

## GENERAL CONDITIONS

1A.1 CONTRACT AND CONTRACT DOCUMENTS. The plans, specifications and addenda, shall form part of this contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the contract documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

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1A.2 DEFINITIONS. The following terms used in this contract are defined as follows:

- a) Addenda. Written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Contract Documents, Drawings and Specifications, by additions, deletions, clarifications or corrections.
- b) Bid. The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- c) Bidder. Any person, firm or corporation submitting a bid for the work.
- d) Bonds. Bid, Performance, and Payment Bonds and other instruments of security furnished by the Contractor and his surety in accordance with the Contract Documents.
- e) Change Order. A written order to the Contractor authorizing an addition, deletion or revision in the work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.
- f) Contract Documents. The Contract, including Advertisement for Bids, Information for Bidders, Bid, Bid Bond, Contract, Payment Bond, Performance Bond, Notice of Award, Notice to Proceed, Change Order, Drawings, Specifications, and Addenda.
- g) Contract Price. The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- h) Contract Time. The number of calendar days stated in the Contract Documents for the completion of work.

- i) Contractor. The person, firm or corporation with whom the Owner has executed the Contract.
- j) Drawings. The part of the Contract Documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Engineer.
- k) Engineer. The person, firm or corporation named as such in the Contract Documents.
- l) Field Order. A written order effecting a change in the work not involving an adjustment in the Contract Price or an extension of the Contract Time issued by the Engineer to the Contractor during construction.
- m) Notice of Award. The written notice of the acceptance of the Bid from the Owner to the successful Bidder.
- n) Notice to Proceed. 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.
- o) Owner. A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the work is to be performed.
- p) Project. The undertaking to be performed as provided in the Contract Documents.
- q) Resident Project Representative. The authorized representative of the Owner who is assigned to the project site, or any part thereof.
- r) Shop Drawings. 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.
- s) Specifications. A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- t) Subcontractor. An individual, firm or corporation having a direct Contract with the Contractor, or with any Subcontractor, for the performance of a part of the work at the site.
- u) Substantial Completion. That data 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.

- v) Supplemental General Conditions. The part of the Contract documents that amends or supplements the General Conditions.
- w) Supplier. Any person 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.
- x) Work. All labor necessary to produce the construction required by the Contract Documents and all materials and equipment incorporated, or to be incorporated, in the project.
- y) Written Notice. Any notice to any party to the Contract relative to any part of the Contract 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.

1A.3 ADDITIONAL INSTRUCTION AND DETAIL DRAWINGS. The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the Contract. The additional drawings and instructions supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry on the work in accordance with the additional detail drawings and instructions. The Contractor and the Engineer will prepare jointly:

- a. A schedule fixing the dates at which special drawings will be required. Such drawings, if any, to be furnished by the Engineer in accordance with said schedule, and
- b. A schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work. Each schedule to be subject to change from time to time in accordance with the progress of the work.

1A.4 SHOP OR SETTING DRAWINGS. After checking and verifying all field measurements and after complying with applicable procedures specified in the General Conditions, CONTRACTOR shall submit two copies of each shop or setting drawing prepared in accordance with the above said schedule to the Engineer. These drawings will bear a Contractor's stamp indicating that Contractor has satisfied himself of quantities, dimensions, and performance or

other requirements of the Contract documents. The Contractor shall make such corrections to the drawings as have been indicated by the Engineer and shall furnish the Engineer with two corrected copies, and additional copies, if requested. The Contractor will be responsible for the accuracy of such drawings and for their conformity to the plans and specifications.

1A.5 MATERIALS, SERVICES AND FACILITIES.

- a. It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, gas, lights, power, transportation, superintendence, taxes, insurance, temporary construction of every nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- b. Any work necessary to be performed after regular working hours, on Sundays, or legal holidays, shall be performed without additional expense to the Owner.

1A.6 CONTRACTOR'S TITLE TO MATERIALS. No materials or supplies for the work shall be purchased by the Contractor, or by any Subcontractor, subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work free from all liens, claims or encumbrances.

1A.7 INSPECTION AND TESTING OF MATERIALS. Unless otherwise specifically provided for in the specifications, all specified inspection and testing of material and finished articles to be incorporated in the work at the site shall be made by bureaus, laboratories, or agencies approved by the Owner. The cost of such inspections and testing shall be paid by the Contractor. Where the detailed specifications call for certified copies of mill or shop tests to establish conformance of certain materials with the specifications, it shall be the responsibility of the Contractor to assure the delivery of such certifications to the Owner. No materials or finished articles shall be incorporated in the work until such materials and finished articles have passed the required tests.

The Contractor shall promptly segregate and remove rejected material and finished articles from the site of the work. The testing and approval of materials by the laboratory, or laboratories, shall not relieve the Contractor of any of his obligations to fulfill his Contract and guarantee of workmanship and materials as called for in the paragraph entitled "General Warranty" herein. The Contractor may, at his option and at his own expense, cause such other tests to be conducted

as he may deem necessary to assure suitability, strength and durability of any material or finished article.

1A.8 "OR EQUAL" CLAUSE. The phrase "or equal" shall be construed to mean that material or equipment will be acceptable only when, in the judgment of the Engineer, they are composed of parts of equal quality, or equal workmanship and finish, designed and constructed to perform, or accomplish, the desired result as efficiently as the indicated brand, pattern, grade, class, make or model. Written approval will be obtained from the Engineer prior to installation.

1A.9 PATENTS.

- a. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.
- b. If the Contractor uses any design, device or materials covered by letter, patent, or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device or material. It is mutually agreed and understood that, without exception, the contract prices shall include all royalties or costs arising from the use of the such design, device or materials, in any way involved in the work. The Contractor and/or his sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringements by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this Contract, and shall indemnify the Owner for any cost, expense or damage which the Owner may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

1A.10 SURVEYS, LAWS AND REGULATIONS.

- a. Construction staking shall be the responsibility of the contractor unless otherwise specified.
- b. Laws and Regulations. The Contractor shall keep himself fully informed of all laws, ordinances and regulations of state, city and county in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or tribunals having any jurisdiction or

authority over same. If any discrepancy or inconsistency should be discovered in this Contract, or in the Drawings or Specifications herein referred to in relation to any such law, ordinance, regulation, order or decrees, he shall forthwith report the same in writing to the Owner. He shall at all times, himself, observe and comply with all such existing and future laws, ordinances and regulations, and shall protect and indemnify the Owner and its agents against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order or decree, whether by himself or by his employees or subcontractors.

- 1A.11 **CONTRACTOR'S OBLIGATIONS.** The Contractor shall, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified, in accordance with the provisions of this contract and said specifications, and in accordance with the plans and drawings covered by this contract and any and all supplemental plans and drawings, and in accordance with the directions of the Engineer as given from time to time during the progress of the work. The Contractor is responsible for all safety and OSHA rules and regulations. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the contract and specifications, and shall do, carry on and complete the entire work to the satisfaction of the Engineer and the Owner.
- 1A.12 **WEATHER CONDITIONS.** In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct, the Contractor will, and will cause his Subcontractors to, protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors to so protect its work, such materials shall be removed and replaced at the expense of the Contractor.
- 1A.13 **PROTECTION OF WORK AND PROPERTY, EMERGENCY.** The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Contract. He shall at all times safely guard and protect his own work and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the Contract or by the Owner or his duly authorized representatives.

In case of an emergency which threatens loss or injury of property and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Engineer, in a diligent manner. He shall notify the Engineer immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Engineer for approval. Where the Contractor has not taken action but has notified the Engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the Engineer. The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in paragraph entitled, "Changes in Work" of these specifications.

1A.14 INTERPRETATIONS. If any person contemplating submitting a bid for the proposed Contract is in doubt as to the true meaning of any part of these proposed Contract Documents, he may submit to the Engineer a written request for an interpretation thereof. The person submitting the request will be responsible for its prompt and actual delivery. Any interpretation of such documents will be made only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each person receiving a set of such documents. The Owner will not be responsible for any other explanation or interpretation of such documents which anyone presumes to make on behalf of the Owner before expiration of the ultimate time set for the receipt of bids.

1A.15 REPORTS, RECORDS AND DATA. Omitted.

1A.16 SUPERINTENDENCE BY CONTRACTOR. The Contractor shall employ only competent and skilled persons on the work. The Contractor shall have a competent Superintendent or Foreman present at all times when the work is in progress who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Engineer and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll. The Contractor shall, upon demand from the Engineer, immediately remove any Superintendent, Foreman or workman whom the Engineer may consider incompetent or undesirable.

1A.17 CHANGES IN WORK. No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
  - (1) Labor, including Foreman.

- (2) Materials entering permanently into the work.
- (3) The ownership or rental cost of construction plant and equipment during the time of use on the extra work.
- (4) Power and consumable supplies for the operation of power and equipment.
- (5) Insurance.
- (6) Social security and old age and unemployment contributions.

To the cost under (c), there shall be added a fixed fee to be agreed upon, but not to exceed 15 percent of the estimated cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expense.

1A.18 EXTRAS. Without invalidating the Contract, the Owner may order extra work or make changes by altering, adding to or deducting from the work, the Contract Price being adjusted accordingly, and the consent of the surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the Bid, and no claims for any extra work on materials shall be allowed unless the work is ordered in writing by the Owner, or the Engineer acting officially for the Owner, and the price is stated in such order. Extra work shall be performed only upon the execution of authorized Change Orders as set forth in the preceding paragraph.

1A.19 TIME FOR COMPLETION AND LIQUIDATED DAMAGES. It is hereby understood and mutually agreed by and between the Contractor and the Owner that the date of beginning and the time for completion as specified in the Contract of the work to be done hereunder are essential conditions of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the Notice to Proceed. The Contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified.

It is expressly understood and agreed by and between the Contractor and the Owner that the time for completion of the work described herein is a reasonable time for completion of same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part of the consideration for the awarding of this Contract, to pay to the Owner the amount specified in the Contract, not as a penalty, but as Liquidated Damages for such breach of Contract, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work. The said amount is fixed and agreed

upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount may be retained from time to time by the Owner from current periodic estimates. It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this Contract; provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- a. To any preference, priority or allocation order duly issued by the Government.
- b. To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a Contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

1A.20 CORRECTION OF WORK. All work, all material (whether incorporated in the work or not), all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Engineer, who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction of the purposes for which they are used. Should the work fail to meet his approval, it shall be forthwith reconstructed, made good, replaced and/or corrected, as the cause may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work incurred or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as, in the judgment of the Engineer, shall be equitable.

1A.21 SUBSURFACE CONDITIONS FOUND DIFFERENT. Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, he shall immediately give notice to the Engineer of such conditions before they are disturbed. The Engineer will thereupon promptly investigate the conditions and if he finds that they materially differ from those shown on the plans or indicated in the

specifications, he will at once make such changes in the plans and/or specifications as he may find necessary. Any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 17 of these specifications.

1A.22 CLAIMS FOR EXTRA COSTS. No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order of the Engineer, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 17(c) of these General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to accounts relating thereto.

1A.23 RIGHT OF OWNER TO TERMINATE CONTRACT. (A) In the event that any of the provisions of this Contract are violated by the Contractor or by any of his Subcontractors, the Owner may serve written notice upon the Contractor and the surety of its intention to terminate the Contract. Such notices to contain the reasons for such intention to terminate the Contract, and unless within 10 days after serving of such notice upon the Contractor, such violation or delay, in the opinion of the Owner, shall cease and satisfactory arrangement of correction be made, the Contract shall, upon the expiration of said 10 days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided, however, that if the surety does not commence performance thereof within 10 days from the date of the mailing to such surety of notice of termination, the Owner may take over the work and prosecute same to completion at the expense of the Contractor; and the Contractor and his surety shall also be liable to the Owner for any to the Owner occasioned thereby; and in such event the Owner may take possession of and utilize in completing the work such materials, appliances and plant as may be on the site of the work and necessary therefor.

If the Contractor should die, be declared incompetent, be declared bankrupt or insolvent, or make an assignment for the benefit of creditors during the term of his Contract, the Owner may terminate the Contract in the manner and under the procedure set forth above with the exception that no notices to the Contractor shall be required but in lieu thereof the Owner must make a reasonable effort to notify the estate of the Contractor, his guardian, assignee, or legal representative of the intention to terminate and fact of termination, if there is any such guardian, assignee, or legal representative at the time the Owner desires to terminate.

(B) Upon seven days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, elect

to terminate the Contract. In such case, Contractor shall be paid (without duplication of any items):

- a. for completed and acceptable work executed in accordance with the General Contract Documents prior to the effective date of termination, including fair & reasonable sums for overhead and profit on such work;
- b. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted work, plus fair and reasonable sums for overhead and profit on such expenses;
- c. for all claims, costs, losses and damages incurred in settlement of terminated contracts with Subcontractors, Suppliers and others; and
- d. for reasonable expenses directly attributable to termination.

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

1A.24 CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES. Immediately after execution and delivery of the Contract and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish:

- a. A detailed estimate, giving a complete breakdown of the Contract price; and
- b. Periodic itemized estimates of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payment and will not be considered as fixing a basis for additions to or deductions from the Contract price.
- c. Equipment Delivery Schedule. The Contractor shall prepare a schedule of anticipated shipping dates for materials and equipment. It is intended that equipment and materials be so scheduled as to arrive at the job site just prior to time for installation to prevent excessive materials on hand for inventory and the necessity for extensive storage facilities at the job site.

## 1A.25 PAYMENTS TO CONTRACTOR.

A. **PROGRESS PAYMENTS.** Not later than the 15th day of each calendar month, the Owner shall make a progress payment to the Contractor on the basis of a duly certified approved estimate of the work performed during the preceding calendar month under this Contract; but to ensure the proper performance of this Contract, the Owner shall retain 10 percent of the amount of each estimate until final completion and acceptance of all work covered by this Contract provided that on completion and acceptance of each separate building, public work, or other division of the Contract on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon, less authorized deductions.

B. **DELIVERED MATERIAL.** In preparing estimates, the material delivered on the site may be taken into consideration if paid invoices are given to the Engineer.

C. **PARTIAL PAYMENTS.** All material and work covered by partial payments made shall thereupon become the sole property of the Owner; but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all the terms of the Contract.

D. **OWNER'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF.** The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the demands of the Subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged, or waived. If the Contractor fails to do so, then the Owner may, after having served written notice on the Contractor, either pay unpaid bills, of which the Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or his surety. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the Contract by the Owner to the

Contractor, and the Owner shall not be liable to the Contractor for any such payment made in good faith.

1A.26 ACCEPTANCE OF WORK AND FINAL PAYMENT. Before final acceptance of the work and payment to the Contractor of the percentage retained by the Owner, the following requirements shall be complied with:

A. FINAL INSPECTION. Upon notice from the Contractor that his work is completed, the Engineer will make a final inspection of the work and shall notify the Contractor of all instances where his work fails to comply with the Contract Drawings and Specifications, and to the satisfaction of the Engineer.

B. APPROVING AUTHORITIES. All agencies and organizations having jurisdiction over the work shall give approval prior to final acceptance by the Owner. This shall also include all persons or organizations which have provided encroachments or easements for the installation of the property. All claims by damaged third parties must also be satisfied.

C. CLEANING UP. Before the work is considered as complete, all rubbish and unused material due to or connected with the construction must be removed and the premises left in a condition satisfactory to the Owner. Streets and private property disturbed or damaged should be restored to their former condition. Final acceptance will be withheld until such work is finished.

D. LIENS. Final acceptance of the work will not be granted and the retained percentages will not be due or payable until the Contractor has furnished the Owner proper and satisfactory evidence under oath that all claims for labor and material employed or used in the construction of the work under this Contract have been settled, and that no legal claims can be filed against the Owner for such labor or material.

E. FINAL ESTIMATE. Upon completion of all cleaning up, alterations, and repairs required by the final inspection or operating test, the satisfactory completion of the operating test, and upon submitting proper and satisfactory evidence to the Owner that all claims have been settled, the Engineer will issue a certificate of final acceptance of the work. The Contractor shall then prepare his Final Estimate. After review and approval of the Final Estimate by the Engineer and the Owner, the payment shall then become due.

1A.27 ACCEPTANCE OF FINAL PAYMENT AS RELEASE. The acceptance by the Contractor of final payment shall be and shall operate as a release of the Owner for all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, final or otherwise, shall

operate to release the Contractor or his sureties from any obligations under this Contract or the Performance and Payment Bond.

- 1A.28 EXISTING UTILITIES. Prior to beginning work, the Contractor shall have all existing utilities marked in the field. Any utilities or existing structures damaged during construction shall be the responsibility of the Contractor to repair. All repairs shall be to the satisfaction of the Owner of the damaged utility or structure.
- 1A.29 INSURANCE. The Contractor shall procure and shall maintain during the life of this Contract, whether such operation be by himself or by a Subcontractor or anyone directly employed by either of them, such insurance as required by statute, ordinance and the Contract Documents to adequately protect the Owner from any claims or damages, including bodily injury or death, which may arise from the operations under this Contract. The Contractor shall furnish the Owner certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of the policies. Such certificates shall contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered except after 10 days written notice has been received by the Owner."
- 1A.30 CONTRACT SECURITY. The Contractor shall furnish a Performance and Payment Bond in an amount at least equal to 100 percent of the Contract price as security for the faithful performance of this Contract and as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. Each Bond must be approved by the Owner.
- 1A.31 ASSIGNMENTS. The Contractor shall not assign, the whole or any part of, this Contract, or any moneys due or to become due hereunder, without written consent of the Owner. In case the Contractor assigns all or part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Contract.
- 1A.32 MUTUAL RESPONSIBILITY OF CONTRACTORS. If through acts or neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the Owner on account of any damage alleged to have

been sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

1A.33 SEPARATE CONTRACTS. The Contractor shall coordinate his operations with those of other Contractors, if any. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his Subcontractor, shall keep informed of the progress and the detail work of other Contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

1A.34 SUBCONTRACTING.

A. SPECIALTY SUBCONTRACTORS. The Contractor may utilize the services of specialty Subcontractors on those parts of the work which under normal contracting practices are performed by Specialty Subcontractors.

B. OWNER APPROVAL. The Contractor shall not award any work to any Subcontractor without prior written approval of the Owner, which approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as the Owner may require.

C. CONTRACTOR'S RESPONSIBILITY - ACTS/OMISSIONS. The Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

D. BINDING PROVISIONS-CONTRACTOR/SUBCONTRACTOR. The Contractor shall cause appropriate provisions to be inserted in all Subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the General Conditions and other Contract Documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any Subcontractor that the Owner may exercise over the Contractor under any provisions of the Contract Documents.

E. CONTRACTUAL RELATIONSHIP. Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner.

1A.35 ENGINEER'S AUTHORITY. The Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute.

1A.36 STATED ALLOWANCES. N/A

1A.37 USE OF PREMISES AND REMOVAL OF DEBRIS. The Contractor expressly undertakes at his own expense:

(a) To take every precaution against injuries to persons or damage to property.

(b) To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other Contractor.

(c) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.

(d) To clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance.

(e) Before final payment to remove all surplus material, falsework, temporary structures, including foundations thereof, plant of any descriptions and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition.

(f) To effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Engineer, not to cut or otherwise alter the work of any other Contractor.

1A.38 QUANTITIES OF ESTIMATE. The estimated quantities of work to be done and materials to be furnished under this Contract, shown in any of the Documents, including the Proposal, are given for use in comparing Bids, and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

1A.39 RIGHTS-OF-WAY AND SUSPENSION OF WORK. The Owner shall furnish all land and rights-of-way necessary for the carrying out of this Contract and the completion of the work herein contemplated, and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins; in which event, the Contractor shall begin his work upon such land and rights-of-way as the Owner may have previously acquired,

and no claim for damages whatsoever will be allowed by reason of the delay in obtaining the remaining lands and rights-of-way. Should the Owner be prevented or enjoined from proceeding with the work, or from authorizing its prosecution, either before or after the commencement, by reason of any litigation or by reason of its ability to procure any lands or rights-of-way for said work, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay or to withdraw from the Contract except by consent of the Owner; but time for completion of the work will be extended to such time as the Owner determines will compensate for the time lost by such delay with such determination to be set forth in writing.

1A.40 GENERAL WARRANTY FOR ONE YEAR AFTER COMPLETION OF CONTRACT. For a period of at least one year after the completion of the Contract, the Contractor warrants the fitness and soundness of all work done and materials and equipment put in place under the Contract, and neither the final certificate of payment, nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work, unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

1A.41 NOTICE OF SERVICE THEREOF.

(a) Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the services thereof completed when said notice is posted by registered mail to the said Contractor at his last given address, or delivered in person to said Contractor or his authorized representative on the work, or is deposited in the regular United States Mail in a sealed, postage prepaid envelope; and the receipt thereof is acknowledged by the Contractor.

(b) All papers required to be delivered to the Owner shall be delivered to the address given below:

City of Cayce  
Att: Karalyn Miskie, City Engineer  
PO Box 2004  
Cayce, SC 29171-2004

- 1A.42 **REQUIRED PROVISIONS DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.
- 1A.43 **PROTECTION OF LIVES AND HEALTH.** In order to protect the lives and health of his employees under the Contract, the Contractor shall comply with all pertinent provisions of the "Manual of Accident Prevention in Construction" issued by the Associated General Contractors of America, Inc., and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work arising out of and in the course of employment on work under the Contract. The Contractor alone shall be responsible for the safety, efficiency and adequacy of his plant, appliances and methods and for any damage which may result from their failure or their improper construction, maintenance or operation. The contractor shall be responsible for complying with all applicable OSHA regulations.
- 1A.44 **WAGES AND OVERTIME COMPUTATION.** The Contractor and each of his Subcontractors shall comply with all applicable state and local laws or ordinances with respect to the hours worked by laborers and mechanics engaged in work on the project and with respect to compensation for overtime.

**END OF SECTION 1A**