

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1
DEFINITIONS

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

A. Defined Terms:

1. Addenda: Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change, the Bidding Documents or the Contract Documents.
2. Agreement: The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
3. Application for Payment: The form accepted by ENGINEER 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.
4. Bid: The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed; the terms Bid and Proposal are synonymous.
5. Bidder: Any person, firm or corporation submitting a Bid for the Work.
6. Bidding Documents: Notice to bidders or advertisement, if any, instructions (and supplementary instructions) to bidders, other bidding information and requirements, bidding forms and attachments, contract and bond forms, and the proposed Contract Documents, including any Addenda issued prior to receipt of Bids.
7. Bonds: Bid, performance, and labor and material payment bonds and other instruments of security.
8. Change Order: A written note to CONTRACTOR signed by OWNER 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.
9. Contract: Shall mean the contract executed by the OWNER and the CONTRACTOR, of which these General Conditions form a part; the terms Contract and Agreement are synonymous.
10. Contract Documents: The contract, including Invitation to Bidders, Instructions to Bidders, Supplementary Instructions to Bidders, Bid Form, Bid Guaranty, Exception Sheet, Bidder's Information and Experience, Certified Copy of Corporate Resolution, License to do Business in Ohio, Non-Collusion Affidavit, Affidavit of Non-Delinquency of Personal Property Tax, Equal Employment Opportunity Requirements and Bid Conditions, Certificates of Compliance, Non-Discrimination and EEO Affidavit, Contract, Performance Bond, Certificate of Insurance, Certification of Prosecutor and Auditor, Notice of Award, Notice to Proceed, Change Orders, Contractor's Affidavit to Accompany Partial Payment Estimate, Drawings, General Conditions, Wage Rates, Addenda and Specifications.

11. Contract Price: The moneys payable by OWNER to CONTRACTOR under the Contract Documents as stated in the Agreement.
12. Contract Time: The number of days set forth in the Contract for substantial completion and/or final completion of the Work.
13. CONTRACTOR: The person, firm or corporation with whom OWNER has executed the Agreement. Whenever the Project is to be constructed under multiple direct contracts, the term "CONTRACTOR" shall mean the appropriate prime CONTRACTOR. Whenever a specific prime CONTRACTOR is referred to, terms such as "General CONTRACTOR", "Electrical CONTRACTOR", etc. will be used.
14. Day: A calendar day of twenty-four hours measured from midnight to the next midnight.
15. 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, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER'S recommendation for final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with Paragraph 14.5).
16. Drawings: The Drawings which show the character and scope of the Work to be performed and which have been prepared or approved by ENGINEER and are referred to in the Contract Documents.
17. Effective Date of the Agreement: The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
18. ENGINEER: Shall mean Tetra Tech, Inc. (Tt), successor, or duly authorized representative.
19. Field Order: Shall mean a written order effecting a change on the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the ENGINEER to the CONTRACTOR during construction.
20. General Requirements: Invitation to Bidders, Instruction to Bidders, Supplementary Instructions to Bidders, Bid Forms, Contract Forms, and General Conditions.
21. Modifications: (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.
22. Notice of Award: The written notice by OWNER to the apparent successful Bidder stating that upon compliance by the apparent successful Bidder with the conditions precedent enumerated therein, within the time specified, OWNER will sign and deliver the Agreement.

23. Notice to Proceed: Shall mean written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the Work and establishing the date of commencement of the Work.
24. "Or Equal" Clause: Whenever the words "or approved equal", "or equal", or "similar to", etc., appear in the Specifications, they shall be interpreted to mean an item of material or equipment that, in the opinion of the engineer, is similar to that named, suited to the same use, capable of performing the same function as that named, has a record of service equal to that named, and is equal in quality, capacity and/or efficiency to that named.
25. OWNER: 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.
26. 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.
27. Project Manual: The bound documentary information prepared for bidding and constructing the Project. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
28. Resident Project Representative: The authorized representative of ENGINEER who is assigned to the site or any part thereof.
29. Samples: Physical examples furnished by the CONTRACTOR to illustrate materials, equipment or workmanship, and to establish standards by which some portions of the Work will be judged.
30. Shop Drawings: Shall mean all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a Subcontractor, manufacturer, Supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed; the terms Shop Drawings and Submittals are synonymous.
31. 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.
32. 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.
33. Substantial Completion: Shall mean that date as certified by the ENGINEER when the construction of the project (or a specified part thereof) is sufficiently completed, in accordance with the Contract Documents, so that the project (or specified part) can be utilized for the purposes for which it is intended, and the construction is ready for Final Inspection as requested by the Contractor. (A Contract Completion Date is a date at which all Work has been fully completed and an Application for Final Payment has been received and accepted by the OWNER.)

34. Suppliers: Shall mean any person, supplier or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.
35. 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.
36. Written Notice: Shall mean any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the Work.

ARTICLE 2 **PRELIMINARY MATTERS**

2.1 DELIVERY OF BONDS AND INSURANCE CERTIFICATES:

A. When CONTRACTOR executes Agreement with OWNER, CONTRACTOR shall deliver to OWNER such Bonds as CONTRACTOR may be required to furnish in accordance with Article 5.

B. When CONTRACTOR executes Agreement with OWNER, CONTRACTOR shall deliver to OWNER, with a copy to ENGINEER, certificates (and other evidence of insurance requested by OWNER) which CONTRACTOR is required to purchase and maintain in accordance with Article 5, and OWNER shall deliver to CONTRACTOR certificates (and other evidence of insurance requested by CONTRACTOR) which OWNER is required to purchase and maintain in accordance with Article 5.

2.2 COPIES OF DOCUMENTS:

ENGINEER shall furnish to CONTRACTOR, up to five copies of the Contract Documents as reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

2.3 COMMENCEMENT OF CONTRACT TIME; NOTICE TO PROCEED:

The Contract Time will commence to run on the day indicated in the Notice to Proceed.

2.4 STARTING THE PROJECT:

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.

2.5 BEFORE STARTING CONSTRUCTION:

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

or ENGINEER for the failure to report any conflict, error or discrepancy in the Contract Documents, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

B. Within 14 days after the Effective Date of the Contract, CONTRACTOR shall submit to ENGINEER 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 value of the Work.

2.5 PRECONSTRUCTION CONFERENCE:

Before CONTRACTOR starts the Work at the site, a conference will be held for review and acceptance of the schedules referred to in Paragraph 2.5.B, to establish procedures for handling Shop Drawings, Applications for Payment, and other submittals, to establish a working understanding among the parties as to the Work, and to discuss other items of interest to the parties involved.

2.6 PROGRESS MEETINGS:

Meetings to review progress of the work, discuss problems encountered or foreseen, coordinate the work and answer questions, may be scheduled to occur periodically under a schedule established at the preconstruction conference or from time-to-time as requested by the OWNER, ENGINEER or CONTRACTOR. The ENGINEER will keep minutes of each progress meeting with a typed copy distributed to all attendees.

ARTICLE 3

CONTRACT DOCUMENTS: DRAWINGS, SPECIFICATIONS AND SHOP DRAWINGS

3.1 INTENT, REUSE:

A. The intent of the Drawings and Specifications is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the OWNER.

B. The ENGINEER, without charge, will furnish to the CONTRACTOR not more than five (5) sets of the Drawings and Specifications. If additional sets of documents are required by the CONTRACTOR for the proper handling of the work, such documents will be furnished to the CONTRACTOR at cost.

C. The CONTRACTOR shall keep one set of the Drawings and Specifications on the site of the work. This set shall be kept current by the addition of all reviewed changes, addenda and amendments thereto.

D. The Drawings and Specifications are intended to be explanatory to each other, but should any discrepancy appear or any misunderstanding arise as to the import of anything contained in either, the ENGINEER shall make the necessary interpretation. Corrections of errors or omissions in the Drawings or Specifications may be made by the ENGINEER when such corrections are necessary for the proper fulfillment of their intention as construed by him.

E. All work or materials shown on the Drawings and not mentioned in the Specifications, or any work specified and not shown on the Drawings, shall be furnished, performed, and done by the CONTRACTOR as if same were both mentioned in the specifications and shown on the Drawings.

F. Should the CONTRACTOR in preparing his bid find anything necessary for the construction of the project that is not mentioned in the specifications or shown on the Drawings, or find any other discrepancy in the Contract Drawings, he shall notify the ENGINEER so that such discrepancies may be

corrected by addendum prior to the bid opening. Should the CONTRACTOR fail to notify the ENGINEER of such discrepancies, it will be assumed that his bid included everything necessary for the complete construction in the spirit and intent of the designs shown.

G. The CONTRACTOR may be furnished additional instructions and detail drawings, by the ENGINEER, as necessary to carry out the Work required by the Contract Documents. The additional drawings and instruction thus supplied will become a part of the Contract Documents. The CONTRACTOR shall carry out the Work in accordance with the additional detail drawings and instructions.

3.2 DISCREPANCIES IN DRAWINGS, SPECIFICATIONS AND SHOP DRAWINGS

A. In case of a discrepancy on the Drawings, figure dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. In case of a discrepancy in the Specifications and Contract Documents, detailed technical specifications shall govern over General Conditions and other sections of the Contract Documents. In case of a discrepancy between the Drawings and Specifications, the Specifications shall govern; Addenda shall govern over all Drawings, Specifications and Contract Documents.

B. In case of discrepancy between the shop drawings and requirements of the Drawings, Specifications, and Contract Documents, the provisions of the Drawings, Specifications, and Contract Documents shall prevail, even though the shop drawings have been reviewed by the ENGINEER unless the conflict therein has been specifically waived in writing by the ENGINEER.

C. Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the ENGINEER, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the CONTRACTOR after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR'S risk.

3.3 STANDARD SPECIFICATIONS:

Where standard specifications, such as those of the American Society for Testing and Materials, the American National Standards Institute, the American Water Works Association, the American Association of State Highway and Transportation Officials, the Federal Aviation Agency, the Federal Specifications, etc., are referred to in the Specifications and Contract Documents and on the Drawings, said references shall be construed to mean the latest amended and/or revised versions of the said standard or tentative specification.

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

4.1 AVAILABILITY OF LANDS:

OWNER shall furnish, as indicated in the Contract Documents the lands upon which the Work is to be performed, rights-of-way for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay in OWNER'S furnishing these lands or easements entitles CONTRACTOR to an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Article 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. Staging and access areas to be used shall not be any that are environmentally sensitive.

4.2 **REFERENCE POINTS:**

OWNER shall provide engineering surveys for construction to establish reference points which in OWNER'S 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), and shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER, CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for replacement or relocation of such reference points by professionally qualified personnel.

ARTICLE 5
BONDS AND INSURANCE

5.1 **PERFORMANCE, PAYMENT AND OTHER BONDS:**

A. CONTRACTOR shall furnish a Performance Bond in an amount at least equal to the contract price, as security for the faithful performance and payment of all CONTRACTOR'S obligations under the Contract Documents. This Bond shall remain in effect at least until one year after the date of final payment, except as otherwise provided by law. All Bonds shall be in the forms prescribed by the Bidding Documents and be executed by such sureties as:

1. Are licensed to conduct business in the state where the Project is located, and
2. Are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

B. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the state in which the work is to be performed or is removed from the list of Surety Companies acceptable on Federal Bonds, CONTRACTOR shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such Bond shall not be deemed due nor shall be made until the new surety or sureties shall be paid by the CONTRACTOR. No further payments shall be deemed nor shall be made until the new surety or sureties shall have furnished an acceptable Bond to the OWNER.

5.2 **CONTRACTOR'S LIABILITY INSURANCE:**

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

1. Claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts: The CONTRACTOR shall take out and maintain during the life of this Contract, Workmen's Compensation Insurance, as required by statute, for all of his employees employed at the site of the Project, and in case any work is sublet, for all the Subcontractor's employees not otherwise insured. In case

any class of employees engaged in hazardous work under this Contract at the site of the Project is not protected under the Workmen's Compensation Statute, the CONTRACTOR shall provide adequate coverage for the protection of the employees not otherwise protected.

2. Claims for damages because of bodily-injury, occupational sickness or disease, or death of CONTRACTOR'S employees;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR'S employees;
4. Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (b) by any other person for any other reason.
5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom.
6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
7. Claims for damages because of bodily injury or death of any person arising out of operation of law.

B. The insurance required by Paragraph 5.2.A shall include the specific coverages and be written for not less than the limits of liability and coverages provided in the Supplementary Instructions to Bidders, or required by law, whichever is greater. 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 Paragraph 13.7. **The comprehensive general liability insurance shall include completed operations insurance and shall include OWNER and ENGINEER and their agents and employees as additional insureds.** CONTRACTOR shall maintain such completed operations insurance for one year after final payment and shall furnish OWNER with evidence of continuation of such insurance at final payment.

C. Each policy of insurance covering the CONTRACTOR'S operations under the Contract shall provide either in the body of the policy or by appropriate endorsement (rider) to the policy, that such policy cannot be altered or canceled in less than ten (10) days after actual receipt by the OWNER (insured) and the ENGINEER of written notice of such pending alteration or cancellation.

D. Certificates of insurance coverage shall include a statement of alteration or cancellation provisions of the policy, sufficient to show definitely that such provisions comply with the requirements stated herein.

5.3 CONTRACTUAL LIABILITY INSURANCE:

The comprehensive general liability insurance required by Paragraph 5.2.A shall include contractual liability insurance applicable to CONTRACTOR'S obligations under Article 6.

5.4 OWNER'S LIABILITY INSURANCE:

CONTRACTOR shall be responsible for purchasing and maintaining OWNER'S own liability insurance and, at OWNER'S option, may purchase and maintain such insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

5.5 PROPERTY INSURANCE:

A. Unless otherwise provided in the Supplementary Instructions to Bidders, CONTRACTOR shall purchase and maintain property insurance upon the Work at the site to the full insurable value thereof (subject to such deductible amounts as may be required by law). This insurance shall include the interests of the OWNER, CONTRACTOR, and Subcontractors in the Work; shall insure against the perils of fire and extended coverage; shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be specified; shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including fees and charges of engineers, architects, attorneys and other professionals); and shall provide that all insurance proceeds are to be paid to OWNER "as Trustee." If not covered under the "all risk" insurance or otherwise provided, CONTRACTOR shall purchase and maintain similar property insurance on portions of the Work stored on or off the site or in transit when such portions of the Work are to be included in an Application for Payment.

B. The policies of insurance required under this Paragraph 5.5 shall provide that neither the OWNER nor the CONTRACTOR, nor their insurers, shall have any right of subrogation against any of the other parties enumerated in Paragraph 5.10. It is the intention of the OWNER and CONTRACTOR that the policies shall protect all of the enumerated parties and be primary coverage for any and all losses covered by the insurance described in Paragraph 5.5.A.

5.6 INSURANCE, PUBLIC LIABILITY:

A. The CONTRACTOR shall take out and maintain during the life of this Contract such Public Liability (Bodily Injury and Property Damage) Insurance as shall protect him and any Subcontractor performing work covered by this Contract from claims for damages because of bodily injury, including accidental death and from claims for property damages, which may arise from operations under this Contract, whether such operations be by him or by any Subcontractor, or by anyone directly or indirectly employed by either of them.

B. Liability coverage is to be written on a comprehensive general liability policy and must include: (a) premises-operations, manufacturers and contractors, and owners, landlords and tenants; (b) contractors protective; (c) products-completed operations; and (d) contractual liability per Article 6 of the General Conditions. General Liability shall also include "underground property damage by mechanical equipment" and when blasting is done coverage must be provided for the explosion hazard.

C. Where work on railroad rights-of-way is involved, the CONTRACTOR shall also be covered by Railroad Protective Liability Insurance with limits of liability as required by the railroad company on whose property the work is being performed.

5.7 INSURANCE, BUILDERS RISK:

The CONTRACTOR shall provide Builders Risk Insurance (fire and extended coverage) on all work in place and/or materials stored at the site where there is any considerable risk from such causes for damage. Such insurance shall provide coverage as set forth in the Supplementary Instructions to Bidders. The policy shall name as the insured the CONTRACTOR, the ENGINEER and the OWNER.

5.8 FLOOD INSURANCE:

The General CONTRACTOR shall purchase and maintain flood insurance within 30 days of Notice of Award and maintain this policy until the 98% completion point. The General CONTRACTOR shall not terminate flood insurance until written authorization to terminate from the OWNER is received and he shall follow the instructions given in the written authorization. This flood insurance shall be for all project materials, structures and equipment as required by the Federal Emergency Management Agency and shall be an insurance policy approved by the Federal Emergency Management Agency. CONTRACTOR shall give the OWNER 30 days notice of insurance termination. The OWNER will purchase and maintain the flood insurance policy as approved by the Federal Emergency Management Agency the instant that the CONTRACTOR terminates his policy.

5.9 WAIVER OF RIGHTS:

OWNER and CONTRACTOR waive all rights against each other and the Subcontractors and their agents and employees and against ENGINEER and separate contractors (if any) and their Subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by insurance provided under Paragraphs 5.5 and 5.7, or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance held by OWNER as trustee. OWNER or CONTRACTOR, as appropriate, shall require similar waivers in writing by ENGINEER and from each separate contractor and each subcontractor; each such waiver will be in favor of all other parties enumerated in this Paragraph.

5.10 RECEIPT AND APPLICATION OF PROCEEDS:

A. Any insured loss under the policies of insurance required by Article 5 shall be adjusted with OWNER and made payable to OWNER as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.9. OWNER shall deposit in a separate account any money so received, and he shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order.

B. OWNER as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER'S exercise of this power. If such objection be made, OWNER as trustee shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If required in writing by any party in interest, OWNER as trustee shall upon the occurrence of an insured loss, give bond for the proper performance of his duties.

5.11 PARTIAL UTILIZATION - PROPERTY INSURANCE:

If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all of the Work, such use or occupancy may be accomplished in accordance with Paragraph 14.6; provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or lapse on account of any such partial use or occupancy.

5.12 CERTIFICATES OF INSURANCE:

All certificates of insurance required to be purchased by CONTRACTOR pursuant to Article 5 shall be filed in accordance with Paragraph 2.1.B. Certificates shall be acceptable to OWNER and shall contain a provision

that coverages afforded under the policies will not be canceled, materially changed or renewal refused until at least ten days prior written notice has been given to OWNER and ENGINEER by certified mail.

5.13 ADDITIONAL BONDS AND INSURANCE:

OWNER may require CONTRACTOR to furnish such other Bonds and such additional insurance, in such form and with such sureties or insurers as OWNER may specify. If such other Bonds or such other insurance are specified in the Contract Documents, the premiums shall be paid by CONTRACTOR; if subsequent thereto, they shall be paid by OWNER except as otherwise provided in Article 6 and Paragraph 13.8.B.

ARTICLE 6
CONTRACTOR'S RESPONSIBILITIES

6.1 SUPERVISION AND SUPERINTENDENCE:

A. 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, but he shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

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

6.2 LABOR, MATERIALS, AND EQUIPMENT:

A. 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, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER'S written consent given after prior written notice to ENGINEER.

B. CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work. Except as otherwise specified in the General Requirements, CONTRACTOR shall furnish all fuel, power, light, heat, telephone, water and sanitary facilities necessary for the execution, testing, initial operation and completion of the Work.

C. All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment.

D. 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; but no provision of any such instructions

will be effective to impose on ENGINEER responsibility for the means, methods, techniques, sequences or procedures of construction or for safety precautions incident thereto.

E. Materials, Domestic, and Foreign Manufacture: Unless otherwise specified, only such un-manufactured articles, materials and supplies as have been mined or produced in the United States of America, and only such manufactured articles, materials and supplies as have been manufactured in the United States of America substantially all from articles, materials, or supplies mined, produced, or manufactured--as the case may be--in the United States of America, shall be employed under this Contract in the construction of the Project.

F. Materials, Convict Manufacture: No materials manufactured or produced in a penal or correctional institution shall be incorporated in the Work under this Contract.

6.3 SUBSTITUTE MATERIALS AND EQUIPMENT

A. Wherever one or more manufacturers are listed in the specifications for material or equipment, the manufacturer listed first is the one used as the "Basis of Design" for the project. Where material or equipment manufactured by a firm other than the "Basis of Design" is approved for use, and its use necessitates changes in the plans and/or engineering, the responsibility and cost for such changes shall be borne by the CONTRACTOR. Any changes shall be approved by the ENGINEER prior to construction.

B. Where the words "Or Equal" are used in the specifications, they are to mean "Or equal as approved by the ENGINEER."

C. Requests for review of substitute items of material and equipment will not be accepted by the ENGINEER from anyone other than the CONTRACTOR. The procedure for review by the ENGINEER will be as set forth below:

1. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to ENGINEER for acceptance thereof within thirty (30) days after execution of the Contract, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. In making request for substitution, CONTRACTOR represents:
 - a. He has personally investigated proposed product or method, and determined that it is equal or superior in all respects to that specified.
 - b. He will provide the same or better guarantee for substitution as for product or method specified.
 - c. He will coordinate installation of accepted substitution into work, making such changes as required in all respects.
 - d. He waives all claims for additional costs related to substitution that consequently become apparent.
 - e. Cost data is complete and includes all related costs under this Contract.
 - f. That the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR'S timely achievement of Substantial Completion.

- g. 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.
 - h. Whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty.
 - i. Variations of the proposed substitute from that specified.
 - j. Available maintenance, repair and replacement service.
 - k. 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 the ENGINEER.
2. The CONTRACTOR shall submit six (6) copies of requests for substitution. Include in request the following:
- a. Complete data substantiating compliance of proposed substitution with Contract Documents.
 - b. Product identification, including manufacturer's name and address.
 - c. Manufacturer's literature with product description, performance and test data, and reference standards.
 - d. Samples.
 - e. Name and address of similar projects on which product was used, dates of installation, and product performance and maintenance records.
3. Substitutions will not be accepted if:
- a. They are only shown or implied on Shop Drawings.
 - b. Acceptance will require substantial revision of Contract Documents.
 - c. Substitutions would change design concepts or specifications.
 - d. Substitutions would delay completion of this Work.
 - e. Substitutions involve items for which a manufacturer was declared at time of bidding.
4. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR'S expense additional data about the proposed substitute.
5. ENGINEER will be allowed a reasonable time within which to evaluate the proposed substitute. This time required by the ENGINEER is included in the Contract time and no extension will be allowed therefore. ENGINEER will be the sole judge of

acceptability and no substitute will be ordered or installed without ENGINEER'S prior written acceptance. OWNER may require CONTRACTOR to furnish at CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute. If ENGINEER determines that a substitute is not equal to that named in the Specifications, the CONTRACTOR shall furnish one of the brands or products specified at no additional cost to the OWNER.

6. ENGINEER will record time required by ENGINEER and ENGINEER'S consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Drawings or Specification occasioned thereby. Whether or not ENGINEER accepts a proposed substitute, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER'S consultants for evaluating any proposed substitute that either does not meet the requirements of the Drawings and Specifications, or the acceptance of which would require changes to other portions of the work. The CONTRACTOR shall reimburse OWNER for all associated engineering costs, including redesign, additional shop drawing reviews, investigations, consultant fees, and revision of the Contract Documents required because of the substitution.

D. The ENGINEER'S decision as to the equality of any material or equipment to that specified shall be final, but acceptance by the ENGINEER shall not relieve the CONTRACTOR from his responsibility concerning such materials or equipment or affect the guarantee covering the workmanship, materials and equipment.

6.4 CONCERNING SUBCONTRACTORS:

A. 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 ENGINEER may have a reasonable objection. A Subcontractor or other person or organization identified in writing to OWNER and ENGINEER by CONTRACTOR prior to the Notice of Award and not objected to in writing by OWNER or ENGINEER prior to the Notice of Award will be deemed acceptable to OWNER and ENGINEER. If OWNER or ENGINEER after due investigation has reasonable objection to any Subcontractor, other person or organization proposed by CONTRACTOR after the Notice of Award, CONTRACTOR shall submit an acceptable substitute and the Contract Price shall be increased or decreased by the difference in cost occasioned by such substitution, and an appropriate Change Order shall be issued. CONTRACTOR shall not be required to employ any Subcontractor, other person or organization against whom CONTRACTOR has reasonable objection. Acceptance of any Subcontractor, other person or organization by OWNER or ENGINEER shall not constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

B. 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 ENGINEER 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 ENGINEER 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 ENGINEER 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.

C. The Divisions and Sections of the Specifications and the identification of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

D. 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 the ENGINEER and contains waiver provisions as required by Paragraph 5.9 CONTRACTOR shall pay each Subcontractor a just share of any insurance moneys received by CONTRACTOR on account of losses under policies issued pursuant to Article 5.

E. The CONTRACTOR shall not sublet more than fifty percent (50%) of the work without the consent of the OWNER and the approval of the ENGINEER prior to the receipt of bids.

6.5 PATENT FEES AND ROYALTIES:

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER 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.

6.6 PERMITS:

Unless otherwise indicated, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of the Bid. CONTRACTOR shall also 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.

6.7 LAWS AND REGULATIONS:

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 ENGINEER 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 ENGINEER, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR'S primary responsibility to make certain that the Specifications and Drawings are in accordance with such laws, ordinances, rules and regulations.

6.8 TAXES:

CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the law of the place of the Project. OWNER is organized and exists as a municipal corporation under the laws of the Commonwealth of Kentucky and maintains an exempt status relative to sales tax for equipment and materials incorporated in this Work.

6.9 USE OF PREMISES:

A. CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workmen 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.

B. During 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.

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

6.10 RECORD DOCUMENTS:

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 ENGINEER for examination and shall be delivered to ENGINEER for OWNER upon completion of the Work.

6.11 SAFETY AND PROTECTION:

A. 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:

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

B. 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 protection. CONTRACTOR shall notify owners of adjacent property and utilities when prosecution of the Work may affect them. CONTRACTOR shall cooperate with

the utility owner in the protection removal, relocation or replacement of such utility property. All damage, injury or loss to any property referred to in Paragraph 6.11.A.2 or 6.11.A.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 CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR). CONTRACTOR'S duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with Paragraph 14.9 that the Work is acceptable.

C. CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR'S Superintendent unless otherwise designated in writing by CONTRACTOR to OWNER.

D. The CONTRACTOR shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill his obligations under this subsection.

6.12 EMERGENCIES:

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 ENGINEER or OWNER, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give ENGINEER prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

6.13 SHOP DRAWINGS AND SAMPLES:

A. The CONTRACTOR shall submit shop and working drawings of concrete reinforcement, structural details, piping layout, wiring, materials fabricated especially for the Contract, and materials and equipment for which such drawings are specifically requested.

B. Such drawings shall show the principal dimensions, weight, structural and operating features, space required, clearances, type and/or brand of finish or shop coat, grease fittings, etc., depending on the subject of the drawing. When it is customary to do so, when the dimensions are of particular importance, or when so specified, the drawing shall be certified by the manufacturer or fabricator as correct for the Contract.

C. When so specified or if considered by the ENGINEER to be acceptable, manufacturer's specifications, catalog data, descriptive matter, illustrations, etc., may be submitted in place of shop and working drawings. In such case, the requirements shall be as specified for shop and working drawings, insofar as possible.

D. The CONTRACTOR shall be responsible for the prompt and timely submittal of all shop and working drawings so that there shall be no delay to the Work due to the absence of such drawings. Prior to the submittal of any shop drawings, the CONTRACTOR shall submit a schedule of proposed shop drawing transmittals. The schedule shall identify the subject matter of each transmittal, the corresponding specification section number and the proposed date of submission. During the progress of the Work, the schedule shall be revised and resubmitted as necessary.

E. No material or equipment shall be purchased or fabricated especially for the contract until the required shop and working drawings have been submitted as herein above provided and reviewed for

conformance to the Contract requirements. All such materials and equipment and the work involved in their installation or incorporation into the Work shall then be as shown in and represented by said drawings.

F. Until the necessary review has been made, the CONTRACTOR shall not proceed with any portion of the Work (such as the construction of foundations), the design or details of work, materials, equipment or other features for which review is required.

G. All shop and working drawings shall be submitted to the ENGINEER by and/or through the CONTRACTOR who shall be responsible for obtaining shop and working drawings from his subcontractors and returning reviewed drawings to them. All shop and working drawings shall be prepared on standard size, 24-inch by 36-inch sheets, except those which are made by changing existing standard shop or working drawings. All drawings shall be clearly marked with the names of the OWNER, CONTRACTOR, specification section, building, equipment, or structure to which the drawing applies, and shall be suitably numbered. Each shipment of drawings shall be accompanied by a letter of transmittal giving a list of the drawing numbers and the names mentioned above.

H. Only drawings which have been checked and corrected by the fabricator should be submitted to the CONTRACTOR by his subcontractors and vendors. Prior to submitting drawings to the ENGINEER, the CONTRACTOR shall check thoroughly all such drawings to satisfy himself that the subject matter thereof conforms to the Drawings and Specifications in all respects. All drawings which are correct shall be marked with the date, checker's name, and indication of the CONTRACTOR'S approval, and then shall be submitted to the ENGINEER; other drawings shall be returned for correction.

I. If a shop drawing shows any deviation from the Contract requirements, the CONTRACTOR shall make specific mention of the deviations in his letter of transmittal.

J. The review of shop and working drawings hereunder will be general only, and nothing contained in these GENERAL CONDITIONS shall relieve, diminish or alter in any respect the responsibilities of the CONTRACTOR under the Contract Documents and in particular, the specific responsibility of the CONTRACTOR for details of design and dimensions necessary for proper fitting and construction of the work as required by the Contract and for achieving the result and performance specified thereunder.

K. Should the CONTRACTOR submit equipment that requires modifications to the structures, piping, electrical conduit, wires, appurtenances, layout, etc., detailed on the Drawings, he shall also submit details of the proposed modifications. If such equipment and modifications are accepted, the CONTRACTOR, at no additional cost to the OWNER, shall do all work necessary to make such modifications.

L. The marked-up shop and working drawings or marked-up copy of catalog cuts will be returned to the CONTRACTOR in the amount specified in Section 01300. The CONTRACTOR shall furnish additional copies of such drawings or catalog cuts when so requested.

M. CONTRACTOR shall also submit to ENGINEER 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.

6.14 HANDLING AND DISTRIBUTION:

A. The CONTRACTOR shall handle, haul, and distribute all materials and all surplus materials on the different portions of the Work, as necessary or required; shall provide suitable and adequate storage room for materials and equipment during the progress of the Work, and be responsible for the protection, loss

of, or damage to materials and equipment furnished by him, until the final completion and acceptance of the Work.

B. Storage and demurrage charges by transportation companies and vendors shall be borne by the CONTRACTOR.

C. Facilities and labor for the storage, handling, and inspection of all materials and equipment shall be furnished by the CONTRACTOR. Defective materials and equipment shall be removed immediately from the site of the Work.

6.15 CONTINUING THE WORK:

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.

6.16 INDEMNIFICATION:

A. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and their agents, employees and consultants from and against all claims, damages, losses and expenses including, but not limited to attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (2) is caused in whole or in part by either (a) any negligent act or omission of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable regardless of whether or not it is caused in part by a party indemnified hereunder, or (b) arises out of operation of law as a consequence of any act or omission of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether any of them has been negligent.

B. In any and all claims against OWNER or ENGINEER or any of their agents, employees or consultants 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 Paragraph 6.16.A shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

C. The obligations of CONTRACTOR under Paragraph 6.16.A shall not extend to the liability of ENGINEER, his agents, employees or consultants arising out of the ENGINEER'S preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or Specifications.

6.17 ASIGNMENT OF CONTRACT:

The CONTRACTOR shall not assign, sell, transfer or otherwise dispose of his contract or any monies due or that may become due thereunder, without the prior written consent of the OWNER.

ARTICLE 7
WORK BY OTHERS

7.1 OWNER'S RIGHT TO DO WORK

A. If the CONTRACTOR should neglect or fail to prosecute the Work properly or fail or refuse to perform any provision of the Contract, the OWNER, after ten (10) days written notice to the CONTRACTOR, may without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from any monies due or which may thereafter become due to the CONTRACTOR.

B. 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 OWNER'S 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.

7.2 SEPARATE CONTRACTS:

A. The OWNER reserves the right to let other contracts in connection with this Work. The CONTRACTOR shall afford other contractors reasonable opportunity for ingress and egress and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. The respective rights of various interests involved shall be established by the ENGINEER to secure proper completion of the various portions of the Work.

B. If any part of CONTRACTOR'S Work depends for 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 ENGINEER in writing any patent or apparent defects or deficiencies in such work that render it unsuitable for such proper execution and results. CONTRACTOR'S failure to so report shall constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR'S Work except for latent defects and deficiencies in the other work.

C. 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 ENGINEER and the others whose work will be affected.

D. 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 or requires an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Articles 11 and 12 provided that the CONTRACTOR will make no claim which is barred by the provisions of Paragraphs 12.2 and 12.4.

ARTICLE 8
OWNER'S RESPONSIBILITIES

8.1 OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.2 In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer whose status under the Contract Documents shall be that of the former ENGINEER.

8.3 OWNER shall furnish the data required of OWNER under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in Paragraphs 14.4.A and 14.9.A.

8.4 OWNER'S duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER'S identifying and making available to CONTRACTOR copies of reports of investigations and tests of subsurface and latent physical conditions at the site or those reports that otherwise may affect performance of the Work which have been utilized by ENGINEER in preparing the Drawings and Specifications.

8.5 OWNER'S responsibilities in respect of purchasing and maintaining insurance are set forth in Article 5.

8.6 In connection with OWNER'S rights to request changes in the Work in accordance with Article 10, OWNER (especially in certain instances as provided in Paragraph 10.4) is obligated to execute Change Orders.

8.7 OWNER'S responsibility in respect of certain inspections, tests and approvals is set forth in Paragraph 13.3.

8.8 In connection with OWNER'S right to stop Work or suspend Work, see Paragraphs 13.5 and 15.1. Paragraph 15.2.A deals with OWNER'S right to terminate services of CONTRACTOR under some circumstances.

ARTICLE 9 **ENGINEER'S STATUS DURING CONSTRUCTION**

9.1 OWNER'S REPRESENTATIVE:

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

9.2 VISITS TO SITE:

A. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER may 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. On the basis of such visits and on-site observations, ENGINEER will inform OWNER of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

B. The ENGINEER, his representatives and representatives of regulatory or sponsoring State or Federal agencies shall at all times have full access to the Work and to all materials intended for use in the Work, as well as to plants where such materials are produced. The CONTRACTOR shall provide for such access and inspection. If the Work shall be covered up without the knowledge or consent of the ENGINEER, it must, if directed by the ENGINEER, be uncovered for examination at the CONTRACTOR'S expense.

9.3 CLARIFICATIONS AND INTERPRETATIONS:

ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER 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 Articles 11 and 12.

9.4 REJECTING DEFECTIVE WORK:

The ENGINEER will inspect the work as the authorized representative of the OWNER. The ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in Article 13, whether or not the Work is fabricated, installed or completed.

9.5 INSPECTION OF WORK AWAY FROM THE SITE:

If work to be done away from the construction site is to be inspected on behalf of the OWNER during its fabrication, manufacture, or testing, or before shipment, the CONTRACTOR shall give notice to the ENGINEER of the place and time where such fabrication, manufacture, testing, or shipping is to be done. Such notice shall be in writing and delivered to the ENGINEER in ample time so that the necessary arrangements for the inspection can be made.

9.6 PROJECT REPRESENTATION:

A. If OWNER and ENGINEER agree, ENGINEER will designate a Resident Project Representative to assist ENGINEER in observing the performance of the Work. Otherwise, the OWNER will employ a Resident Project Representative and the required number of assistants who will act as directed by the ENGINEER in order to assist the ENGINEER in observing performance of the CONTRACTORS' work. General duties and responsibilities of the Resident Project Representative include serving as ENGINEER'S liaison with the CONTRACTORS; assisting ENGINEER in serving as OWNER'S liaison with the CONTRACTORS when CONTRACTOR'S operations affect OWNER's operations; reporting to ENGINEER whenever he believes work is unsatisfactory, transmitting to the CONTRACTOR the ENGINEER'S clarifications and interpretations of the Contract Documents, and reviewing applications for payment with CONTRACTORS.

B. The Resident Project Representative has limited authority. He shall not: authorize any deviation from the Contract Documents or approve any substitute materials or equipment, expedite the work, advise on safety matters, participate in specialized field or laboratory tests.

9.7 DECISIONS ON DISAGREEMENTS:

ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Work shall be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this Paragraph, which ENGINEER 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 ENGINEER and the other party to the Agreement within seven (7) calendar days of the occurrence of the event giving rise thereto, and written supporting data will be submitted to ENGINEER and the other party within thirty (30) days of such occurrence unless ENGINEER allows an additional period of time to ascertain more accurate data. In his capacity as interpreter and judge, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.8 LIMITATIONS ON ENGINEER'S RESPONSIBILITIES:

A. Neither ENGINEER'S authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of ENGINEER 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.

B. Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that ENGINEER shall have authority to supervise or direct performance of the Work or authority to undertake responsibility contrary to the provisions of Paragraphs 9.8.C and 9.8.D.

C. ENGINEER will not be responsible for CONTRACTOR'S means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents.

D. ENGINEER will not be responsible for the 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 10 **CHANGES IN THE WORK**

10.1 Without invalidating the Agreement, 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 11 or Article 12 on the basis of a claim made by either party.

10.2 ENGINEER 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 also on CONTRACTOR who shall perform the change promptly. If CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or contract Time, CONTRACTOR may make a claim therefore as provided in Article 11 or Article 12.

10.3 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 Paragraph 6.12.

10.4 OWNER shall execute appropriate Change Orders prepared by ENGINEER covering changes in the Work which are required by OWNER, or required because of unforeseen physical conditions or emergencies, or because of uncovering Work found not to be defective, or as provided in Paragraphs 11.6 and 15.1, or