DOCUMENT 700

GENERAL CONDITIONS

FOR

CITY OF TOPEKA

DEPARTMENT OF PUBLIC WORKS

CONSTRUCTION PROJECTS

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS

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:

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

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.

Application for Payment - A form acceptable to the Engineer which is to be used by Contractor in requesting progress or final payments and which is to include such supporting documentation as is required by the Contract Documents.

Bid - The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

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

Change Order - A document recommended by Engineer, which is signed by Contractor and Owner and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.

City Engineer - The City Engineer of the City of Topeka or authorized representatives of the Engineering Division or the Utilities Department of the City of Topeka.

Contract Documents - The Agreement, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the bid and any post-Bid documentation submitted prior to the Award of contract) the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all amendments, modifications and supplements issued pursuant to paragraphs 3.4 and 3.5 on or after the Effective Date of the Agreement.

Contract Price - The moneys payable by Owner to Contractor under the Contract Documents as stated in the Agreement.

Contract Time - The number of days or the date stated in the Agreement for the completion of the Work.

Contractor - The person, firm or corporation with whom Owner has entered into the Agreement.

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 of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with paragraph 14.8 or 14.10).

Design Engineer - The person, firm or corporation responsible for the design of the project and named as such in the Agreement.

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.

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.

Engineer - The Engineer shall be either the Design Engineer or the City Engineer as designated in the Agreement.

Field Order - A written order issued by Engineer which orders minor changes in the Work in accordance with paragraph 9.5 but which does not involve a change in the Contract Price or the Contract Time unless subsequently agreed to by Change Order.

Final Acceptance - The date when the Owner accepts in writing that the construction of the project is complete in accordance with the Contract Documents such that the entire project can be utilized for the purposes for which it is intended and Contractor is entitled to final payment.

Final Completion - The date when the construction of the project is complete and all identified incomplete or defective items of work have been corrected to the satisfaction of the Engineer.

Force Account Work - Work authorized and approved by the Owner to be paid on the basis of actual cost in accordance with paragraphs 11.4 through 11.7.

Contracts and Procurement Division-Contract Compliance - The Contracts and Procurement Division-Contract Compliance, and their authorized representatives, acting within the authority delegated to them.

Laws and Regulations; Laws or Regulations - Laws, rules, regulations, ordinances, codes and/or orders.

Owner - The City of Topeka, Kansas with whom Contractor has entered into the Agreement and for whom the Work is to be provided.

Partial Utilization - Placing a portion of the Work in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion for all the Work.

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

Project Representative - The authorized representative of Engineer who is assigned to the site or any part thereof.

Shop Drawings - All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by Contractor to illustrate material or equipment for some portion of the Work.

Specifications - The City of Topeka Standard Technical specifications or the portion 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.

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.

Substantial Completion - The Work (or a specified part thereof) has progressed to the point where, in

the opinion of Engineer as evidenced by Engineer's notice of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if there be no such certificate issued, when final payment is due in accordance with paragraph 14.13. The terms "Substantially Complete" and "Substantially Completed" as applied to any Work refer to Substantial Completion thereof.

Supplementary Conditions - The part of the Contract Documents which amends, modifies or supplements these General Conditions, other provisions of the Contract Documents, the Standard Technical Specifications or the Drawings.

Supplier - A manufacturer, fabricator, supplier, distributor, materialman or vendor.

Underground Facilities - All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

Unit Price Work - Work to be paid for on the basis of unit prices.

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.

Work Change Directive - A written directive to Contractor, issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in paragraph 4.2 or 4.3 or to emergencies under paragraph 6.22. A Work Change Directive may not change the contract Price or the Contract time, but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by parties as to its effect, if any, on the Contract Price or Contract Time as provided in paragraph 10.2.

Work Order - A written notice given by Owner to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform Contractor's obligations under the Contract Documents.

ARTICLE 2 - PRELIMINARY MATTERS

Delivery of Bonds, Evidence of Insurance and Licenses:

2.1. When Contractor delivers the executed Agreements to Owner, Contractor shall also deliver to Owner such Bonds as Contractor may be required to furnish in accordance with paragraph 5.1. Contractor shall also deliver with the executed Agreements certificates of insurance which Contractor is required to purchase and maintain in accordance with paragraphs 5.3 through 5.7. All Certificates of Insurance shall utilize the ACORD 25-S form, most recent revision date. Further Contractor shall deliver all Licenses required in accordance with paragraph 6.13.

Copies of Documents:

2.2. Owner shall furnish to Contractor up to eight (8) copies (unless otherwise specified in the Supplementary Conditions) of the Contract documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction. The deposit check for Plans of the successful bidder will be retained.

Commencement of Contract Time:

2.3. The Contract Time will commence to run on the day indicated on the Work Order. A Work Order may be issued at any time within thirty days after the Effective Date of the Agreement. In no event will the Contract time commence to run later than the seventy-fifth day after the day of bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

Starting the Project:

2.4. Contractor shall start to perform the Work on the date when the Contract Time commences to run, but no Work shall be done at the site prior to the date on which the Contract time commences to run, unless otherwise authorized in writing.

Before Starting Construction:

2.5. Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error or discrepancy which Contractor 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 failure to report any conflict, error or discrepancy in the Contract Documents, unless Contractor had actual knowledge thereof or should reasonably have known thereof.

Schedule Requirements:

2.6.1. The Contractor shall submit, with the executed Agreement and Contract Documents, a schedule of proposed construction operations which is acceptable to the Owner for any project with a substantial completion time greater than 60 days or with a calendar date completion time as defined in paragraph 3.1 of the Agreement; however, on any project for which more than one pay estimate will be submitted, a schedule of proposed construction operations shall be submitted. The schedule shall comply with all provisions of this specification. The schedule shall be a bar graph type schedule which identifies the target starting and completion dates for each bid item of the Work. The schedule shall indicate completion of the various parts of the Work and the total project within the times called out in the Agreement.

The schedule will be used to monitor the performance of the Contractor and shall be monitored and updated monthly or more frequently if deemed necessary by the Engineer during the course of the project. Contractor shall submit the updated and/or revised project schedule with the monthly pay estimate in accordance with paragraph 14.2. Should the Work fall significantly (20%) behind schedule, the Contractor shall submit a revised schedule detailing corrective measures to be taken to complete the project within the time limits specified in the Agreement. Owner may require Contractor to add to his equipment or construction forces, as well as increase the working hours, if operations fall behind schedule at any time during the construction period. Owner may require Contractor to reimburse Owner for all costs, including charges of Engineer and Owner's professional consultants, caused by any increase in Contractor's allowable working hours as defined below. Owner may deduct such costs from any payment due Contractor.

The following requirements shall be taken into consideration in preparing the schedule of construction operations: No Work shall be done between the hours of 8:00 p.m. and 6:00 a.m., nor on Saturdays, Sundays, or legal holidays, without permission of Owner, except such Work as may be necessary for the proper care, maintenance, and protection of the Project, or in the case of an emergency. Such permission may be granted or denied at the complete discretion and convenience of the Owner and, if granted, may be revoked at any time if the Contractor fails to maintain adequate equipment and supervision for the proper prosecution and control of the Work and all operations performed thereunder, or if the Contractor fails to comply with any conditions of the Owner's authorization.

2.6.2. The Contractor shall submit to the Engineer, prior to the date of the Preconstruction Conference, a schedule of Shop Drawing submissions which shall include the items of materials and equipment for which shop drawings are required by the specifications. For each required shop drawing, the date shall be given for intended submission of the drawing to Engineer for review and the date required for its return to avoid delay in any activity beyond the scheduled start date. Sufficient time shall be allowed for initial review, correction and resubmission, and final review of all shop drawings. In no case will a schedule be acceptable which allows less than 15 days for each review by Engineer.

2.6.3. Before any Work at the site is started, Contractor shall deliver to Owner certificates of insurance (and other evidence of insurance requested by Owner) which Contractor is required to purchase and maintain in accordance with paragraphs 5.3 through 5.7.

Preconstruction Conference:

2.7. Within twenty days after the Effective Date of the Agreement, but before Contractor starts the Work at the site, a conference attended by Contractor, Engineer and others as appropriate will be held to discuss the schedules referred to in paragraph 2.6, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. The Contractor's representative shall be the resident superintendent or an individual fully qualified and knowledgeable of the Contractor's field operations.

Contracts and Procurement Division-Contract Compliance representatives will be present at the preconstruction conference to discuss with the Contractor duties and obligations arising from Equal Employment Opportunity, Affirmative Action, requirements of local labor utilization, payment of the current Wage Determinations, and other matters coming within the purview of the Contracts and Procurement Division-Contract Compliance.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

Intent:

3.1. The Contract Documents comprise the entire agreement between Owner and Contractor concerning the Work. The contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with all applicable laws and ordinances.

3.2. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for.

3.3. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids). However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of Owner, Contractor or Engineer, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Engineer, or any of Engineer's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16. Clarifications

and interpretations of the Contract Documents shall be issued by Engineer as provided in paragraph 9.4.

3.4. If, during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to Engineer in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from Engineer; however, Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or should reasonably have known thereof.

Amending and Supplementing Contract Documents:

3.5. The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

3.5.1. A Change Order (pursuant to paragraph 10.4),

or

3.5.2. A Work Change Directive (pursuant to paragraph 10.1).

As indicated in paragraphs 11.2 and 12.1, Contract Price and Contract Time may only be changed by a Change Order.

3.6. In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in one or more of the following ways:

3.6.1. A Field Order (pursuant to paragraph 9.5),

3.6.2. Engineer's approval of a Shop Drawing or sample (pursuant to paragraphs 6.26 and 6.27), or

3.6.3. Engineer's written interpretation or clarification (pursuant to paragraph 9.4).

Reuse of Documents:

3.7. Neither Contractor nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with Owner shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of Design Engineer; and they shall not reuse any of them on extensions of the Project or any other project without written consent of Owner and Design Engineer and specific written verification or adaptation by Design Engineer.

ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; CONSTRUCTION LAYOUT

Availability of Lands:

4.1. Owner shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements 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. Temporary easements will be provided to accommodate normal construction methods and the Contractor may be required to protect designated structures or vegetation from damage. The Contractor may provide additional lands required for temporary construction facilities and storage of materials and equipment at his own expense. Evidence, in writing, of permission to occupy or use areas outside the limits of public right-of-way or easements provided by the Owner shall be supplied to the Engineer. If Contractor believes that any delay in Owner's furnishing these lands, rights-of-way or easements entitles Contractor to an extension of the Contract Time, Contractor may make a claim therefor as provided in Article 12.

Physical Conditions:

4.2.1. Explorations and Reports: Reference is made to the Supplementary Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by Design Engineer in preparation of the Contract Documents. These reports are not guaranteed as to accuracy or completeness, nor are they part of the Contract Documents. Contractor shall have full responsibility with respect to subsurface conditions at the site.

4.2.2. Existing Structures: Reference is made to the Supplementary Conditions for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in paragraph 4.3) which are at or contiguous to the site that have been utilized by the Design Engineer in preparation of the contract Documents. Contractor may rely upon the accuracy of the technical data contained in such drawings, but not for the completeness thereof for Contractor's purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, Contractor shall have full responsibility with respect to physical conditions in or relating to such structures.

4.2.3. Report of Differing Conditions: If Contractor believes that:

4.2.3.1. Any technical data on which Contractor is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is inaccurate, or

4.2.3.2. Any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the Contract Documents,

Contractor shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted by paragraph 6.22), notify Owner and Engineer in writing about the inaccuracy or difference.

4.2.4. Engineer's Review: Engineer will promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

4.2.5. Possible Document Change: If Engineer concludes that there is a material error in the Contract Documents or that because of newly discovered conditions a change in the Contract documents is required, a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document the consequences of the inaccuracy or difference.

4.2.6. Possible Price and Time Adjustments: In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference. If Owner and Contractor are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in Articles 11 and 12.

Physical Conditions - Underground Facilities:

4.3.1. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to Owner or Design Engineer by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

4.3.1.1. Owner and Design Engineer shall not be responsible for the accuracy or completeness of any such information or data; and,

4.3.1.2. Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities show12/3/07n or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in paragraph 6.20 and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

4.3.2. Not Shown or Indicated. If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which Contractor could not reasonably have been expected to be aware of, Contractor shall promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 6.22), identify the Owner of such Underground Facility and give written notice thereof to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.20. Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which Contractor could not reasonably have been expected to be aware of. If the parties are unable to agree as to the

amount or length thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

Reference Points:

4.4.1 Engineer shall provide engineering surveys to establish reference points and benchmarks for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall protect and preserve the established reference points and benchmarks and shall make no changes or relocations without the prior written approval of Engineer. 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 the accurate replacement or relocation of such reference points by professionally qualified personnel.

4.4.2. The Contractor shall protect from physical disturbance all monuments and benchmarks of the City, County, State or Federal Government without the prior written approval of the Owner or until they have been removed, witnessed or otherwise disposed of by the Engineer.

Construction Layout:

4.5. When there is no bid item for contractor provided staking, the City Engineer or the Design Engineer, as designated at the pre-construction conference, will provide construction layout (staking) of all improvements at no cost to the Contractor. The Contractor shall be responsible for scheduling staking and shall provide the Engineer with at least 48 hours notice prior to the time staking is required. The Contractor must satisfy himself as to the meaning of all stakes and marks prior to start of any construction activity based on those stakes. The Engineer assumes no liability for stakes that are misinterpreted by the Contractor or are damaged due to any activity. Once stakes are set and marked, it is the Contractors responsibility to preserve them from all types of damage, and in the event of his failure to do so, he shall pay the Engineer to reset the stakes.

ARTICLE 5 - BONDS AND INSURANCE

Performance and Other Bonds:

5.1. Contractor shall furnish performance and payment Bonds, each in an amount equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by Law or Regulation or by the Contract Documents. The performance bond shall acknowledge the one year correction period in accordance with the requirements of Article 13. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties who 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.

5.2. If the surety on any Bond furnished by Contractor is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.1, Contractor shall within five days thereafter substitute another Bond and Surety, both of which must be acceptable to Owner.

Contractor's Liability Insurance:

5.3. Contractor shall purchase and maintain such commercial general liability and other insurance as is appropriate for the Project and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance and furnishing of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed or furnished by Contractor, by any Subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

5.3.1. Claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts, as per state and federal statutory requirements.

5.3.2. Employers Liability Insurance covering claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees with a $500,000.00 each person, limit.

5.3.3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

5.3.4. Claims for property damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;

5.3.5. Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and

5.3.6. The commercial general liability insurance required under paragraphs 5.3.3 through 5.3.5 shall have the following specific coverages:

(1) General Liability:

1.	Each Occurrence	$1,000,000
2.	Personal and Advertising Injury	$1,000,000
3.	Products and Completed Operations Aggregate	$1,000,000
4.	General Aggregate	$2,000,000
5.	Rented Premises	$ 100,000
6.	Medical Expenses	$ 5,000

(2) Excess Liability:

Bodily Injury and Property Damage Combined:

$1,000,000 Each Occurrence
$1,000,000 Annual Aggregate

The commercial general liability insurance shall include completed operations insurance. Property Damage liability insurance shall be provided with coverages for explosion, collapse and underground hazards, where applicable. The Owner shall be named as an additional insured on the Contractor's general liability policy.

(3) Automobile Liability:

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. Coverages for hired car and employee non-owned auto liabilityshall also be provided. The coverage limits shall be:

Combined Single Limit for Each Occurrence	$1,000,000

(4) Contractual Liability Insurance:

5.4. The commercial general liability insurance required by paragraph 5.3 will include contractual liability insurance applicable to Contractor's obligations under the Contract Documents.

(5) Property Insurance:

5.5. 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 required by Laws and Regulations) for all projects which include construction of or modification to above ground structures. This insurance shall include the interests of Owner, Contractor and Subcontractors all of whom shall be listed as insured or additional insured parties, shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and 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 but not limited to fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance, Contractor shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.

5.6. Contractor shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by Laws and Regulations which will include the interests of Owner, Contractor and Subcontractors all of whom shall be listed as insured or additional insured parties.

Owners Liability Insurance:

5.7. Contractor, at his sole expense, shall purchase Owner's Protective Liability Insurance and provide owner with the original policy. This insurance shall be maintained in full force and effect for the duration of the Contract by Contractor and shall name the Owner as the named Insured. This insurance shall have the following limits:

Each Occurrence	$1,000,000
General Aggregate	$1,000,000

This insurance shall protect Owner against any and all claims and liabilities for injury to or death of persons, or damage to property caused in whole or in part by, or alleged to have been caused in whole or in part by, the negligent acts or omissions of Contractor or Subcontractors or any agent, servant, worker or employee of Contractor or Subcontractor arising from the operations or Work for the project.

Notice of Cancellation:

5.8. All of the policies of insurance so required to be purchased and maintained (or the certificates) in accordance with paragraphs 5.3 through 5.7 shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty (30) days prior written notice has been given to Owner. 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 13.12. In addition, Contractor shall maintain such completed operations insurance for one year after final payment and furnish Owner with evidence of continuation of such insurance at final payment.

Receipt and Application of Proceeds:

5.9. Any insured loss under the policies of insurance required by paragraphs 5.5 and 5.6 will 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 5.12, Owner shall deposit in a separate account any money so received, and 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.

5.10. 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 such duties.

Acceptance of Insurance:

5.11. If Owner has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with paragraphs 5.3 through 5.7 on the basis of its not complying with the Contract Documents, Owner shall notify Contractor in writing thereof within thirty days of the date of delivery of such certificates to Owner in accordance with paragraph 2.1. Contractor shall provide to Owner such additional information in respect of insurance provided by Contractor as Owner may reasonably request. Failure by Owner to give any such notice of objection within the time provided shall constitute acceptance of such insurance purchased by Contractor as complying with the Contract Documents.

Partial Utilization - Property Insurance:

5.12. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with paragraph 14.10; 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.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence:

6.1. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but Contractor shall not be 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.

6.2. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to Owner and 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.

Labor, Materials and Equipment:

6.3. Contractor shall provide competent, suitably qualified personnel to perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during the allowable working hours as defined in paragraph 2.6.1. Contractor will not permit overtime work or the performance of

Work on Saturday, Sunday or any legal holiday without Engineer's prior consent.

6.4. Unless otherwise specified in the Supplementary Conditions, Contractor shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

6.5. 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. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16.

6.5.1. Salvaged Materials. All materials designated for salvage during the progress of the Work and or specified to be reused in new construction, shall remain the property of the Owner. Salvaged materials shall be delivered and neatly piled at any point within the City Limits which is designated by the Owner or Engineer. Transportation and handling shall be at the Contractor's expense. Salvaged materials will be considered to be in the custody of the Contractor, and he will be held responsible for their care and protection and must cover any losses resulting from damage, theft, or misappropriation while they remain on the job site or while en route to the place of storage.

6.5.2. Storage of Materials. All materials delivered to and stored on the project site shall be neatly placed to minimize obstruction and allow for convenient inspection. No materials or equipment shall be stored within five (5) feet of fire hydrants or trees which are to be protected. All fire hydrants shall remain readily accessible to the Fire Department throughout the project unless otherwise approved by the Owner.

Adjusting Progress Schedule:

6.6. Contractor shall submit to Engineer for acceptance as defined in paragraph 2.6.1, any adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any other provisions of the Contract Documents applicable thereto.

Substitutes of "Or-Equal" Items:

6.7.1. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by Engineer if sufficient information is submitted by Contractor to allow Engineer to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by Engineer will include the following. Requests for review of substitute items of material and equipment will not be accepted by Engineer from anyone other than Contractor. If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make written application to Engineer for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by Engineer in evaluating the proposed substitute. Engineer may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.

6.7.2. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to Engineer, if Contractor submits sufficient information to allow Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by Engineer will be similar to that provided in paragraph 6.7.1. as applied by Engineer.

6.7.3. Engineer will be allowed a reasonable time within which to evaluate each proposed substitute. Engineer will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without Engineer's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing.

Concerning Subcontractors, Suppliers and Others:

6.8.1. Contractor shall not employ any Subcontractor, Supplier or other person or organization (including those acceptable to Owner and Engineer as indicated in paragraph 6.8.2), whether initially or as a substitute, against whom Owner or Engineer may have reasonable objection. Contractor shall have the ability to substitute a Subcontractor which is not adequately performing Work provided the Owner and Engineer consent to the substitution. Further, Contactor shall not be entitled to an increase in Contract Time or Contact Price for substitution of a Subcontractor. Contractor shall not employ any Subcontractor who does not possess the licenses necessary to furnish the Work or who is on the Owner's "List of Suspended Contractors" at the date of the Opening of Bids. Contractor shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom Contractor has reasonable objection.

6.8.2. If the Owner requests the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to Owner in advance of the specified date prior to the Effective Date of the Agreement for acceptance by Owner and Engineer and if Contractor has submitted a list thereof in accordance with said request, Owner's or Engineer's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case Contractor shall submit an acceptable substitute. No acceptance by Owner or Engineer of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

6.8.3. The total amount of the work performed by Subcontractors shall not exceed seventy (70) percent of the total Contract Price as determined based on the units of work to be performed by Subcontractors at the actual unit prices contained in the Agreement. The determination of the amount of work to be performed by the Subcontractors shall be made at the time of bid evaluation and award. For the purposes of this paragraph 6.8.3, "work" shall include all services, labor, equipment and materials associated with each specific item of the contract. The purchase of materials by the Contractor for use by Subcontractors in completing the project shall not be credited toward the amount of work performed by the Contractor. If Engineer has reason to believe that any unit price contained in the agreement does not represent a reasonable price for the Work involved with the specific item, Contractor shall furnish full documentation of the unit price(s) determination in accordance with the provisions of paragraphs 11.4, 11.5 and 11.6. If deemed necessary by the Engineer, the unit price shall be adjusted, the purposes of determining subcontractor participation only, based on a determination of costs in accordance with paragraphs 11.4, 11.5 and 11.6. If specific units of Work involve more than one Subcontractor, Contractor shall provide documentation which enables Engineer to determine the portion of the unit price attributable to each Subcontractor. If it is determined during the course of the Work that the aggregate amount of the work being performed by subcontractors exceeds seventy (70) percent of the Contract Price, Contractor shall take appropriate actions to comply with the requirements of this paragraph 6.8.3.

6.9. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor just as contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of Owner or Engineer to pay or to see to the payment of any monies due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.

6.10. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

6.11. All Work performed for Contractor by a Subcontractor will be pursuant to an appropriate agreement between Contractor and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Contractor shall pay each Subcontractor a just share of any insurance moneys received by Contractor on account of losses under policies issued pursuant to paragraphs 5.5 and 5.6.

Patent Fees and Royalties:

6.12. 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 attorney's fees and court costs) 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.

Licenses and Permits:

6.13.1. Contractor shall obtain and keep in effect all licenses necessary for furnishing and performance of the Work. Contractor shall furnish Owner with a copy of all required licenses.

6.13.2. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all other construction permits and licenses specifically including all permits required for work in highways, railroads and regulation of other governmental agencies. 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 Bids, or if there are no Bids, on the Effective Date of the Agreement. Contractor shall pay all charges of utility owners for connections to the Work, and Owner shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

Laws and Regulations:

6.14.1. Contractor shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations. Specifically, the Contractor shall observe all applicable provisions of K.S.A. 44-201 and any amendments thereto in effect as of the Effective Date of Agreement.

6.14.2. If Contractor observes that the Specifications or Drawings are at variance with any Laws or Regulations, Contractor shall give Engineer prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in

paragraph 3.4. If Contractor performs any Work knowing or having reason to know that it is contrary to such Laws or 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 and Regulations.

Taxes:

6.15. For all projects, payment of the Kansas State Sales Tax or Compensating Tax is not required. The City of Topeka will furnish an exemption certificate (including exemption certificate number) obtained from the Sales and Compensating Tax Division, of the Department of Revenue of the State of Kansas to the Contractor, Subcontractor or repairman making purchases of any tangible personal property to be incorporated in this project. The Contractor, Subcontractor or repairman must furnish all suppliers with a copy of the properly executed exemption certificate secured for this project. He may reproduce as many copies of the certificate as he may need.

Use of Premises:

6.16. Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against Owner or Engineer by any such owner or occupant because of the performance of the work, Contractor shall promptly attempt to settle with such other partyby agreement or otherwise resolve the claim at law. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold Owner and Engineer harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court costs) arising directly indirectly or consequentially out of any action, legal or equitable, brought by any such other party against Owner or Engineer to the extent based on a claim arising out of Contractor's performance of the Work.

6.17. During the progress of the Work, Contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by Owner. Contractor shall restore to original condition all property not designated for alteration by the Contract Documents

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

Documents On-Site:

6.19. Contractor shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 9.4) in good order. These documents together with all approved samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference.

Safety and Protection:

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

6.20.1. All employees on the Work and other persons and organizations who may be affected thereby;

6.20.2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and

6.20.3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.

Contractor shall comply with all applicable Laws and Regulations of any public body having jurisdiction for 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. All damage, injury or loss to any property referred to in paragraph 6.20.2 or 6.20.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work 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 Design 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 14.13 that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.21. Contractor shall designate a responsible representative 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.

Emergencies:

6.22. 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 if Contractor believes that any significant changes in the Work

or variations from the Contract Documents have been caused thereby. If Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Work Change Directive or Change Order will be issued to document the consequences of the changes or variations.

Shop Drawings and Samples:

6.23. After checking and verifying all field measurements, Contractor shall submit to Engineer for review and approval in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.6.2), or for other appropriate action if so indicated in the Supplementary Conditions, five copies (unless otherwise specified) of all Shop Drawings, which will bear a stamp or specific written indication that Contractor has satisfied Contractor's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as Engineer may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable Engineer to review the information as required.

6.24. 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 be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

6.25.1. Before submission of each Shop Drawing or sample Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

6.25.2. At the time of each submission, Contractor shall give Engineer specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

6.26. Engineer will review and approve with reasonable promptness Shop Drawings and samples, but Engineer's review and approval will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. Contractor shall make corrections required by Engineer, and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.27. Engineer's review and approval of Shop Drawings or samples shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has in writing called Engineer's attention to each such variation at the time of submission as required by paragraph 6.25.2 and Engineer has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by Engineer relieve Contractor from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 6.25.1.

6.28. Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to Engineer's review and approval of the pertinent submission will be the sole expense and responsibility of Contractor.

Continuing the Work:

6.29. Contractor shall carry on the Work and adhere to 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 permitted by paragraph 15.5 or as Contractor and Owner may otherwise agree in writing.

Indemnification:

6.30. To the fullest extent permitted by Laws and Regulations Contractor shall indemnify and hold harmless Owner and Engineer and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) 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 (b) is caused in whole or in part by any negligent act or omission of Contractor, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

6.31. In any and all claims against Owner or Engineer or any of their consultants, agents or employees by any employee of Contractor, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.30 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

6.32. The obligations of Contractor under paragraph 6.30 shall not extend to the liability of Engineer, Engineer's consultants, agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, design or specifications.

Coordination with Utilities.

6.33. The Contractor shall notify in writing responsible representatives of public utilities, railroads, or any other facilities or property that will be affected by his operations. Such notice shall be given in a timely manner before beginning work. The Contractor shall thereafter coordinate his work with the work necessary to protect or relocate such utilities, property or facilities, and cooperate to the fullest extent to avoid damage or service interruptions. For obtaining underground utility locations, the Contractor shall utilize the Kansas One-Call service or other appropriate entity

Public Convenience.

6.34. The Contractor shall notify owners of adjacent property and cooperate with them in the protection of their property. Access to driveways, houses and buildings, and temporary approaches and crossings of streets and sidewalks shall be provided, unless otherwise directed by the Engineer, and kept in good condition.

Traffic Control.

6.35. The Contractor shall comply with all pertinent requirements set forth in the drawing "Typical Traffic Control Through Construction Areas", of the Contract Documents, and as directed by the Engineer. The Contractor shall obtain approval of traffic control devices and methods from the City of Topeka Traffic Engineer at least three (3) days prior to beginning work. All barricades, signs, lights and traffic control devices of any nature shall conform with current requirements of the "Manual on Uniform Traffic Control Devices for Streets and Highways."

Emergency Project Identification:

6.36. The Contractor, at the discretion of the Engineer, shall erect in a prominent place on the project a legible sign printed in letters and figures not less than three (3) inches high, showing the name of the Contractor, his Topeka address, and the phone numbers of responsible personnel for day or night emergency contact.

Relations Between Contractor and Labor:

6.37. The Contractor and any Subcontractors shall take affirmative action to insure that employees are treated without regard to their race, religion, creed, color, sex, physical handicaps (which is unrelated to the ability to perform a particular job or occupation), national origin, ancestry or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor and any Subcontractors shall agree to post, in a conspicuous place available to employees and applicants for employment, notices to be provided by the Contracts and Procurement Division-Contract Compliance setting forth the provisions of this paragraph.

The Contractor or any Subcontractor shall provide all Affirmative Action Information including an Affirmative Action Program, weekly payroll schedules, and other documentation as may be specified in this Project Manual, necessary to implement the construction compliance requirements of the United States Government and ordinances of the City of Topeka, Kansas. It shall be no excuse that the employer has a collective bargaining agreement with any union providing for exclusive referral or approval systems that such Affirmative Action Information was not provided.

The failure of the Contractor or any Subcontractor to comply with non-discrimination requirements of this Specification shall be grounds for cancellation, termination or suspension of the Contract in whole or in part by the Owner and the Contractor or Subcontractor may be declared ineligible for further Contracts with the Owner until satisfactory proof of intent to comply shall be accepted by the Owner.

Wage Rates:

6.38. The wage rate for employees of a Contractor or Subcontractor shall not be less than the minimum wage prescribed by federal or state law unless higher compensation is required by federal or state law.

Sanitary Conveniences:

6.39. The Contractor shall provide all necessary privy accommodations for the use of his employees and shall maintain the same in a clean and sanitary condition. He shall not create or permit any nuisance to the public or to residents in the vicinity of the work.

ARTICLE 7 - OTHER WORK

Related Work at Site:

7.1. Owner may perform other work related to the Project at the site by Owner's own forces, have other work performed by utility owners or let other direct contracts therefor which may contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Supplementary Conditions, written notice thereof will be given to Contractor prior to starting any such other work; and, if Contractor believes that such performance will involve additional expense to Contractor or requires additional time and the parties are unable to agree as to the extent thereof, Contractor may make a claim therefor as provided in Articles 11 and 12. If the Work of others is identified in the Supplementary Conditions or elsewhere in the Contract Documents, coordination with said Work shall be considered a requirement of this project and as such Contractor shall not be entitled to an extension of Contract Time or Price for coordination with the Work of others.

7.2. Contractor shall afford each utility owner and other Contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional work with Owner's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. Contractor shall do all cutting, fitting and patching of the 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.

7.3. If any part of Contractor's Work depends for proper execution or results upon the work of any such other contractor or utility owner (or Owner), Contractor shall inspect and promptly report to Engineer in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure so to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work except for latent or non-apparent defects and deficiencies in the other work.

Coordination:

7.4. If Owner contracts with others for the performance of other work on the Project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the Supplementary Conditions, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided, in the Supplementary Conditions. Unless otherwise provided in the Supplementary Conditions, neither Owner nor Engineer shall have any authority or responsibility in respect of such coordination.

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 against whom Contractor makes no reasonable objection, 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 and 14.13.

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, 4.4 and 4.5. Paragraph 4.2 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions at the site and in existing structures which have been utilized by Design Engineer in preparing the Drawings and Specifications.

8.5. Owner is obligated to execute Change Orders as indicated in paragraph 10.4.

8.6. Owner's responsibility in respect of certain inspections, tests and approvals is set forth in paragraph 13.4.

8.7. In connection with Owner's right to stop Work or suspend Work, see paragraphs 13.10 and 15.1. Paragraph 15.2 deals with Owner's right to terminate services of Contractor under certain circumstances.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

Owner's Representative:

9.1. Engineer will be Owner's representative during the construction period. The Engineer for these purposes may be either the Design Engineer or the City Engineer as designated in the Agreement. 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.

Visits to Site:

9.2. Engineer will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform to the Contract Documents.

Project Representation:

9.3. Engineer will furnish a Project Representative to assist Engineer in observing the performance of the Work. The Project Representative may be required by Engineer or Owner to provide full-time observation of the Work. The Project Representative is Engineer's Agent, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding his actions. The Project Representative's dealings in matters pertaining to the on-site Work shall in general be only with Engineer and Contractor, and dealings with subcontractors shall only be through or with the full knowledge of Contractor. Written communication with Owner will be only through or as directed by Engineer.

9.3.1 The Project Representative will:

(1) Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent and assisting him in understanding the intent of the Contract Documents and assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.

(2) As requested by Engineer, assist in obtaining from Owner additional details or information, when required at the job site for proper execution of the Work.

(3) Conduct on-site observations and testing of the Work in progress to assist Engineer in determining if the Work is proceeding in accordance with the Contract Documents and that completed Work will conform to the Contract Documents.

(4) Be responsible for the maintenance of record documents showing changes made during construction.

9.3.2 The duties and responsibilities and the authority of the Project Representative as Engineer's Agent during construction shall not exceed in any case those of the Engineer as Owner's representative during construction. Except on written instructions of Engineer, the Project Representative may not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.

9.3.3 Specifically omitted from the Project Representative's duties are any review of the Contractor's safety precautions, or the means, methods, sequences or procedures required for the Contractor to perform the work but not relating to the final or completed Project. Omitted design or review services include, but are not limited to, shoring, scaffolding, underpinning, temporary retainment, excavations, and any erection methods and temporary bracing.

Clarifications and Interpretations:

9.4. Engineer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as 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 an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, Contractor may make a claim therefor as provided in Article 11 or Article 12.

Authorized Variations in Work:

9.5. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner, and also on Contractor who shall perform the Work involved promptly. A Field Order may authorize a change in the Work which results in a minor change in the quantity of specific unit price items included in the Agreement. If Contractor believes that a Field Order justifies an increase in the Contract Price, other than minor variations in quantities for Unit Price items, or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, Contractor may make a claim therefor as provided in Article 11 or 12.

Rejecting Defective Work:

9.6. 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 paragraph 13.9, whether or not the Work is fabricated, installed or completed.

Shop Drawings, Change Orders and Payments:

9.7. In connection with Engineer's responsibility for Shop Drawings and samples, see paragraphs 6.23 through 6.28 inclusive.

9.8. In connection with Engineer's responsibilities as to Change Orders, see Articles 10, 11 and 12.

9.9. In connection with Engineer's responsibilities in respect of Applications for Payment, etc., see Article 14.

Determinations of Quantities:

9.10. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer written decisions thereon will be final and binding upon Owner and Contractor, unless, within ten days after the date of any such decision, either Owner or Contractor delivers to the other party to the Agreement and to Engineer written notice of intention to appeal from such a decision.

Decisions on Disputes:

9.11. 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 performance and furnishing of the Work and claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Time will 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 will be delivered by the claimant to Engineer and the other party

to the Agreement promptly (but in no event later than fifteen days) after the occurrence of the event or after the end of the period of events giving rise thereto, and written supporting data will be submitted to Engineer and the other party within thirty days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim.

9.12. When functioning as interpreter and judge under paragraphs 9.10 and 9.11, 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. The rendering of a decision by Engineer pursuant to paragraphs 9.10 and 9.11 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.16) will be a condition precedent to any exercise by Owner or Contractor of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

Limitations on Engineer's Responsibilities:

9.13. 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 Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

9.14. 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 described 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 shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.15 or 9.16.

9.15. 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 or furnish the Work in accordance with the Contract Documents.

9.16. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

ARTICLE 10 - CHANGES IN THE WORK

10.1. Without invalidating the Agreement and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

10.2. If Owner and Contractor are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Work Change Directive, a claim may be made therefor as provided in Article 11 or Article 12.

10.3. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 3.4 and 3.5, except in the case of an emergency as provided in paragraph 6.22 and except in the case of uncovering Work as provided in paragraph 13.9.

10.4. Owner and Contractor shall execute appropriate Change Orders covering:

10.4.1. Changes in the Work which are ordered by Owner pursuant to paragraph 10.1, are required because of acceptance of defective Work under paragraph 13.13 or correcting defective Work under paragraph 13.14, or are agreed to by the parties;

10.4.2. Changes in the Contract Price or Contract Time which are agreed to by the parties; and

10.4.3. Changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by Engineer pursuant to paragraph 9.11; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.29.

10.5. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be Contractor's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

ARTICLE 11 - CHANGE OF CONTRACT PRICE

11.1. The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at his expense without change in the Contract Price.

11.2. The Contract Price may only be changed by a Change Order. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to Engineer promptly (but in no event later than fifteen days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within thirty days after such occurrence (unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price shall be determined by Engineer in accordance with paragraph 9.11 if Owner and Contractor cannot otherwise agree on the amount involved. Failure to submit a claim for an adjustment in the Contract Price in accordance with this paragraph 11.2. will invalidate said claim.

11.3. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

11.3.1. Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of paragraphs 11.9.1 through 11.9.3, inclusive).

11.3.2. By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 11.6.2.1.)

11.3.3. On the basis of the cost of the Work or a Force Account (determined as provided in paragraphs 11.4 and 11.5) plus a Contractor's Fee for overhead and profit (determined as provided in paragraphs 11.6 and 11.7)

Cost of the Work:

11.4. The term Cost of the work means the sum of all costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 11.5.

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

11.4.2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services

required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

11.4.3. Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from Subcontractors acceptable to Contractor and shall deliver such bids to Owner who will then determine, with the advice of Engineer, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as Contractor's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

11.4.4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.

11.4.5. Supplemental costs including the following:

11.4.5.1. The proportion of necessary transportation, travel and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

11.4.5.2. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.

11.4.5.3. Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work. Equipment/machinery costs shall be apportioned to the actual time the equipment/machinery is in operation to perform the work. Down time or standby time shall not be charged to the Owner by the Contractor.

11.4.5.4. Any applicable taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

11.4.5.5. The cost of utilities, fuel and sanitary facilities at the site.

11.4.5.6. Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

11.4.5.7. Cost of premiums for additional Bonds and insurance required because of changes in the Work.

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

11.5.1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general manager, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by Contractor whether at the site or in Contractor's principal or a branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.4.1 or specifically covered by paragraph 11.4.4 - all of which are to be considered administrative costs covered by the Contractor's Overhead and Fee.

11.5.2. Expenses of Contractor's principal and branch offices other than Contractor's office at the site.

11.5.3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

11.5.4. Cost of premiums for all Bonds and for all insurance whether or not Contractor is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by sub-paragraph 11.4.5.7 above).

11.5.5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

11.5.6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 11.4.

Contractor's Fee:

11.6. The Contractor's Fee allowed to Contractor for overhead and profit shall be determined as follows:

11.6.1. A mutually acceptable fixed fee; or if none can be agreed upon,

11.6.2. A fee based on the following percentages of the various portions of the cost of the Work:

11.6.2.1. For costs incurred under paragraphs 11.4.1 and 11.4.2, the Contractor's Fee shall be fifteen percent;

11.6.2.2. For costs incurred under paragraphs 11.4.3 and 11.4.4 the Contractor's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a fee, the subcontractor fee for overhead and profit shall be fifteen percent;

11.6.2.3. No fee shall be payable on the basis of costs itemized under paragraph 11.4.5;

11.6.2.4. The amount of credit to be allowed by Contractor to Owner for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's Fee by an amount equal to ten percent of the net decrease; and

11.6.2.5. When both additions and credits are involved in any one change, the adjustment in Contractor's Fee shall be computed on the basis of the net change in accordance with paragraphs 11.6.2.1 through 11.6.2.4, inclusive.

Force Account Work:

11.7. Whenever a change in the Work and Contract Price are authorized to be done on the basis of a Force Account, the cost of said Work shall be paid for pursuant to the requirements of paragraphs 11.4 through 11.6 and this paragraph 11.7. The Contractor and the Engineer or his designated Project Representative shall compare and agree on all records for labor, material and equipment furnished on a daily basis. All applications for payment of Force Account Work shall be accompanied by fully documented and itemized breakdowns of all types of costs incurred together with supporting data. Supporting data shall include copies of all invoices for actual materials incorporated in the Work, equipment rentals, subcontractor itemized invoices, etc.

Cash Allowances:

11.8. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to Engineer. Contractor agrees that:

11.8.1. The allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and

11.8.2. Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

Unit Price Work:

11.9.1. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer in accordance with

Paragraph 9.10.

11.9.2. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

11.9.3. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment if the total cost of a particular item of Unit Price Work amounts to five percent (5%) or more of the Contract Price based on the original bid and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than twenty percent (20%) from the bid quantity of such item indicated in the Agreement unless otherwise specified in the Supplementary Conditions. Contractor may make a claim for an increase in the Contract Price in accordance with Article 11 if the parties are unable to agree as to the amount of any such increase.

ARTICLE 12 - CHANGE OF CONTRACT TIME

12.1 The Contract Time may only be changed by a Change Order or a Written Amendment. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party and to Engineer promptly (but in no event later than fifteen days) after the occurrence of the event or after the end of the period of events giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within thirty days after such occurrence (unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim). All claims for adjustment in the Contract Time shall be determined by Engineer in accordance with paragraph 9.11 if Owner and Contractor cannot otherwise agree. Failure to submit a claim for an adjustment in the Contract Time in accordance with the requirements of this paragraph 12.1. will invalidate said claim.

12.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of Contractor if a claim is made therefor as provided in this Article 12. Such delays shall include, but not be limited to, acts or neglect by Owner or others performing additional work as contemplated by Article 7, or to fires, floods, labor disputes not the fault of the Contractor, coordination with the work of others, abnormal weather conditions, acts of God, and delays caused by subcontractors and suppliers if the delays are beyond the control of the subcontractor or supplier.

12.2.1. Inclement weather shall be defined as precipitation and/or temperature conditions which prevent substantial work on the project for more than 50% of the full number of hours in the normal daily schedule as determined by the Engineer. Abnormal weather shall be defined as inclement weather in excess or variation of the normal monthly averages for the specific type of inclement weather condition. Requests for an extension of contract time due to abnormal weather conditions will be considered by the Engineer, subject to the following requirements:

(1) Any individual request shall cover a minimum of one full calendar month or portion thereof if at the beginning or ending of the project time. Requests shall be submitted no more frequently than monthly.

(2) Each request shall fully document the specific date and nature of each inclement weather day in the period for which the request is made.

(3) Each request shall document the normal monthly average number of days for inclement weather conditions being considered based on the following table:

Month	Normal monthly average Inclement weather days
January	8
February	7
March	7
April	6
May	4
June	4
July	4
August	4
September	5
October	6
November	7
December	7

(4) Each request shall document the number of normal schedule days (weekdays) in the period during which substantial work could have proceeded, but did not at Contractor's choice.

(5) Each request shall document the number of non-normal schedule days (Saturdays, Sundays and holidays, unless otherwise authorized by the Engineer) in the period during which inclement weather defined in (2) above occurred.

(6) The determination of the number of extension days due to abnormal weather shall be made based on the number of inclement weather days determined in (2) above less the number of days determined in (3), (4) and (5) above.

12.3. All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) for delay by either party.

Computation of Time:

12.4.1. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

12.4.2. A calendar day of twenty-four hours measured from midnight to the next midnight shall constitute a day.

ARTICLE 13 - WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee:

13.1. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 13.

Access to Work:

13.2. Engineer and Engineer's representatives, other representatives of Owner, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at all reasonable times for their observation, inspecting and testing. Contractor shall provide proper and safe conditions for such access.

Tests and Inspections:

13.3. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests or approvals.

13.4. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish Engineer the required certificates of inspection, testing or approval. Contractor shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with Owner's or Engineer's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by Owner (unless otherwise specified).

13.5. All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to Owner and Contractor (or by Engineer if so specified).

13.6. If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.7. Neither observations by Engineer nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

Uncovering Work:

13.8. If any Work is covered contrary to the written request of or without the approval of

Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

13.9. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as Engineer may require, that portion of the work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals), and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as provided in Article 11. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and, if the parties are unable to agree as to the amount or extent thereof, Contractor may make a claim therefor as provided in Articles 11 and 12.

Owner May Stop the Work:

13.10. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor or any other party.

Correction or Removal of Defective Work:

13.11. If required by Engineer, Contractor shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Engineer, remove it from the site and replace it with non-defective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

One Year Correction Period:

13.12. If within one year after the date of Final Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, either correct such defective Work, or, if it has been rejected by Owner, remove it from the site and replace it with non-defective work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by Contractor. In special circumstances where a particular portion is placed in continuous service before Final Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

Acceptance of Defective Work:

13.13. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, also Engineer) prefers to accept it, Owner may do so. Contractor shall bear all direct, indirect and consequential costs attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner or deducted from amounts owed to Contractor.

Owner May Correct Defective Work:

13.14. If Contractor fails within a reasonable time after written notice of Engineer to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with paragraph 13.11, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days' written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, Owner may exclude Contractor from all or part of the site, take possession of all or part of the Work, and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees such access to the site as may be necessary to enable Owner to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of Owner in exercising such rights and remedies will be charged against Contractor in an amount approved as to reasonableness by Engineer, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, Owner may make a claim therefor as provided in Article 11. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

Owner May Regulate Work:

13.15. The Owner shall have the authority to regulate the amount of work which may be open or under construction in advance of the completed portions of the Work. The sequence of construction shall be approved by the Engineer prior to construction if not specifically covered in the Contract Documents.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

Basis of Payment:

14.1. Progress payments for unit price contracts shall be based on the number of units completed. If a number of units are partially completed, the estimated percentage of the partially completed units times the number of units shall determine the completed units for that item. Lump sum items shall be paid based on the estimated percentage of completion at the end of each progress payment period.

Application for Progress Payment:

14.2 Contractor shall submit to Engineer for review an Application for Payment filled out and signed by the Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. All applications for payment shall include an updated and/or revised project schedule conforming to the requirements of paragraph 2.6.1. Contractor shall submit the Application for Payment within seven (7) days following the end of the period for which payment is being requested. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation and proof of payment for said materials warranting that Owner has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and/or other arrangements to protect Owner's interest therein, all of which will be satisfactory to Owner. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

Contractor's Warranty of Title:

14.3. Contractor warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner, no later than the time of payment, free and clear of all Liens.

Review of Applications for Progress Payment:

14.4. Engineer will, within seven (7) days after receipt of each Application for Payment, both indicate in writing, a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reason for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application. Engineer will, within seven (7) days, review the resubmitted application as detailed above. Twenty-One (21) days after presentation of the Application for Payment with Engineer's recommendation for approval, the amount recommended will (subject to the provisions of the last sentence of paragraph 14.7) become due and when due will be paid by Owner to Contractor.

14.5. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.10, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended.

14.6. Engineer's recommendation of final payment will constitute an additional representation by Engineer to Owner that the conditions precedent to Contractor's being entitled to final payment as set forth in paragraph 14.13 have been fulfilled.

14.7. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to the Owner. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

14.7.1. The Work is defective, or completed Work has been damaged requiring correction or replacement,

14.7.2. The Contract Price has been reduced by Change Order.

14.7.3. Owner has been required to correct defective Work or complete Work in accordance with paragraph 13.14, or

14.7.4. Of Engineer's actual knowledge of the occurrence of any of the events enumerated in paragraphs 15.2.1 through 15.2.9 inclusive.

Owner may refuse to make payment of the full amount recommended by Engineer because claims have been made against Owner on account of Contractor's performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling Owner to a set-off against the amount recommended, but Owner must give Contractor immediate written notice stating the reasons for such action.

Substantial Completion:

14.8. When Contractor considers the entire Work ready for its intended use Contractor shall notify Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a notice of Substantial Completion. Within a reasonable time thereafter, Owner, Contractor and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor. If Engineer considers the Work substantially complete, Engineer will prepare and deliver to Owner and Contractor a notice of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a list of items to be

completed or corrected before final payment. At the time of delivery of the notice of Substantial Completion Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to operation, safety, maintenance, insurance and warranties.

14.9. Owner shall have the right to exclude Contractor from the Work after the date of Substantial Completion, but Owner shall allow Contractor reasonable access to complete or correct items on the list.

Partial Utilization:

14.10 The Owner shall have the right to take possession of and use any finished part of the Works when it can be established by the Owner and Engineer that the part in question constitutes a separately functioning and usable part of the Work that can be used by Owner without significant interference with Contractor's performance of the remainder of the Work, subject to the following:

14.10.1 Owner at any time may request Contractor in writing to permit Owner to use any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If Contractor agrees, Contractor will certify to Owner and Engineer that said part of the Work is substantially complete. Engineer will then issue a notice of Substantial Completion for said part of the Work. The provisions of paragraphs 14.8 and 14.9 will apply with respect to said Substantial Completion and the division of responsibility in respect thereof and access thereto.

14.10.2. Owner may at any time notify Contractor in writing of Owner's intent to take over operation or use of any such part of the Work although it is not substantially complete. Engineer shall make an inspection of that part of the work to determine its status of completion and prepare a list of items remaining to be completed or corrected thereon before final payment. Engineer shall submit said list together with a written recommendation as to the division of responsibilities pending final payment between Owner and Contractor with respect to operation, safety, maintenance, insurance, warranties and guarantees for that part of the Work which will become binding upon Owner and Contractor at the time when Owner takes over such operation or use. During such operation or use and prior to Substantial Completion of such part of the Work, Owner shall allow Contractor reasonable access to complete or correct items on said list and to complete other related Work.

If Contractor believes that Owner's action to take possession of and use said part of the Work justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, Contractor may make a claim therefor as provided in Article 11 or Article 12.

14.10.3. No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of paragraph 5.12 in respect of property insurance.

Final Inspection:

14.11. Upon notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to remedy such deficiencies.

Final Application for Payment:

14.12. After Contractor has completed all such corrections to the satisfaction of Engineer and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph 6.19) and other documents - all as required by the Contract Documents, and after Engineer has indicated that the Work is acceptable (subject to the provisions of paragraph 14.16), Contractor may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to Owner) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by Owner, Contractor may furnish receipts or releases and receipts in full; an affidavit of Contractor that the releases include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, Contractor may furnish a Bond or other collateral satisfactory to Owner to indemnify Owner against any Lien. The Contractor shall also be responsible for correct submittal of all payroll information to the satisfaction of the Contracts and Procurement Division-Contract Compliance prior to submittal of the application for final payment.

Final Payment and Acceptance; Deadline for Submission of Final Application for Payment:

14.13. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract documents have been fulfilled, including compliance with Section 14.13(a), Engineer will, within seven (7) days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application to Owner. If Engineer does not recommend payment, Engineer will return the Application to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor may make the necessary corrections and resubmit the application unless Contractor has forfeited payment pursuant to Section 14.13(a). Except as provided by Section 14.13(a), thirty (30) days after presentation to Owner of the application and accompanying documentation, in appropriate form and substance, and with Engineer's recommendation, the amount recommended by Engineer will become due and will be paid by Owner to Contractor.

14.13(a) Final Application for Payment; Deadline. If the Contractor has not submitted a final application for payment within sixty 60 days from the date of the Engineer's determination that the Work is acceptable pursuant to Section 14.12, the Owner will notify the Contractor, in writing, that a final application must be submitted within thirty (30) days from the date of the notification or else the Contractor will be deemed to have forfeited any remaining amounts due.

14.13(b) Forfeiture of Payment. Contractor agrees that failure to timely submit a Final Application for Payment pursuant to Section 14.13(a) will result in forfeiture of any remaining amounts due.

14.14. If, through no fault of Contractor, final completion of the Work is significantly delayed and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment and recommendation of Engineer, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.1, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Contractor's Continuing Obligation:

14.15. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by Engineer, nor the notice of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Work or any part thereof by Owner, nor any act of acceptance by Owner nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by Engineer pursuant to paragraph 14.13, nor any correction of defective Work by Owner will constitute an acceptance of Work not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 14.16).

Waiver of Claims:

14.16. The making and acceptance of final payment will constitute:

14.16.1. A waiver of all claims by Owner against Contractor, except claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.11 or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver by Owner of any rights in respect of Contractor's continuing obligations under the contract Documents; and

14.16.2. A waiver of all claims by Contractor against Owner other than those previously made in writing and still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

Owner May Suspend Work:

15.1. Owner may, at any time and without cause, suspend the work, or any portion thereof, for a period of not more than 120 days, by notice in writing to Contractor and Engineer. Contractor shall resume the Work on the date fixed by Owner by notice in writing to Contractor and Engineer. Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension by Owner without cause and in excess of 120 days if Contractor makes an approved claim therefor as provided in Articles 11 and 12.

Owner May Terminate:

15.2. Upon the occurrence of any one or more of the following events:

15.2.1. If Contractor commences a voluntary case under any chapter of the bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;

15.2.2. If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state law in effect at the time relating to bankruptcy or insolvency;

15.2.3. If Contractor makes a general assignment for the benefit of creditors;

15.2.4. If a trustee, receiver, custodian or agent of Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;

15.2.5. If Contractor admits in writing an inability to pay its debts generally as they become due;

15.2.6. If Contractor persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.6 as revised from time to time);

15.2.7. If Contractor disregards Laws or Regulations of any public body having jurisdiction;

15.2.8. If Contractor disregards the authority of Engineer; or

15.2.9. If Contractor otherwise violates in any substantial way any provisions of the Contract Documents;

Owner may, after giving Contractor (and the surety, if there be one) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of Contractor, exclude Contractor from the site and take possession of the Work, incorporate in the Work all materials and equipment stored at the site or for which Owner has paid Contractor but which are stored elsewhere, and finish the Work as Owner may deem expedient. In such case Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) such excess will be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to Owner. Such costs incurred by Owner will be approved as to reasonableness by Engineer and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph Owner shall not be required to obtain the lowest price for the Work performed.

15.3. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

15.4. Upon seven days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, Contractor shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court costs).

Contractor May Stop Work or Terminate:

15.5. If, through no act or fault of Contractor, the Work is suspended for a period of more than 120 days by Owner or under an order of court or other public authority, or Engineer fails to act on any Application for Payment within forty-five (45) days after it is submitted, or Owner fails for forty-five (45) days after submittal of the application to pay Contractor any sum finally determined to be due provided that Contractor has complied with all appropriate requirements of these Contract Documents, then Contractor may, upon seven days' written notice to Owner and Engineer, terminate the Agreement and recover from Owner payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if Engineer has failed to act on an Application for Payment or Owner has failed to make any payment as aforesaid, Contractor may upon seven days' written notice to Owner and Engineer stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve Contractor of the obligations under paragraph 6.29 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with Owner.

ARTICLE 16 - MISCELLANEOUS

Giving Notice:

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

General:

16.2. Should Owner or Contractor suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 16.2 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

16.3. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by paragraphs 6.30, 13.1, 13.12, 13.14, 14.3 and 15.2 and all of the rights and remedies available to Owner and Engineer thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

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Footnote: These General Conditions are based on the "Standard General Conditions of the Construction Contract", prepared by the Engineers Joint Contract Documents Committee, EJCDC No.1910-8 (1983 Edition). Deletions and additions have been made to the referenced document as deemed appropriate for use by the City of Topeka.