR shall **INDEMNIFY AND HOLD HARMLESS OWNER** and PROJECT MANAGER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits:

- 5.13 Unless otherwise provided in the Supplementary Conditions or General Requirements, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the execution of the Work, which are applicable at the time of opening of Bids. CONTRACTOR shall pay all charges of utility service companies for connections to the Work, and OWNER shall pay all charges of such companies for capital costs related thereto.

Laws and Regulations:

- 5.14 CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If CONTRACTOR observes that the Specifications or Drawings are at variance therewith, CONTRACTOR shall give PROJECT MANAGER prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such laws, ordinances, rules and regulations, and without such notice to PROJECT MANAGER, CONTRACTOR shall bear all costs arising there from; however, it shall not be CONTRACTORS primary responsibility to make certain that the Specifications and Drawings are in accordance with such laws, ordinances, rules and regulations.

Taxes:

- 5.15 CONTRACTOR shall pay all taxes and insurance required by State and Federal Laws and must comply with applicable regulations of the State Comptroller regarding temporary sales tax exemption certificates.
- 5.15.1 The OWNER of this project is exempt from the state sales tax (including local sales tax, if any) and will furnish the CONTRACTOR with a tax exemption certificate. The CONTRACTOR shall take all necessary action to establish tax exemption so that he and his subcontractors may obtain this exemption on the Construction contract for the OWNERS benefit.
- 5.15.2 The Contract separates the cost of materials and tangible equipment from skill, labor and other associated costs of construction. This is in accordance with the Texas Tax Code to allow tax exemption on the Contract price for materials. Certain construction equipment that is owned or rented by the CONTRACTOR may be subject to state and local sales tax.

Use of Premises:

- 5.16 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.
- 5.17 During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents. The CONTRACTOR shall be responsible for disposing of all waste materials including excavation, old concrete, old asphalt or any other material, which is required to be removed from the project. No waste material shall be deposited in any natural drain, creek, river, or other watercourse. The Contractor shall, as directed by the Inspector, immediately remove at his own expense any fill that is blocking drainage that has resulted from the CONTRACTOR'S operations.

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

Record Documents:

- 5.19 CONTRACTOR shall keep one record copy of all Specifications, Drawings, Addenda, Modifications, Shop Drawings, and samples at the site, in good order and annotated to show all changes made during the construction process. These shall be available to PROJECT MANAGER for examination and shall be delivered to PROJECT MANAGER for OWNER upon completion of the Work.

Safety and Protection:

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

- 5.20.1 all employees on the Work and other persons who may be affected thereby;
- 5.20.2 all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
- 5.20.3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and utilities when prosecution of the Work may affect them. All damage, injury or loss to any property referred to in Article 5.20.2 or 5.20.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR. CONTRACTOR duties and responsibilities for the safety and protection of the Work shall continue until all the Work is completed and PROJECT MANAGER has issued a notice to OWNER and CONTRACTOR in accordance with Article 13.13 that the Work is acceptable.

- 5.21 CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTORS superintendent unless otherwise designated in writing by CONTRACTOR to OWNER.

Protection of Environmental Resources:

- 5.22 Protection of Adjacent Lands: Trees, shrubs, vines, grasses, croplands, land forms and other adjacent land features indicated and defined on the plans to be preserved shall be clearly identified by marking, fencing, or wrapping with boards, or any other approved techniques. Areas in which the CONTRACTOR'S activities will be permitted shall be delineated on the ground by marking

devices, all subject to approval by the Resident Project Representative/Inspector, prior to commencement of the CONTRACTOR'S operations. No construction activities will be commenced until such marking and/or protection has been completed and approved by the Resident Project Representative/Inspector. The CONTRACTOR shall take positive measures to make sure that his personnel understand the purpose of the markings and do not operate outside the designated areas.

- 5.23 Work Area Limits: Prior to any construction, the CONTRACTOR shall mark the areas that are not required to accomplish all work to be performed under this Contract. Isolated areas within the general work area, which are to be saved and protected, shall also be marked or fenced. Monuments and markers shall be protected before construction operations commence.
- 5.24 Preservation and Recovery of Historical, Archeological and Cultural Resources: Existing historical, archeological, and cultural resources within the CONTRACTOR'S work area will be so designated by the Resident Project Representative/Inspector and precautions taken to preserve all such resources, as they existed at the time they were pointed out to the CONTRACTOR. The CONTRACTOR shall install all protective devices such as off limits markings, fencing, barricades, or other devices deemed necessary by the Resident Project Representative/Inspector for these resources so designated on the plans and shall be responsible for their preservation during this contract. If during construction activities the CONTRACTOR observes unusual items that might have historical or archeological value, such observations shall be reported as soon as possible to the Resident Project Representative/Inspector. If the CONTRACTOR is delayed or if additional work is required by a discovery, the Contract will be subject to equitable adjustment under one of the appropriate clauses of the General Provisions.

Emergencies:

- 5.25 In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from PROJECT MANAGER or OWNER, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give PROJECT MANAGER prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

Shop Drawings and Samples:

- 5.26 After checking and verifying all field measurements, CONTRACTOR shall submit to PROJECT MANAGER for review and approval, in accordance with the accepted schedule of Shop Drawing submissions (see Article 2.2), one (1) hard copy and one (1) digital copy (unless otherwise specified in the General Requirements) of all Shop Drawings, which shall have been checked by and stamped with the approval of CONTRACTOR and identified as PROJECT MANAGER may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and like information to enable PROJECT MANAGER to review the information as required.
- 5.27 CONTRACTOR shall also submit to PROJECT MANAGER for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.

- 5.28 At the time of each submission, CONTRACTOR shall in writing call PROJECT MANAGERS attention to any deviations that the Shop Drawings or samples may have from the requirements of the Contract Documents.
- 5.29 PROJECT MANAGER will review and approve with reasonable promptness Shop Drawings and samples, but PROJECT MANAGERS review and approval shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make any corrections required by PROJECT MANAGER and shall return the required number of corrected copies of Shop Drawings and resubmit new samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by PROJECT MANAGER on previous submittals. CONTRACTORS stamp of approval on any Shop Drawing or sample shall constitute a representation to OWNER and PROJECT MANAGER that CONTRACTOR has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data or assumes full responsibility for doing so, and that CONTRACTOR has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and the Contract Documents.
- 5.30 Where a shop drawing or sample is required by the Specifications, no related Work shall be commenced until the submittal has been reviewed and approved by PROJECT MANAGER.
- 5.31 PROJECT MANAGERS review of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any deviations from the Contract Documents unless CONTRACTOR has in writing called PROJECT MANAGERS attention to such deviation at the time of submission and PROJECT MANAGER has given written concurrence and approval to the specific deviation, nor shall any concurrence or approval by PROJECT MANAGER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.

Continuing the Work:

- 5.32 CONTRACTOR shall carry on the Work and maintain the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as CONTRACTOR and OWNER may otherwise agree in writing.

Indemnification:

- 5.33 DURING THE PERFORMANCE OF THE WORK WITHIN THE CONTEMPLATION OF THIS CONTRACT AND UNTIL FINAL COMPLETION AND ACCEPTANCE THEREOF, CONTRACTOR SHALL EXERCISE THE UTMOST CARE TO AVOID ACCIDENT OR INJURY TO PERSONS OR PROPERTY. HE SHALL PLACE AND MAINTAIN ALL NECESSARY BARRIERS AND SAFEGUARDS, INCLUDING WATCHMEN, IF NECESSARY, ABOUT THE WORK SITE FOR THE PREVENTION OF ACCIDENTS AND AT NIGHT SHALL MAINTAIN ADEQUATE LIGHTS AND OTHER WARNING DEVICES, AND GENERALLY SHALL TAKE ALL PRECAUTIONS REQUISITE TO THE PROTECTION OF THE PUBLIC AND PROPERTIES ADJACENT TO THE WORK SITE. CONTRACTOR SHALL AND WILL INDEMNIFY AND SAVE HARMLESS OWNER FROM AND AGAINST ANY AND ALL ACTIONS AND CLAIMS, AND AGAINST ALL COSTS, DAMAGES AND EXPENSES TO WHICH OWNER MAY BE PUT BY REASON OF ANY

INJURY OR ALLEGED INJURY TO PERSON OR PROPERTY, REGARDLESS OF WHETHER SUCH CLAIMS OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON THE ALLEGED NEGLIGENCE OF THE SAN ANTONIO RIVER AUTHORITY, ITS OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES, RESULTING OR ALLEGED TO RESULT FROM OR TO BE OCCASIONED BY THE ACTS OR OMISSIONS OF THE CONTRACTOR, WHETHER NEGLIGENT OR OTHERWISE, IN THE PERFORMANCE, CONDUCT OR MAINTENANCE OF THE WORK, OR IN GUARDING SAME, OR FROM ANY IMPROPER METHODS, TOOLS, IMPLEMENTS OR MATERIALS EMPLOYED THEREIN, OR ON ACCOUNT OF ANY SUCH ACTS OR OMISSIONS OF CONTRACTORS AGENTS, SERVANTS, EMPLOYEES, ASSIGNEES OR SUBCONTRACTORS (INCLUDING THE AGENTS, SERVANTS AND EMPLOYEES OF SUCH SUBCONTRACTOR); AND CONTRACTOR OR HIS INSURER SHALL WELL AND TRULY MAKE PAYMENT OF ANY AND ALL SUMS RECOVERED AGAINST OWNER IN ANY SUIT OR SUITS ON ACCOUNT OF SUCH ALLEGED INJURY OR DAMAGE TO WHICH OWNER MAY BE MADE A PARTY, TOGETHER WITH ALL COSTS, DAMAGES AND EXPENSES BORNE BY OWNER IN CONNECTION WITH SUCH SUITS ALL IN A MANNER AS TO SAVE OWNER HARMLESS FROM ANY EXPENSE CONNECTED WITH SUCH ACTIONS AND CLAIMS. OWNER IS FURTHER AUTHORIZED, TO DEDUCT OR RETAIN FROM ANY ESTIMATE OR ESTIMATES OR AMOUNTS RETAINED HEREUNDER, SUCH SUMS AS MAY BE CLAIMED FOR ANY INJURY OR DAMAGE DESCRIBED ABOVE UNLESS AND UNTIL CONTRACTOR SHALL GIVE A FURTHER AND SPECIAL BOND OR DEPOSIT ADEQUATE TO COVER SUCH CONTINGENT LIABILITY AS DETERMINED BY THE OWNER OR OTHERWISE PRESENT EVIDENCE OF FULL INDEMNIFICATION TO THE OWNER IN CONNECTION WITH SUCH CLAIMS OR ACTIONS.

THE RECORD OWNER OF FEE SIMPLE TITLE TO THE LAND UPON WHICH THE WORK IS TO BE PERFORMED IS HEREINAFTER CALLED LANDOWNER. CONTRACTOR SHALL AND WILL INDEMNIFY AND SAVE HARMLESS LANDOWNER FROM AND AGAINST ANY AND ALL ACTIONS AND CLAIMS, AND AGAINST ALL COSTS, DAMAGES AND EXPENSES TO WHICH LANDOWNER MAY BE PUT BY REASON OF ANY INJURY OR ALLEGED INJURY TO PERSON OR PROPERTY, REGARDLESS OF WHETHER SUCH CLAIMS OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON THE ALLEGED NEGLIGENCE OF THE SAN ANTONIO RIVER AUTHORITY, ITS OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES, RESULTING OR ALLEGED TO RESULT FROM OR TO BE OCCASIONED BY THE ACTS OR OMISSIONS OF THE CONTRACTOR, WHETHER NEGLIGENT OR OTHERWISE, IN THE PERFORMANCE, CONDUCT OR MAINTENANCE OF THE WORK, OR IN GUARDING SAME, OR FROM ANY IMPROPER METHODS, TOOLS, IMPLEMENTS OR MATERIALS EMPLOYED THEREIN, OR ON ACCOUNT OF ANY SUCH ACTS OR OMISSIONS OF CONTRACTORS AGENTS, SERVANTS, EMPLOYEES, ASSIGNEES OR SUBCONTRACTORS (INCLUDING THE AGENTS, SERVANTS AND EMPLOYEES OF SUCH SUBCONTRACTOR); AND CONTRACTOR OR HIS INSURER SHALL WELL AND TRULY MAKE PAYMENT OF ANY AND ALL SUMS RECOVERED AGAINST LANDOWNER IN ANY SUIT OR SUITS ON ACCOUNT OF SUCH ALLEGED INJURY OR DAMAGE TO WHICH LANDOWNER MAY BE MADE A PARTY, TOGETHER WITH ALL COSTS, DAMAGES AND EXPENSES BORNE BY LANDOWNER IN CONNECTION WITH SUCH SUITS ALL IN A MANNER AS TO SAVE LANDOWNER HARMLESS FROM ANY EXPENSE CONNECTED WITH SUCH ACTIONS AND CLAIMS.

Patents, Etc.:

CONTRACTOR agrees that he will at all times pay all fees, royalties or license charges on all patented, registered or copyrighted machines, materials, methods or processes used in the construction of said work and supplied as a part of the finished work, or appurtenant thereof; and that he will ever hold OWNER free and harmless from any and all claims on account of the use of any machines, materials, methods or processes.

- 5.34 In any and all claims against OWNER or PROJECT MANAGER or any of their agents or employees by any employee of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Article 5.33 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 Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
- 5.35 The obligations of CONTRACTOR under Article 5.33 shall not extend to the liability of PROJECT MANAGER, his agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications.

ARTICLE 6 - WORK BY OTHERS

- 6.1 OWNER may perform additional work related to the Project by himself, or have additional work performed by utility service companies, or let other direct contracts therefore which shall contain General Conditions similar to these. CONTRACTOR shall afford the utility service companies and the other Contractors who are parties to such direct contracts (or OWNER, if OWNER is performing the additional work with OWNERS employees) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs.
- 6.2 If any part of CONTRACTORS Work depends on proper execution or results upon the work of any such other contractor or utility service company (or OWNER), CONTRACTOR shall inspect and promptly report to PROJECT MANAGER in writing any patent or apparent defects or deficiencies in such work that render it unsuitable for such proper execution and results. CONTRACTOR failure to report shall constitute an acceptance of the other work as fit and proper for integration with CONTRACTORS Work except for latent or non-apparent defects and deficiencies in other work.
- 6.3 CONTRACTOR shall do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their Work and will only cut or alter their work with the written consent of PROJECT MANAGER and the others whose work will be affected.
- 6.4 If the performance of additional work by other contractors or utility service companies or OWNER was not noted in the Contract Documents, written notice thereof shall be given to CONTRACTOR prior to starting any such additional work. If CONTRACTOR believes that the performance of such additional work by OWNER or others involves additional expense to CONTRACTOR or requires an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Articles 10 and 11.

ARTICLE 7 - OWNERS RESPONSIBILITIES

- 7.1 In case of termination of the employment of PROJECT MANAGER, OWNER shall appoint a Project Manager whose status under the Contract Documents shall be that of the former PROJECT MANAGER.
- 7.2 OWNER shall furnish the data required of OWNER under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in Articles 13.4 and 13.13.
- 7.3 OWNERS duties with respect to providing lands and easements and providing Engineering surveys to establish reference points are set forth in Articles 4.1 and 4.4. Article 4.2 refers to OWNERS identifying and making available to CONTRACTOR copies of reports of investigations and tests of subsurface and latent physical conditions at the site, if they exist, that could affect the performance of the Work and which have been relied upon by PROJECT MANAGER in preparing the Drawings and Specifications.
- 7.4 In connection with OWNERS rights to request changes in the Work in accordance with Article 9, OWNER (especially in certain instances as provided in Article 9.4) is obligated to execute Change Orders.
- 7.5 OWNERS responsibility with respect to certain inspections, tests, and approvals is set forth in Article 13, inclusive.
- 7.6 In connection with OWNERS right to stop work or suspend work, see Articles 12.10 and 14.1. Article 14.2 deals with OWNERS right to terminate services of CONTRACTOR under certain circumstances.

ARTICLE 8 - PROJECT MANAGERS STATUS DURING CONSTRUCTION

OWNERS Representative:

- 8.1 PROJECT MANAGER will be OWNERS representative during the construction period. The duties and responsibilities and the limitations of authority of PROJECT MANAGER during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and PROJECT MANAGER.

Visits to Site:

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

Clarifications and Interpretations:

- 8.3 PROJECT MANAGER will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as PROJECT MANAGER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or Contract Time, CONTRACTOR may make a claim therefore as provided in Article 10 or Article 11.

Rejecting Defective Work:

- 8.4 PROJECT MANAGER will have authority to disapprove or reject Work, which is defective, and will have authority to require special inspection or testing of the Work as provided in Articles 12.8 and 12.9, whether or not the Work is fabricated, installed, or completed.

Shop Drawings, Change Orders, and Payments:

- 8.5 In connection with PROJECT MANAGERS responsibility for Shop Drawings and samples, see Articles 5.23 through 5.28 inclusive.
- 8.6 In connection with PROJECT MANAGERS responsibilities as to Change Orders, see Articles 9, 10 and 11.
- 8.7 In connection with PROJECT MANAGERS responsibilities with respect to Applications for Payment, etc., see Article 13.

Project Representation:

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

Decisions on Disagreements:

- 8.9 PROJECT MANAGER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work there under. Claims, disputes and other matters relating to the acceptability of the Work, the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Work, changes in the Work and changes of Contract time, shall be referred initially to PROJECT MANAGER in writing with a request for a formal decision in accordance with this paragraph, which PROJECT MANAGER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter shall be delivered by the claimant to PROJECT MANAGER and the other party to the Agreement within fifteen (15) days of the occurrence of the event giving rise thereto, and written supporting data will be submitted to PROJECT MANAGER and the other party within forty-five (45) days of such occurrence unless PROJECT MANAGER allows an additional period of time to ascertain more accurate data. In his capacity as interpreter and judge PROJECT MANAGER will

not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

- 8.10 The rendering of a decision by PROJECT MANAGER pursuant to Article 8.9 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in Article 13.16) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or at law in respect of any such claim, dispute or other matter.

Limitations on PROJECT MANAGERS Responsibilities:

- 8.11 Neither PROJECT MANAGERS authority to act under this Article 8 or elsewhere in the Contract Documents nor any decision made by PROJECT MANAGER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of PROJECT MANAGER to CONTRACTOR, any Subcontractor, any manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the Work.
- 8.12 Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used, to describe requirements, direction, review or judgment of PROJECT MANAGER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is specific statement indicating otherwise). The use of any such term or adjective never indicates that PROJECT MANAGER shall have authority to supervise or direct performance of the Work or authority to undertake responsibility contrary to the provisions of Articles 8.13 or 8.14.
- 8.13 PROJECT MANAGER will not be responsible for CONTRACTORS means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and PROJECT MANAGER will not be responsible for CONTRACTORS failure to perform the Work in accordance with the Contract Documents.
- 8.14 PROJECT MANAGER will not be responsible for the negligent acts or omissions of CONTRACTOR or of any Subcontractors, or of the agents or employees of any CONTRACTOR or Subcontractor, or of any other persons at the site or otherwise performing any of the Work.

ARTICLE 9 - CHANGES IN THE WORK

- 9.1 Without invalidating the Agreement and accompanying Bonds, OWNER may, at any time or from time to time, order additions, deletions or revisions in the work; these will be authorized by Change Orders. Upon receipt of a Change Order, CONTRACTOR shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time an equitable adjustment will be made as provided in Article 10 or Article 11 based on a claim made by either party.
- 9.2 PROJECT MANAGER may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and shall be binding on OWNER, and on CONTRACTOR who shall perform the change promptly.

- 9.3 Additional Work performed without authorization of a Change Order will not entitle CONTRACTOR to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in Article 6.22 and except as provided in Articles 9.2 and 12.9.
- 9.4 OWNER shall execute appropriate Change Orders in accordance with Articles 10 and 11 of the General Conditions as prepared by PROJECT MANAGER covering changes in the Work, which are required by OWNER.
- 9.5 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the surety, it will be CONTRACTORS responsibility to notify the surety, and the amount of each applicable Bond shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to OWNER.
- 9.6 If such changes or alterations diminish the quantity of work to be done, such changes or alterations shall not constitute the basis for damages or anticipated profits on the work that may be deleted from the contract. It is the intent of these Contract Documents that payment for all work performed and all materials furnished shall be for the actual work performed and the actual quantity of materials furnished.

ARTICLE 10 - CHANGE OF CONTRACT PRICE

- 10.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.
- 10.2 The Contract Price may only be changed by a Change Order executed by a duly authorized representative of the CONTRACTOR and OWNER. Any claim for an increase in the Contract Price shall be based on written notice delivered to OWNER and PROJECT MANAGER within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within forty-five days of such occurrence unless PROJECT MANAGER allows an additional period to ascertain accurate cost data. All claims for adjustment in the Contract Price shall be determined by PROJECT MANAGER if OWNER and CONTRACTOR cannot otherwise agree on the amount involved. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.
- 10.3 The value of any Work covered by a Change Order or of any claim or an increase or decrease in the Contract Price shall be determined in one of the following ways:
- 10.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of Article 10.9).
- 10.3.2 By mutual acceptance of a lump sum. A lump sum amount must include sufficient documentation to enable the PROJECT MANAGER to verify the cost of the Work involved. Projected costs for the work should be in accordance with Articles 10.4 and 10.5. Overhead and profit must be separately identified and be in accordance with Article 10.6.

- 10.3.3 On the basis of the Cost of the Work (determined as provided in Articles 10.4 and 10.5) plus a CONTRACTORS fee for overhead and profit (determined as provided in Article 10.6).

Cost of the Work:

- 10.4 The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Article 10.5:

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

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

10.4.3 Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of PROJECT MANAGER, which bids will be accepted. If a Subcontract provides that the Subcontractor is to be paid based on Cost of the Work plus a fee, the Subcontractors Cost of the Work shall be determined in the same manner as CONTRACTORS Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

10.4.4 Costs of special consultants (including, but not limited to, Project Managers, architects, testing laboratories, surveyors, lawyers and accountants) employed for services specifically related to the Work.

10.4.5 Supplemental costs including the following:

10.4.5.1 The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTORS employees incurred in discharge of duties connected with the Work.

- 10.4.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.
- 10.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of PROJECT MANAGER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
- 10.4.5.4 Sales, use or similar taxes, if any, related to the Work, and for which CONTRACTOR is liable, imposed by any governmental authority.
- 10.4.5.5 The cost of utilities, fuel, and sanitary facilities at the site.
- 10.4.5.6 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage, and similar petty cash items in connection with the Work.
- 10.4.5.7 Cost of premiums for additional Bonds and insurance required because of changes in the Work.

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

- 10.5.1 Payroll costs and other compensation of CONTRACTORS officers, executives, principals (of partnership and sole proprietorships), general managers, Project Managers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in his principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Article 10.4.1 - all of which are to be considered administrative costs covered by the CONTRACTORS Fee.
- 10.5.2 Expenses of CONTRACTORS principal and branch offices other than CONTRACTORS office at the site.
- 10.5.3 Any part of CONTRACTORS capital expenses, including interest on CONTRACTORS capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 10.5.4 Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for additional Bonds and insurance required because of changes in the Work).
- 10.5.5 Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including

but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

- 10.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Article 10.4.

CONTRACTORS Fee:

- 10.6 The CONTRACTORS Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

10.6.1 a mutually acceptable fixed fee; or if none can be agreed upon,

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

10.6.2.1 for costs incurred under Articles 10.4.1 and 10.4.2, the CONTRACTORS Fee shall be ten percent,

10.6.2.2 for costs incurred under Article 10.4.3, the CONTRACTORS Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall be ten percent, and

10.6.2.3 no fee shall be payable based on costs itemized under Articles 10.4.4, 10.4.5 and 10.5.

- 10.7 The amount of credit to be allowed by CONTRACTOR to OWNER for any such change, which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured based on the net increase, if any.

Adjustment of Unit Prices:

- 10.8 Whenever the cost of any Work is to be determined pursuant to Articles 10.4 and 10.5, CONTRACTOR will submit in form acceptable to PROJECT MANAGER an itemized cost breakdown together with supporting data.

- 10.9 Where the quantity of Work with respect to any item that is covered by a unit price differs as described below from the quantity of such Work indicated in the Contract Documents, an appropriate Change Order shall be issued on recommendation of PROJECT MANAGER to adjust the unit price.

10.9.1 ESTIMATED QUANTITIES: The agreement, including all items of the Contract Documents, is intended to show clearly all work to be done and material to be furnished hereunder. Where the estimated quantities are shown for the various classes of work to be done and material to be furnished under this contract, they are approximate and are to be used only as a basis for estimating the probable cost of the work and for comparing the bids offered for the work. It is understood and agreed that the actual amount of work to be done and material to be furnished under this contract may differ somewhat from these estimates, and that where the basis for payment under this contract is the unit price method, payment

shall be for the actual amount of acceptable work done and the materials furnished, which are not in excess of the calculated quantities from the correct dimensions shown on the Plans or as ordered in writing by the PROJECT MANAGER.

10.9.2 UNIT PRICE METHOD: Where payment is based on the unit price method, the CONTRACTOR agrees that he will make no claim for damages, anticipated profits or otherwise on account of any differences which may be found between the quantities of work actually done, the material actually furnished under this contract and the estimated quantities contemplated and contained in the bid; provided, however, that in case the actual quantity of any major item should become as much as twenty percent (20%) above or below the estimated or contemplated quantity for such items, then either party to this Agreement, upon demand, shall be entitled to a revised consideration for said work that differs from the estimated quantity.

10.9.3 REVISED CONSIDERATION: Any revised consideration is to be determined by agreement between the parties, otherwise by the terms of this Agreement, as provided under Articles 9 and 10.

Cash Allowances:

10.10 It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors, manufacturers, fabricators, suppliers or distributors and for such sums within the limit of the allowances as may be acceptable to PROJECT MANAGER. Upon final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. CONTRACTOR agrees that the original Contract Price includes such sums, as CONTRACTOR deems proper for costs and profit because of cash allowances. No demand for additional cost or profit in connection therewith will be valid.

ARTICLE 11 - CHANGE OF CONTRACT TIME

11.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to OWNER and PROJECT MANAGER within fifteen days of the occurrence of the event-giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five (45) days of such occurrence unless PROJECT MANAGER allows an additional period to ascertain additional accurate data. PROJECT MANAGER shall determine all claims for adjustment in the Contract Time if OWNER and CONTRACTOR cannot otherwise agree. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

11.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefore as provided in Article 11.1. Such delays shall include, but not be limited to, acts or neglect by OWNER or others performing additional Work as contemplated by Article 6, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

The CONTRACTOR shall be granted time extensions to the Contract for a period longer than the number of days indicated by month in the table below if rainfall on a given day (measured at a rain gauge site as determined by the Project Manager) is in excess of 1.0 inch and/or site conditions will not permit work on day(s) following a rain in excess of 1.0 inch. Inclement weather and flooding shall not be counted for delays unless Work is scheduled in advance as verified by the

PROJECT MANAGER and a legitimate effort is made by the CONTRACTOR to perform that Work.

MONTH	DAYS	MONTH	DAYS
January	2	July	3
February	2	August	4
March	2	September	4
April	4	October	4
May	5	November	4
June	4	December	2

The CONTRACTOR shall furnish all data and analysis to the PROJECT MANAGER to substantiate a claim for Contract time extension on a month-to-month basis with the CONTRACTORS monthly progress payment request.

The CONTRACTOR shall not be entitled to any additional monetary consideration for granted time extensions or reimbursement for damages or hindrances because of heavy rainfall or flooding.

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

ARTICLE 12 - MEASUREMENT AND PAYMENT; WARRANTY AND GUARANTY; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

Measurement and Payment:

12.1 Quantities and Measurements: No extra or customary measurements of any kind will be allowed, but the actual measured and/or computed length, area, solid contents, number, and weight only shall be considered, unless otherwise specifically provided. Quantities of work done in excess of calculated quantities from correct Plan or Change Order dimensions shall not be measured for payment.

Warranty and Guaranty:

12.2 CONTRACTOR warrants and guaranties to OWNER and PROJECT MANAGER that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected, or accepted as provided in this Article 12.

Access to Work:

12.3 PROJECT MANAGER and PROJECT MANAGERS representatives, other representatives of OWNER, testing agencies and governmental agencies with jurisdictional interest will have access to the Work at reasonable times for their observation, inspection and testing. CONTRACTOR shall provide proper and safe conditions for such access.

Tests and Inspections:

12.4 CONTRACTOR shall give PROJECT MANAGER timely notice of readiness of the Work for all required inspections, tests, or approvals.

- 12.5 If any law, ordinance, rule, regulation, code, or order of any public body having jurisdiction requires any Work (or part thereof) to specifically be inspected, tested, or approved, CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith, and furnish PROJECT MANAGER the required certificates of inspection, testing, or approval. CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with OWNERS or PROJECT MANAGERS acceptance of a manufacturer, fabricator, supplier or distributor of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to CONTRACTORS purchase thereof for incorporation in the Work. The cost of all other inspections, tests, and approvals required by the Contract Documents shall be paid by OWNER (unless otherwise specified).
- 12.6 All inspections, tests, or approvals other than those required by law, ordinance, rule, regulation, code, or order of any public body having jurisdiction shall be performed by organizations acceptable to the PROJECT MANAGER.
- 12.7 If any Work that is to be inspected, tested, or approved is covered without written concurrence of PROJECT MANAGER, it must, if requested by PROJECT MANAGER, be uncovered for observation. Such uncovering shall be at CONTRACTORS expense unless CONTRACTOR has given PROJECT MANAGER timely notice of CONTRACTORS intention to cover such Work and PROJECT MANAGER has not acted with reasonable promptness in response to such notice.
- 12.8 Neither observations by PROJECT MANAGER nor inspections, tests or approvals by others shall relieve CONTRACTOR from his obligations to perform the Work in accordance with the Contract Documents.

Uncovering Work:

- 12.9 If any Work is covered contrary to the written request of PROJECT MANAGER, it must, if requested by PROJECT MANAGER, be uncovered for PROJECT MANAGERS observation and replaced at CONTRACTORS expense.
- 12.10 If PROJECT MANAGER considers it necessary or advisable that covered Work be observed by PROJECT MANAGER or inspected or tested by others, CONTRACTOR, at PROJECT MANAGERS request, shall uncover, expose or otherwise make available for observation, inspection or testing as PROJECT MANAGER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all the expenses of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction if he makes a claim therefore as provided in Articles 10 and 11.

OWNER May Stop the Work:

- 12.11 If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workmen or suitable materials or equipment, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop

the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

Correction or Removal of Defective Work:

- 12.12 If required by PROJECT MANAGER, CONTRACTOR shall promptly, without cost to OWNER and as specified by PROJECT MANAGER, either correct any defective Work, whether or not fabricated, installed or completed, or, if the PROJECT MANAGER has rejected the Work, remove it from the site and replace it with non-defective Work.

One-Year Correction Period:

- 12.13 If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guaranty required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNERS written instructions, either correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and all costs of replacement, including compensation for additional professional services, shall be paid by CONTRACTOR.

Acceptance of Defective Work:

- 12.14 If the OWNER and PROJECT MANAGER, instead of requiring correction or removal and replacement of defective Work (prior to PROJECT MANAGERS recommendation of final payment) prefer to accept it, the OWNER may do so. In such case, if acceptance occurs prior to PROJECT MANAGERS recommendation of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after such recommendation, an appropriate amount shall be paid by CONTRACTOR to OWNER.

OWNER May Correct Defective Work:

- 12.15 If CONTRACTOR fails within a reasonable time after written notice of PROJECT MANAGER to proceed and correct defective Work or to remove and replace rejected Work as required by PROJECT MANAGER in accordance with Article 12.12, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents (including any requirements of the progress schedule), OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising his rights under this paragraph, OWNER shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTORS services related thereto, take possession of CONTRACTORS tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNERS representatives, agents and employees such access to the site as may be necessary to enable OWNER to exercise his rights under this paragraph. All direct and indirect costs of OWNER in exercising such rights shall be charged against CONTRACTOR in an amount verified by PROJECT MANAGER, and a

Change Order shall be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and all costs or repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTORS defective Work.

CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by OWNER or OWNERS rights hereunder.

ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION

Schedules:

- 13.1 At least ten (10) days prior to submitting the first Application for a progress payment, CONTRACTOR shall (except as otherwise specified in the General Requirements) submit to PROJECT MANAGER a progress schedule, a final schedule of Shop Drawing submission and where applicable a schedule of values of the Work. These schedules shall be satisfactory in form and substance to PROJECT MANAGER. The schedule of values shall include quantities and unit prices aggregating the Contract Price, and shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Upon acceptance of the schedule of values by PROJECT MANAGER, it shall be incorporated into a form of Application for Payment acceptable to PROJECT MANAGER.

Application for Progress Payment:

- 13.2 On or before the seventh day of each month (but not more often than once a month), CONTRACTOR shall submit to PROJECT MANAGER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed for the previous month, updated progress schedule, updated CONTRACTOR red lines (as built) and accompanied by such supporting documentation as is required by the Contract Documents and also as PROJECT MANAGER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location, as agreed to in writing by the PROJECT MANAGER, the Application for Payment shall also be accompanied by such data, satisfactory to OWNER, as will establish OWNERS title to the material and equipment and protect OWNERS interest therein, including applicable insurance. All costs associated with the PROJECT MANAGERS verification that materials and equipment are suitably stored must be borne by the CONTRACTOR. Materials such as base, aggregate, bedding material, reinforcing steel, etc. that may be readily incorporated into construction will not be considered for payment as materials on hand. Each subsequent Application for Payment shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied to discharge in full all of CONTRACTORS obligations reflected in prior Applications for Payment. Where the CONTRACTOR is withholding from the payment due to an assigned subcontractor for labor, materials or equipment, which is either complete or partially complete, the CONTRACTOR must specifically indicate in his affidavit the name of the subcontractor and the reasons why said amount is being withheld. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

CONTRACTORS Warranty of Title:

- 13.3 CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER

at the time of payment free and clear of all liens, claims, security interests and encumbrances (hereafter in these General Conditions referred to as "Liens"). The CONTRACTOR must continue to provide appropriate Bonds and insurance as indicated in Article 5 for the Work, materials, and equipment where title has passed to the OWNER, until the project is substantially complete in accordance with Article 13.13 of the General Conditions. The CONTRACTOR is also responsible for security, operation, safety, maintenance, and utilities for completed portions of work until the project is substantially complete. This will in no way waive the CONTRACTORS responsibilities as outlined in Article 12.13 concerning the one (1) year correction period.

Review of Applications for Progress Payment:

- 13.4 PROJECT MANAGER will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing PROJECT MANAGERS reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. OWNER shall pay PROJECT MANAGER approved Applications for Payment received by the PROJECT MANAGER on or before the seventh day of each month, to CONTRACTOR, the amount recommended by PROJECT MANAGER within thirty (30) days of receiving recommendation from PROJECT MANAGER or shortly thereafter, less retainages, if any, as so set forth in the Contract Document denominated Agreement.
- 13.5 PROJECT MANAGERS recommendation of any payment requested in an Application for Payment will constitute a representation by PROJECT MANAGER to OWNER, based on PROJECT MANAGERS on-site observations of the Work in progress as an experienced and qualified design professional and on PROJECT MANAGERS review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of PROJECT MANAGERS knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in the recommendation) and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment PROJECT MANAGER will not thereby be deemed to have represented that any examination has been made to ascertain how or for what purpose CONTRACTOR has used the moneys paid or to be paid to CONTRACTOR on account of the Contract Price, or that title to any Work materials or equipment has passed to OWNER free and clear of any Liens.
- 13.6 PROJECT MANAGERS recommendation of final payment will constitute an additional representation by PROJECT MANAGER to OWNER that the conditions precedent to CONTRACTORS being entitled to final payment as set forth in Article 13.13 have been fulfilled.
- 13.7 PROJECT MANAGER may refuse to recommend the whole or any part of any payment if, in his opinion, it would be incorrect to make such representation to OWNER. He may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify and such payment previously recommended to such extent as may be necessary in PROJECT MANAGERS opinion to protect OWNER from loss because:
- 13.7.1 the Work is defective, or completed Work has been damaged requiring correction or replacement,
- 13.7.2 written claims have been made against OWNER or Liens have been filed in connection with the Work,

- 13.7.3 the Contract Price has been reduced because of Modifications,
- 13.7.4 OWNER has been required to correct defective Work or complete the Work in accordance with Article 12.14,
- 13.7.5 of CONTRACTORS unsatisfactory prosecution of the Work in accordance with the Contract Documents, or
- 13.7.6 CONTRACTORS failure to make payment to Subcontractors, or for labor, materials, or equipment.

Substantial Completion:

- 13.8 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall, in writing to OWNER and PROJECT MANAGER, certify that the entire Work is substantially complete and request that PROJECT MANAGER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER, CONTRACTOR, and PROJECT MANAGER shall inspect the Work to determine the status of completion. If PROJECT MANAGER does not consider the Work substantially complete, PROJECT MANAGER will prepare and deliver to OWNER a tentative certificate of Substantial Completion, which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which he may make written objection to PROJECT MANAGER as to any provisions of the certificate or attached list. If, after considering such objections, PROJECT MANAGER concludes that the Work is not substantially complete, PROJECT MANAGER will within fourteen days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating his reasons therefore. If, after consideration of OWNERS objections, PROJECT MANAGER considers the Work substantially complete, PROJECT MANAGER will within said fourteen days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificates as he believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion PROJECT MANAGER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities and insurance. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform PROJECT MANAGER prior to his issuing the definitive certificate of Substantial Completion PROJECT MANAGERS previously mentioned recommendation will be binding on OWNER and CONTRACTOR until final payment.
- 13.9 OWNER shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Partial Utilization:

- 13.10 Use by OWNER of completed portions of the Work may be accomplished prior to Substantial Completion of all the Work subject to the following:

- 13.10.1 OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any part of the Work, which OWNER believes to be substantially complete, and which may be so used without significant interference with construction of the other parts of the Work. If CONTRACTOR agrees, CONTRACTOR will certify to OWNER and PROJECT MANAGER that said part of the Work is substantially complete and request PROJECT MANAGER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time thereafter OWNER, CONTRACTOR, and PROJECT MANAGER shall inspect that part of the Work to determine its status of completion. If PROJECT MANAGER does not consider that part of the Work to be substantially complete, PROJECT MANAGER will notify OWNER and CONTRACTOR in writing giving his reasons therefore. If PROJECT MANAGER considers that part of the Work to be substantially complete, PROJECT MANAGER will execute and deliver to OWNER and CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Work, attaching thereto a tentative list of items to be completed or corrected before final payment. Prior to issuing a certificate of Substantial Completion as to part of the Work PROJECT MANAGER will deliver to OWNER and CONTRACTOR a written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, utilities and insurance for that part of the Work which shall become binding upon OWNER and CONTRACTOR at the time of issuing the definitive certificate of Substantial Completion as to that part of the Work unless OWNER and CONTRACTOR shall have otherwise agreed in writing and so informed PROJECT MANAGER. OWNER shall have the right to exclude CONTRACTOR from any part of the Work, which PROJECT MANAGER has so certified to be substantially complete, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.
- 13.10.2 In lieu of the issuance of a certificate of Substantial Completion as to part of the Work, OWNER may take over operation of a facility constituting part of the Work whether or not it is substantially complete if such facility is functionally and separately usable; provided that prior to any such takeover, OWNER and CONTRACTOR have agreed as to the division of responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, correction period, heat, utilities and insurance with respect to such facility.
- 13.10.3 No occupancy of part of the Work or taking over of operations of a facility will be accomplished prior to compliance with the requirements of Owner Outline of Insurance Required in respect of property insurance.

Final Inspection:

- 13.11 Upon written notice from CONTRACTOR that the Work is complete, PROJECT MANAGER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

Final Application for Payment:

- 13.12 After CONTRACTOR has completed all such corrections to the satisfaction of PROJECT MANAGER and delivered all maintenance and operating instructions, schedules, guaranties, Bonds, certificates of inspection, marked-up record documents and other documents - all as

required by the Contract Documents, and after PROJECT MANAGER has indicated that the Work is acceptable (subject to the provisions of Article 13.16), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents and such other data and schedules as PROJECT MANAGER may reasonably require, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit from CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or his property might in any way be responsible, have been paid or otherwise satisfied; and consent of the Surety, if any, to final payment. If any Subcontractor, manufacturer, fabricator, supplier, or distributor fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

Final Payment:

- 13.13 If, on the basis of PROJECT MANAGERS observation of the Work during construction and final inspection, and PROJECT MANAGERS review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, PROJECT MANAGER is satisfied that the Work has been completed and CONTRACTOR has fulfilled all of his obligations under the Contract Documents, PROJECT MANAGER will, within ten days after receipt of the final Application for Payment, indicate in writing his recommendation of payment and present the Application to OWNER for payment. Thereupon PROJECT MANAGER will give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of Article 13.16. Otherwise, PROJECT MANAGER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. If the Application and accompanying documentation are appropriate as to form and substance, OWNER shall, within thirty days after receipt thereof pay CONTRACTOR the amount recommended by PROJECT MANAGER, such amount taking into consideration retainages, if any, as so set forth in the Contract Document denominated agreement.
- 13.14 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed thereof and if PROJECT MANAGER so confirms, OWNER shall, upon receipt of CONTRACTORS final Application for Payment and recommendation of PROJECT MANAGER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted.

CONTRACTORS Continuing Obligation:

- 13.15 CONTRACTORS obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by PROJECT MANAGER, nor the issuance of a certificate of Substantial Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor the issuance of a notice of acceptability by PROJECT MANAGER pursuant to Article 13.13, nor any correction of defective Work by OWNER shall constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTORS obligation to perform the Work in accordance with the Contract Documents.

Waiver of Claims:

- 13.16 The making and acceptance of final payment shall constitute a release to the OWNER and every officer and agent thereof from all claims and liability hereunder for anything done or furnished for or relating to the Work or for any act or neglect of the OWNER or of any person relating to or affecting the Work.

Final Completion:

- 13.17 Only upon the PROJECT MANAGERS recommendation, will the OWNER issue a Certificate of Final Completion. The CONTRACTOR must have completed all outstanding construction and corrective maintenance construction as provided by Article 13.3, "CONTRACTORS Warranty of Title." The date of Final Completion of a Project or specified part of a Project is the date when, construction having been complete and maintained in accordance with the Contract Documents, the CONTRACTOR is released from all responsibility and obligation for further maintenance of the Project and complete ownership of the Project passes to the Authority.

ARTICLE 14 - SUSPENSION OF WORK AND TERMINATION

OWNER May Suspend Work:

- 14.1 OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and PROJECT MANAGER that shall fix the date on which Work shall be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR will be allowed to apply for an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if he makes a claim therefore as provided in Articles 10 and 11. However, if the OWNER stops the Work for just cause because the CONTRACTOR is not complying with the plans and specifications or the intent thereof, or any provision of this Contract, then CONTRACTOR shall have no claim for damages, hindrances, or delays.

OWNER May Terminate:

- 14.2 Upon the occurrence of any one or more of the following events:
- 14.2.1 if CONTRACTOR is adjudged as bankrupt or insolvent,
 - 14.2.2 if CONTRACTOR makes a general assignment for the benefit of creditors,
 - 14.2.3 if a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTORS property,
 - 14.2.4 if CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws,
 - 14.2.5 if CONTRACTOR repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment,
 - 14.2.6 if CONTRACTOR repeatedly fails to supply a sufficient skilled work force capable of completing the Work within the Time allotted for construction,

- 14.2.7 if CONTRACTOR disregards the consequences of failure to complete the Work within the Time allotted for construction and fails to supply a sufficient skilled work force to expeditiously complete the Work where Contract Time has expired,
- 14.2.8 if CONTRACTOR repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment,
- 14.2.9 if CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction,
- 14.2.10 if CONTRACTOR disregards the authority of PROJECT MANAGER,
- 14.2.11 if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents, or
- 14.2.12 if CONTRACTOR fails to submit final application for payment in accordance with these Contract Documents.

OWNER may for the reasons listed in 14.2.1 through 14.2.12 inclusive, after giving CONTRACTOR and his surety seven (7) days' written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTORS tools, appliances, construction site or for which 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 OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER shall be verified by PROJECT MANAGER and incorporated in a Change Order, but in finishing, the Work OWNER shall not be required to obtain the lowest figure for the Work performed.

- 14.3 Where CONTRACTORS services have been so terminated by OWNER, the termination shall not affect any rights of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR for liability.
- 14.4 Upon seven (7) days' written notice to CONTRACTOR and PROJECT MANAGER, OWNER, may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses.

CONTRACTOR May Stop Work or Terminate:

- 14.5 If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety (90) days by OWNER or under an order of court or other public authority, or PROJECT MANAGER fails to act on any Application for Payment within sixty (60) days after it is submitted, or OWNER fails for thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon thirty (30) days' written notice to OWNER and PROJECT

MANAGER, terminate the Agreement and recover from OWNER payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if PROJECT MANAGER has failed to act on an Application for Payment or OWNER has failed to make any payment as previously mentioned, CONTRACTOR may upon thirty (30) days' notice to OWNER and PROJECT MANAGER stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of his obligations under Article 5.29 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with OWNER.

ARTICLE 15 - MEDIATION

OWNER and CONTRACTOR will negotiate in good faith in an effort to resolve any dispute that may arise between them. All disputes will be submitted to mediation before proceeding with other legal remedies. In the event mediation is necessary, OWNER and CONTRACTOR shall choose a mutually agreeable mediator and share the cost of mediation equally. In the event the mediation is not successful, OWNER or CONTRACTOR may proceed with other legal remedies.

ARTICLE 16 - MISCELLANEOUS

Giving Notice:

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

Computation of Time:

- 16.2 When any period of time is referred to in the Contract Documents by days, it shall be considered as calendar days, and computed to exclude the first and include the last day of such period. If the last day of any such period falls on Saturday, Sunday or on a federal holiday by the law of the United States of America, such day shall be omitted from the computation.

Date Certain Contract:

- 16.3 After beginning Work as outlined in Article 2.3, the CONTRACTOR shall complete the Work within the time provided for in Article 3.1 of the Agreement, during which period of time CONTRACTOR binds and obligates itself to employ a sufficient work force to diligently pursue completion of said structures, Work, and improvements. The CONTRACTOR shall deliver same over to the OWNER in a completed, undamaged, and clean condition within the time allotted for construction as indicated in Article 3.1 of the Agreement. No additional time for completion will be allowed unless granted in writing by the OWNER.

Liquidated Damages:

- 16.4 If CONTRACTOR shall fail to complete any part, portion or phase of the Work within the time herein specified or otherwise allowed therefore, he shall be liable for the amount set forth in Article 14 of the Supplementary Conditions for the period of such delay. Said amount to be directly paid by CONTRACTOR to OWNER or to be deducted by the OWNER on the monthly pay estimate with required adjustments made on the final estimate and settlement, not as a penalty, but as liquidated damages due to OWNER for expense, loss and inconvenience resulting from failure to

complete said part, portion or phase of the Work within the time allowed, such time of completion being an essential element and consideration, as a result of such delay.

The amount of all such damage shall be fixed and determined by the written certificate of the PROJECT MANAGER whose judgment shall be final. An additional amount, as specified in the Supplementary Conditions, shall be assessed for inspection fees and administrative costs.

General:

- 16.5 Should OWNER or CONTRACTOR suffer injury or damage to his person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.
- 16.6 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR by Articles 5.33, 12.2, 12.13, 12.14, 13.3, and 14.2 and all of the rights and remedies available to OWNER and PROJECT MANAGER there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by law or contract, by special warranty or guaranty or by other provisions of the Contract Documents, and the provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties, and guaranties made in the Contract Documents shall survive final payment and termination or completion of this Agreement.
- 16.7 The CONTRACTOR agrees not to engage in discriminatory employment practices against any employee or applicant for employment; and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap or political belief or affiliation. Specifically, the CONTRACTOR agrees to abide by all applicable provisions of the Nondiscrimination Clause and the Small and Minority Business Enterprise Clause as contained in the City of San Antonio's current Affirmative Action Plan on file in the City's Department of Equal Employment Opportunity and the City Clerk's Office. In the event non-compliance occurs, the CONTRACTOR, upon written notification by the OWNER, will commence compliance procedures within thirty (30) days.
- 16.8 The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract and that it has not for the purpose of soliciting or securing this Contract, paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Contract. For breach of this warranty, the OWNER shall have the right to terminate this Contract in accordance with Article 14 herein.

ARTICLE 17 - SURETY ASSIGNMENT, RESPONSIBILITIES, LIQUIDATED DAMAGES AND TERMINATION UPON CONTRACTOR DEFAULT/TERMINATION

Surety Assignment to Complete Work:

- 17.1 When directed in writing by the OWNER where the CONTRACTOR has defaulted and its services have otherwise been terminated for cause, the CONTRACTORS surety may be assigned to take over and complete the work.

Surety Responsibilities:

- 17.2 Pursuant to the provisions of Article 17.1 and of the Performance Bond the CONTRACTORS surety may be assigned to take over and complete the Work. When so assigned the CONTRACTORS surety shall assume all responsibilities of the CONTRACTOR as set forth in the Contract Documents and shall faithfully construct and complete said structures, Work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said Contract and all included instruments according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, Work and improvements.

OWNERS Right to Terminate:

- 17.3 The CONTRACTORS surety assumes all responsibilities of the CONTRACTOR as indicated in the Contract Documents when assigned to complete the Work. As such, the OWNER has the right to terminate upon the occurrence of one or more of the events identified in Article 14.2 of the General Conditions or if the CONTRACTORS surety fails to take responsible charge of the Work and productive construction activity is not evident at the project site within six weeks of the time when the CONTRACTORS services had been terminated. OWNER may for the reasons indicated, after giving the CONTRACTORS surety seven days' written notice, terminate the services of CONTRACTORS surety, exclude CONTRACTORS surety from the site and take possession of the Work and of all CONTRACTORS and/or its surety's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR and/or its surety (without liability to CONTRACTOR and/or its surety for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR and/or its surety but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR and/or its surety shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to CONTRACTOR and/or its surety. If such costs to complete the Work exceed such unpaid balance, CONTRACTORS surety shall pay the difference to OWNER. Such costs incurred by OWNER shall be verified by PROJECT MANAGER and incorporated in a Change Order, but in finishing the Work OWNER shall not be required to obtain the lowest cost figure for the Work performed.

ARTICLE 18 – EQUAL EMPLOYMENT OPPORTUNITY

The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employees and that employees are treated during employment, without regard to their race color, religion, sex, or national origin.

In the event of the CONTRACTORS noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated, or suspended in whole or in part, and the CONTRACTOR may be debarred from further contracts with the Authority.

ARTICLE 19 - WAGE RATES

- 19.1 All employees directly employed on the work shall be not paid less than the established prevailing wage scale for work of similar character in this locality and shall keep accurate wage records accessible in accordance with Chapter 62 of the Texas Labor Code. The CONTRACTOR will submit a copy of all weekly payrolls to the Contract Officer. These payrolls will contain the name, address, and social security number of each laborer or mechanic at the site of the work, his correct classification, rates of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. The payroll shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, and that the wage rates contained therein are not less than the applicable wage determination contained in these specifications, and that the classifications conform with the work each laborer or mechanic forms. The CONTRACTOR shall be responsible for the submission of copies of all subcontractors.
- 19.2 Before monthly payments shall be made to the CONTRACTOR by the OWNER, all payroll transcripts for that payment period, along with other such detailed information requested by the Project Manager, must be received by the Project Manager. No progress payments shall be made until the job payroll copies and requested information have been received.
- 19.3 The payrolls shall be reviewed by the Project Manager and the CONTRACTOR shall be notified of any discrepancies noted. Any discrepancy in the payroll shall be cause for withholding further payments to the CONTRACTOR until such discrepancies are properly corrected.
- 19.4 Wage Determination Decision: Included and considered as part of the Contract is a Schedule of Occupation Classifications and minimum hourly wage rate as required. This section is copied onto green colored pages and begins on Page W-1.
- 19.5 Overtime Pay: For the purposes of this Contract, a normal workweek is considered forty (40) hours per week. Any time a laborer or mechanic works in excess of forty (40) hours per week, that employee shall be paid no less than the rate of one and one half (1-1/2) times the employee's regular hourly rate. Overtime pay shall be paid also for work on recognized federal holidays.

ARTICLE 20 - SMALL, MINORITY, WOMEN OWNED BUSINESS ENTERPRISE

The Authority encourages the utilization of certified Small Minority, Women Owned Business Enterprise (SMWBE) contractors, Disadvantaged Business Enterprise (DBE) contractors listed in the South Central Texas Regional Certification Center or the Historically Under-Utilized Businesses (HUB) as certified through the State of Texas.

Bidders are to identify if they are SMWBE, DBE or HUB contractor and provide proof of certification with their bid. Selection is based upon the amount bid and qualifications, however, if all qualifications are equal between submitting bidders, then preference may be given to the qualified and certified SMWBE, DBE or HUB firm.

ARTICLE 21 - PROTECTION AGAINST ACCIDENT TO AUTHORITY, ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES AND THE PUBLIC

The CONTRACTOR shall save and hold harmless the Authority, its officers, agents, employees and representatives, from any and all claims, suits and damages of every kind, for injury to, or death of, any person, or persons and for damage to, or loss of property, arising out of, or attributed, directly or indirectly, to the operations of this project and the performance of this contract. For this purpose, any subcontractor or subcontractors shall be considered agents of the CONTRACTOR.

ARTICLE 22 – GUARANTY AGAINST DEFECTIVE WORK

The **CONTRACTOR SHALL INDEMNIFY THE OWNER** against any repairs that may become necessary to any part of the work performed under the Contract arising from defective workmanship or materials used therein for a period of one (1) year from the date of Substantial Completion of the project. The guarantee period for workmanship, materials and equipment for the project shall begin from the date indicated on the "Substantial Completion Certificate" issued by the Project Manager.

ARTICLE 23 - ACCIDENTS

The CONTRACTOR shall provide, at the site, such equipment and medical facilities as are necessary to supply first aid service to anyone who may be injured in connection with the work. The CONTRACTOR must promptly report in writing to the PROJECT MANAGER all accidents whatsoever arising out of, or in connection with, the performance of the work whether on or adjacent to the site which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death, serious injury, or serious damage is caused, the accident then shall be reported immediately by telephone or messenger.

SUPPLEMENTARY CONDITIONS

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Article 6 – Coordination with Others	SC-1
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Article 9 – Barricades, Warning Signs, Lights and Traffic Control	SC-2
Article 10 – Detour Routes	SC-2
Article 11 – Fencing	SC-2
Article 12 – Geotechnical Information	SC-3
Article 13 – Permits	SC-3
Article 14- Liquidated Damages	SC-3

ARTICLE 1 – USE OF PRIMARY ARTERIES

The Contractor shall confine his haul routes to primary arteries. Damage to streets caused by the CONTRACTORS equipment shall be repaired upon direction and in the manner prescribed by the Inspector or the Project Manager at the CONTRACTORS expense.

ARTICLE 2 – DUST CONTROL

The CONTRACTOR shall employ dust control in the project area as well as on all streets used to access construction area, haul routes and detours.

ARTICLE 3 – USE OF EXPLOSIVES

The use of explosives will not be permitted on this project.

ARTICLE 4 – UTILITY CONNECTIONS

- 4.1 Water: The responsibility shall be upon the CONTRACTOR to provide and maintain, at his own expense, an adequate supply of water for his use for construction and domestic consumption. Any connections and piping that the CONTRACTOR deems necessary shall be installed at his expense and at locations approved by local authorities and the River Authority. Before final acceptance, all temporary connections and piping installed by the CONTRACTOR shall be removed in a manner satisfactory to the Inspector. All resident inspection or water replacement, adjustment, and attendant work will be performed by an authorized representative of the controlling utility who will, in turn, be responsible directly to the Project Manager as designated in Article 1 - Definitions of the General Conditions of Agreement.
- 4.2 Electricity: All electric service required by the CONTRACTOR shall be furnished at his own expense. All necessary meters, switches, connections, and wiring shall be installed at his expense and at locations approved by the Project Manager. Before final acceptance, all meters, switches, connections, and wiring installed by the CONTRACTOR shall be removed in a manner satisfactory to the Inspector.

ARTICLE 5 – MATERIALS

All salvageable material shall become the property of the San Antonio River Authority and shall be stored as directed by the Inspector at the CONTRACTOR'S expense

ARTICLE 6 – COORDINATION WITH OTHERS

Other CONTRACTORS may be doing work in the same area simultaneously with this project. The CONTRACTOR shall coordinate his proposed construction with that of the other contractors.

ARTICLE 7 – ACCESS TO SITE

The CONTRACTOR shall secure permission for access to the work site in all areas including River Authority easements. This access must be approved by the River Authority and where the CONTRACTOR cannot legally obtain access to a work site, he must submit a written request to be released from the responsibility for the performance of work at said site.

ARTICLE 8 – STORAGE SITE

The CONTRACTOR must secure a storage area of a size adequate to accommodate equipment, vehicles, and materials for the period of performance of the agreement. The storage site must be approved by the River Authority.

ARTICLE 9 – BARRICADES, WARNING SIGNS, LIGHTS AND TRAFFIC CONTROL

At street crossings and at other points of hazard, or as directed by the Resident Project Representative/Inspector, the CONTRACTOR shall provide and maintain suitable signs, barricades and warning lights as are necessary to direct traffic around work in progress and insure the safety of the public. It shall be the CONTRACTORS responsibility to obtain all traffic permits and detour traffic plans, as needed.

The CONTRACTOR shall provide adequate flagmen, barricades and detour and warning signs and lights for the project, or portion of the project within which operations are being prosecuted. All excavations and/or stockpiles of materials shall be adequately barricaded and lighted.

All barricades, detour and warning signs and lights for this project shall be constructed and placed in accordance with the "Texas Manual on Uniform Traffic Control Devices for Streets and Highways (latest version)," as published by TxDOT, and approved by the Resident Project Representative/Inspector.

ARTICLE 10 – DETOUR ROUTES

The CONTRACTOR shall not begin construction of the project or close or partially close any streets until adequate barricades and detour signs in accordance with the detour route have been provided. It is the sole responsibility of the CONTRACTOR to obtain and pay for all permits required for street closures and detours. The CONTRACTOR shall notify the Resident Project Representative/Inspector twenty-four (24) hours in advance of closing or partially closing any street to through traffic. However, notice to SARA/Resident Project Representative/Inspector does not constitute permit approval. All permits and traffic detour plans must be reviewed and approved by Bexar County Public Works. Local traffic shall be permitted to use the streets under construction where feasible.

ARTICLE 11 – FENCING

Any and all fencing, including electric fence, whether or not identified on the Plans, must be maintained at all times. Where the nature of the work requires fence to be removed the CONTRACTOR, at his expense, shall replace said fencing as detailed in the Plans and/or as approved by the Resident Project Representative/Inspector. The CONTRACTOR must maintain fencing required to confine livestock at all times.

Access through Fencing: Appropriate gaps for project access must be maintained by the CONTRACTOR to assure livestock control at the CONTRACTOR'S expense.

Bore Pit Fencing: Use of tubular portable gate panels 4' minimum height shall be the minimum requirement for perimeter of bore pit at all times.

Pedestrian Control Fencing: Temporary Fencing shall be placed in all areas of open trenches to prevent pedestrians from crossing open trenches.

ARTICLE 12 – GEOTECHNICAL INFORMATION

The RIVER AUTHORITY may have geotechnical information, which may include subsurface data, logs of soil borings, and recommendations from geotechnical consultants. Any information obtained is solely for use by the River Authority and/or its design Engineers in the design of the project and are not part of the Contract. Any geotechnical information provided is for information only. The RIVER AUTHORITY and its design Engineers do not guarantee the accuracy or validity of the data, nor do they assume any responsibility for any interpretations or conclusions the CONTRACTOR may draw from the data.

The CONTRACTOR shall provide to the "Contractor's Qualified Project Manager" all information needed to design the "Trench Safety System". The CONTRACTOR may, at his option, perform additional subsurface investigations at his own expense.

ARTICLE 13 – PERMITS

CONTRACTOR to provide all permits for this project. CONTRACTOR to provide Storm Water Pollution Prevention Plan and THE SAN ANTONIO RIVER AUTHORITY will review for approval.

ARTICLE 14 – LIQUIDATED DAMAGES FOR FAILURE TO TIMELY COMPLETE

Pursuant to Article 3.2 of the Agreement, OWNER may withhold, permanently, from the CONTRACTORS total compensation, the sum of \$XXX.00 per calendar day (not to exceed one percent of the total compensation per month) that expires after the time specified in Article 3.1 of the Agreement, until either Substantial Completion in accordance with Article 13.8 of the General Conditions; or Final Completion in accordance with Article 13.17 of the General Conditions.

Substantial Completion; Delay Liquidated Damages. CONTRACTOR shall achieve Substantial Completion for the Project by the applicable scheduled date of Substantial Completion set forth in Article 3.1 of the AGREEMENT. For failure to timely achieve Substantial Completion, Delay Liquidated Damages in the amount indicated above shall accrue from the Scheduled Date of Substantial Completion, as the same may be extended for Excusable Delay, for each day that CONTRACTOR has not achieved Substantial Completion, continuing until the earlier of (i) the actual achievement of the Substantial Completion, or (ii) commencement of the accrual of liquidated damages for failure to timely achieve Final Completion, or (iii) termination of this Agreement for default. Owner may deduct and offset from and against any amounts due CONTRACTOR a sum equal to the amount of any Delay Liquidated Damages due Owner through the date that Substantial Completion is achieved. If Substantial Completion occurs on or prior to the Scheduled Date of Substantial Completion, Owner shall not withhold and the CONTRACTOR shall have no obligation to forego Delay Liquidated Damages under this Section with respect to Substantial Completion of the PROJECT.

Final Completion; Delay Liquidated Damages. CONTRACTOR shall achieve Final Completion of the Project by the applicable scheduled date of Final Completion set forth in ARTICLE 3.1, above. For failure to timely achieve Final Completion, Delay Liquidated Damages in the amount indicated above shall accrue from the Scheduled Date of Final Completion, as the same may be extended for Excusable Delay, for each day that CONTRACTOR has not achieved Final Completion, continuing until the earlier of (i) the actual achievement of the Final Completion, or (ii) termination of this Agreement for default. Owner may deduct and offset from and against any amounts due CONTRACTOR a sum equal to the amount of any Delay Liquidated Damages due Owner through the date that Final Completion is achieved. If Final Completion occurs on or prior to the Scheduled Date of Final Completion, Owner shall not withhold and the CONTRACTOR shall have no obligation to forego Delay Liquidated Damages under this Section with respect to Final Completion of the PROJECT.

WAGE RATES

General Decision Number: TX190007 01/04/2019 TX7

Superseded General Decision Number: TX20180016

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClennon and Williamson Counties) and HIGHWAY Construction Projects

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019

* SUTX2011-006 08/03/2011

Rates	Fringes
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CEMENT MASON/CONCRETE
 FINISHER (Paving and
 Structures).....\$ 12.56

ELECTRICIAN.....\$ 26.35

FORM BUILDER/FORM SETTER

Paving & Curb.....\$ 12.94
Structures.....\$ 12.87

LABORER

Asphalt Raker.....\$ 12.12
Flagger.....\$ 9.45
Laborer, Common.....\$ 10.50
Laborer, Utility.....\$ 12.27
Pipelayer.....\$ 12.79
Work Zone Barricade
Servicer.....\$ 11.85

PAINTER (Structures).....\$ 18.34

POWER EQUIPMENT OPERATOR:

Agricultural Tractor.....\$ 12.69
Asphalt Distributor.....\$ 15.55
Asphalt Paving Machine.....\$ 14.36
Boom Truck.....\$ 18.36
Broom or Sweeper.....\$ 11.04
Concrete Pavement
Finishing Machine.....\$ 15.48
Crane, Hydraulic 80 tons
or less.....\$ 18.36
Crane, Lattice Boom 80
tons or less.....\$ 15.87
Crane, Lattice Boom over
80 tons.....\$ 19.38
Crawler Tractor.....\$ 15.67
Directional Drilling
Locator.....\$ 11.67
Directional Drilling
Operator.....\$ 17.24
Excavator 50,000 lbs or
Less.....\$ 12.88
Excavator over 50,000 lbs...\$ 17.71
Foundation Drill, Truck
Mounted.....\$ 16.93
Front End Loader, 3 CY or
Less.....\$ 13.04
Front End Loader, Over 3 CY.\$ 13.21
Loader/Backhoe.....\$ 14.12
Mechanic.....\$ 17.10
Milling Machine.....\$ 14.18
Motor Grader, Fine Grade...\$ 18.51
Motor Grader, Rough.....\$ 14.63
Pavement Marking Machine...\$ 19.17
Reclaimer/Pulverizer.....\$ 12.88
Roller, Asphalt.....\$ 12.78
Roller, Other.....\$ 10.50
Scraper.....\$ 12.27

Spreader Box.....\$ 14.04
Trenching Machine, Heavy....\$ 18.48

Servicer.....\$ 14.51

Steel Worker
Reinforcing.....\$ 14.00
Structural.....\$ 19.29

TRAFFIC SIGNAL INSTALLER
Traffic Signal/Light Pole
Worker.....\$ 16.00

TRUCK DRIVER
Lowboy-Float.....\$ 15.66
Off Road Hauler.....\$ 11.88
Single Axle.....\$ 11.79
Single or Tandem Axle Dump
Truck.....\$ 11.68
Tandem Axle Tractor w/Semi
Trailer.....\$ 12.81

WELDER.....\$ 15.97

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

MEASUREMENT AND PAYMENT

GENERAL DESCRIPTION:

Subsidiary Items. All items not specifically called for in the Specifications or shown on the Plans, but required to complete the project as intended, shall be considered subsidiary to other items of this Contract and shall not be paid for separately.

Payment for Materials on Hand: Payment for materials on hand may be made for certain equipment and other materials and specialties. Fill material, concrete reinforcement steel, or other materials which are readily incorporated in the work, shall not be included in materials on hand. Payment for materials on hand shall only be items for which the Owner received a copy of the manufacturer's or supplier's invoice and verification that the equipment or materials are on the job site, or an approved bonded site, properly protected, and stored.

BID:

The Bid is a part of the Contract Documents and lists each item of work for which payment will be made. No payment will be made for any items other than those listed in the Bid. For unit price contracts, the Contractor will be paid for the actual quantity placed in accordance with the plans and as measured in the field by the Project Manager. For lump sum contracts, the Contractor will be paid for the percent completion in accordance with the plans and as determined in the field by the Project Manager.

This project is being bid as a "separate contract" in accordance with an amendment to Section 151.311 of the Texas tax code in order for the Contractor to claim a tax exemption on the contract price of materials.

Required items of work and incidentals necessary for the satisfactory completion of the project which are not specifically listed in the Bid, and which are not specified in this section to be measured are to be included in one of the items listed in the Bid and all costs thereof, including Contractor's overhead costs and profit, shall be considered and included in the prices bid for the various Bid items. The Contractor shall prepare his Bid accordingly.

"Work" by definition herein includes furnishing all parts, labor, equipment, tools and materials and performing all operations required to complete the items satisfactorily, in place, as specified and as indicated on the Plans.

MEASUREMENT:

Measurement of an item of work will be by the units indicated in the Bid. Measurement will be made at the Contract price per unit indicated in the bid, or based on percentage of work completed as determined by the Project Manager, with total measurement of the Contract being computed by extending unit prices multiplied by actual field quantities, as appropriate to reflect actual work included in the project.

PAYMENT:

Payment will be made for items of work as indicated in the bid and for which measurement has been specified in this section of the specifications. No separate payment will be made for any work for which measurement has not been specified, and such work shall be considered as incidental to and included in the various bid item prices. Contractor to provide Project Manager a schedule of values for major items of the project.

Payment will be made at the Contract price per unit indicated in the bid, or based on percentage of work completed as determined by the Project Manager, with total final price of the Contract being computed by extending unit prices multiplied by actual field quantities, as appropriate to reflect actual work included in the project. Such price and payment shall constitute full compensation to the Contractor for furnishing all parts, labor, equipment, tools, and materials and for performing all operations required to furnish to the Owner the entire project complete in place, as specified and as indicated on the plans.

SAMPLE