

SPECIAL CONDITIONS

TABLE OF CONTENTS

1. GENERAL 1

2. OWNER 1

3. ENGINEER 1

4. CONTRACTOR 1

5. EXAMINATION OF SITE PROJECT 1

6. REFERENCE SPECIFICATIONS 1

7. SUBLETTING OR SUBCONTRACTING 1

8. PUBLIC UTILITIES AND OTHER PROPERTY TO BE CHANGED 2

9. TRADE NAMES 2

10. MATERIALS AND WORKMANSHIP 2

11. PROJECT MAINTENANCE 2

12. EXISTING STRUCTURES AND SUBSURFACE SOIL 2

13. USE OF EXPLOSIVES 3

14. FIELD OFFICES 3

15. BARRICADES, LIGHTS AND WATCHMEN 3

16. PERMITS AND RIGHT-OF-WAYS 4

17. TEMPORARY TRAFFIC CONTROL 4

 A. DESCRIPTION 4

 B. STANDARDS 4

 C. ROAD CLOSURES AND DETOURS 4

 D. ACCESS 4

 E. BARRICADES 4

 F. RESPONSIBILITY FOR DAMAGES 5

 G. INSUFFICIENT SAFETY DEVICES 5

 H. RELOCATION AND MAINTENANCE 5

 I. NOTIFICATION OF AGENCIES 5

 J. ADVERSE WEATHER CONDITIONS 5

18. CONSTRUCTION IN HIGHWAY RIGHT-OF-WAY 5

19. FENCES, DRAINAGE CHANNELS AND CROP DAMAGE 5

20. PROTECTION OF TREES, PLANTS AND SHRUBS 6

21. HISTORICAL AND ARCHEOLOGICAL PROPERTIES 6

22. DISPOSAL OF WASTE AND SURPLUS EXCAVATION 6

23. WATER FOR CONSTRUCTION 6

24. OTHER UTILITIES 6

25. WAGE RATES 6

26. GUARANTY AGAINST DEFECTIVE WORK 7

27. COORDINATION WITH OTHERS 7

28. CLEANUP 7

29. CONTRACTOR’S AND SUB-CONTRACTOR’S INSURANCE 7

 A. Workmen’s Compensation 8

 B. Public Liability and Property Damage Insurance 8

 C. Automobile Liability and Property Damage Insurance 8

 D. Contractual Liability Coverage 8

 E. Indemnity 8

 F. Evidence of Insurance Coverage 8

30. CONTRACT TIME AND WORKING HOURS 9

31. LIQUIDATED DAMAGES FOR DELAY 9

32.	MEASUREMENT	9
33.	PARTIAL PAYMENTS	9
34.	WITHHOLDING PAYMENTS	9
35.	CHANGE ORDERS	10
36.	ITEMS FURNISHED UN-INSTALLED	10
37.	SAFETY	10
38.	EXISTING UTILITIES AND SERVICE LINES	11
39.	PRE-CONSTRUCTION CONFERENCE AND SCHEDULE	11
40.	OBSERVATION OF THE WORK	11
41.	CONSTRUCTION STAKES AND PROPERTY CORNERS	11
42.	MATERIAL TESTING	12
43.	CHANGES TO LINES AND GRADES	12
44.	CONNECTING WITH OLD WORK	12
45.	DE-WATERING EXCAVATIONS	12
46.	COPIES OF PLANS AND SPECIFICATIONS FURNISHED	12
47.	TERMINOLOGY	12
48.	DATA, MEASUREMENTS AND REPORTS	12
49.	AS-BUILT DIMENSIONS, DRAWINGS, AND DATA	13
50.	PRE-QUALIFICATION INFORMATION	13
51.	FORMS, PLANS AND SPECIFICATIONS	13

SPECIAL CONDITIONS

1. GENERAL

The provisions of these Special Conditions shall govern in the event of any conflict with or between the provisions of the General Conditions of Agreement. Where any Article of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these Special Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

In case of conflict between any of the Contract Documents, priority of interpretation shall be in the following order: Signed Agreement, Performance and Payment bonds, Special Bonds (if any), Pre-Bid Addenda (in reverse order of issuance), Wage Rate Determination, MWBE Requirements (if any), Bid Proposal, Bid Breakdown (if any), Special Conditions of Agreement, Special Funding Agency Provisions, Notice to Bidders, Information for Bidders, Scope of Work, Plans, Technical Specifications and General Conditions of Agreement.

The term Contract Documents shall include the Notice to Bidders, Information for Bidders, Bid Proposal, Bid Bond, Contract, Performance Bond, Payment Bond, Maintenance Bond, General Conditions, Special Conditions, Specifications and Plans. Such Contract Documents may informally be referred to as "The Specifications". The following terminology equivalents shall apply to these Contract Documents: Bid Advertisement equals Invitation To Bid equals Notice To Bidders; Bid Form equals Bid Proposal; Instructions to Bidders equals Information to Bidders; Supplemental Conditions equals Special Conditions.

The General Requirements referred to in the General conditions shall be construed to mean the relevant portions of the Contract Documents.

2. OWNER

The word "OWNER" in these contract documents shall be understood as referring to the Owner signing this contract.

3. ENGINEER

The word "ENGINEER" in these contract documents shall be understood as referring to the firm or person authorized by said OWNER.

4. CONTRACTOR

The word "CONTRACTOR" in these contract documents shall be understood as denoting the General Contractor signing this contract.

5. EXAMINATION OF SITE PROJECT

Prospective bidders shall make themselves thoroughly familiar with the sites of the project and shall make a careful examination of existing structures, soil, and water conditions to be encountered, improvements to be protected, disposal sites for surplus materials not designated to be salvaged materials, and methods of providing ingress and egress to private properties and of handling traffic during construction of the entire project.

6. REFERENCE SPECIFICATIONS

Where reference is made in these specifications to specifications compiled by other agencies, organizations or departments, such reference is made for expediency and standardization and such specifications referred to are hereby made a part of these specifications. Reference to other standard specifications shall be to the latest revision of the specifications.

7. SUBLETTING OR SUBCONTRACTING

The CONTRACTOR will not be permitted to assign, sell, transfer or otherwise dispose of the contract or any portion thereof, or his rights, title or interest therein without the approval of the OWNER. The CONTRACTOR will not be permitted to sublet any portion of the contract without the approval of the OWNER and the ENGINEER. No sub-contract will, in any case, relieve the CONTRACTOR of his responsibility under the contract and bond.

The CONTRACTOR shall perform with his own organization and with the assistance of workmen under his immediate

superintendence, work of a value not less than 50 percent of all work embraced in the contract exclusive of items not commonly found in contracts for similar work, or which require highly specialized knowledge, craftsmanship and/or equipment not ordinarily available in the organization of CONTRACTORS performing work of the character embraced in the contract.

8. PUBLIC UTILITIES AND OTHER PROPERTY TO BE CHANGED

In case it is necessary to change or move the property of any owner of a public utility, such property shall not be moved or interfered with until approval to do so has been given by the public utility and by the ENGINEER. The right is reserved to the Owner of public utilities to enter upon the limits of the project for the purpose of making such changes or repairs of their property that may be made necessary by performance of this Contract.

9. TRADE NAMES

Except as specifically stated otherwise, wherever in the specifications an article or class of material is designated by a trade name, or by the name or catalog number of any maker, patentee, manufacturer, or dealer, such designation shall be taken as intending to mean and specify the articles described or another equal thereto in quality, finish, and serviceability for the purpose intended as may be determined and judged by the ENGINEER in his sole discretion.

10. MATERIALS AND WORKMANSHIP

Unless otherwise specified, all materials shall be new. No material which has been used by the CONTRACTOR for any temporary purpose whatever is to be incorporated in the permanent structure without written consent of the ENGINEER.

Where material or equipment is specified by a trade or brand name, it is not the intention of the OWNER to discriminate against an equivalent product of another manufacturer, but rather to set a definite standard of equality or performance and to establish an equitable basis for the evaluation of bids. Where the words "equivalent", "proper" or "equal to" are used, they shall be understood to mean that the thing referred to shall be proper, the equivalent of, or equal to some other thing, in the opinion or judgment of the ENGINEER.

Unless otherwise specified, all materials shall be the best of their respective kinds and shall be in all cases fully equivalent to approved samples. Notwithstanding that the words "or equal to" or other such expressions may be used in the specifications in connection with material, manufactured article, or process, the material, article or process specifically designated shall be used, unless a substitute shall be approved in writing by the ENGINEER, and the ENGINEER shall have the right to require the use of such specifically designated material, article or process.

The CONTRACTOR shall be responsible for all materials delivered to him for all parts of the work, including that which has been partially paid for, until final acceptance of the entire work, and shall be liable for all losses or damages thereto which may occur during the progress of construction and before final acceptance. The CONTRACTOR shall be required to make good at this own cost any loss, injury or damage which the said materials or work may sustain from any source or cause whatsoever before final acceptance thereof.

11. PROJECT MAINTENANCE

The CONTRACTOR shall maintain and keep in good repair the improvements covered by these plans and specifications during the life of his contract.

12. EXISTING STRUCTURES AND SUBSURFACE SOIL

The plans show the locations of known surface and sub-surface structures. However, the OWNER assumes no responsibility for failure to show any or all of these structures on the Plans, or to show them in their exact location. It is mutually agreed that such failure shall not be considered sufficient basis for claims for additional compensation for extra work or for increasing the pay quantities in any manner whatsoever, unless the obstruction countered is such as to necessitate changes in the lines or grades, or requires the building of special work, provisions for which are not made in the plans and proposal, in which case the provisions in these specifications for extra work shall apply.

Prior to bidding, bidders may make their own subsurface soil investigations under time schedules and arrangements approved in advance by the OWNER or the ENGINEER. The CONTRACTOR shall determine to his satisfaction the subsoil conditions and their effect on the required construction and shall complete the work as required without additional cost to the OWNER.

13. USE OF EXPLOSIVES

Use of explosives will be allowed only upon written instructions of the ENGINEER. Should the CONTRACTOR elect to use explosives in the prosecution of the work, the utmost care shall be exercised so as not to endanger life or property.

The OWNER shall not be liable for damages done by the CONTRACTOR in the use of explosives. The CONTRACTOR shall notify the proper representative of any public service, corporation, any company, or any individual, not less than eight (8) hours in advance of the use of explosives which might endanger or damage their or his property along or adjacent to the work. Whenever explosives are stored or kept, they shall be stored in a safe and secure manner and all storage places be plainly marked "DANGEROUS EXPLOSIVES", and shall be under the care of a competent watchman at all times.

14. FIELD OFFICES

A. CONTRACTOR'S FIELD OFFICE. The CONTRACTOR will not be required to maintain an office at the job site during the entire period of construction. Readily accessible copies of the contract documents, the plans, and the working drawings shall be kept with the project's superintendent, and at such other points on the job as the ENGINEER may designate. The CONTRACTOR may erect such other temporary buildings as the work may require. Telephone services shall be maintained by the CONTRACTOR with an answering machine or answering service for receiving messages from the OWNER and/or ENGINEER. Offices for the CONTRACTOR shall be located at the project site, subject to the approval of the ENGINEER.

B. ENGINEER'S FIELD OFFICE. If an ENGINEER'S field office is required as a bid item for this project, the following shall be required: Prior to beginning construction on this project, the CONTRACTOR shall provide a separate temporary building and furniture for the office of the ENGINEER at the project location, as approved by the ENGINEER. This office shall have at least 120 square feet of floor space and shall be well lit and ventilated and shall have means of safely maintaining a comfortable office temperature at all times. This office may be adjacent or connected to another office but must be constructed so as to provide a separate and private office. The building shall be removed from the site upon completion of this project. Telephone service shall be installed in the ENGINEER'S office at the CONTRACTOR'S expense. All costs resulting from the construction and maintenance of the building and utilities, with the exception of long distance telephone calls by the ENGINEER, shall be borne by the CONTRACTOR. The CONTRACTOR shall furnish for the office, one three-drawer kneehole desk, one layout table, and two chairs. Refrigeration and air-conditioning and electric heater shall be provided by the CONTRACTOR. The CONTRACTOR may, at his option, elect to furnish suitable office space and buildings erected from approved prefabricated buildings or mobile trailers provided that such facilities fulfill the intent of the requirements. Temporary leased structures shall be wired for electricity, heated and refrigerated air-conditioned as specified.

C. No separate payment will be made for the costs of furnishing the above-described offices, services and utilities, unless otherwise provided for in the Bid Schedule.

15. BARRICADES, LIGHTS AND WATCHMEN

When the work is carried on, in, or adjacent to any street, alley or where the public may have access, the CONTRACTOR shall at his own cost and expense furnish and erect such barricades, fences, lights and danger signals, shall provide such watchmen, and shall provide such other precautionary measures for the protection of persons or property and of the work as are necessary. Barricades shall conform to the State of Texas Manual of Uniform Traffic Control Devices' latest edition. From sunset to sunrise the CONTRACTOR shall furnish and maintain at least one light at each barricade and sufficient number of barricades shall be erected to keep vehicles from being driven on or into any work under construction. The CONTRACTOR shall furnish watchmen in sufficient numbers to protect the work.

The CONTRACTOR will be held responsible for all damage to the work due to failure of barricades, signs, lights, and watchmen to protect it, and whenever evidence is found of such damage, the ENGINEER may order the damaged portion immediately removed and replaced by the CONTRACTOR at this cost and expense. The CONTRACTOR'S responsibility for the maintenance of barricades, signs and lights, and for providing watchmen shall not cease until the OWNER shall have accepted the project.

The CONTRACTOR shall use only battery-powered lights, enclosed lantern or other lights satisfactory to the ENGINEER. Smudge Pots or other lights that have an open flame will not be permitted.

16. PERMITS AND RIGHT-OF-WAYS

The CONTRACTOR shall meet all conditions of and obtain all required permits. No fee will be charged for these permits. The CONTRACTOR shall call for all inspections required by the entity issuing the permits.

The OWNER will provide rights-of-way for the purpose of construction without cost to the CONTRACTOR by securing permits in areas of public dedication or by obtaining easements across privately owned property. It shall be the responsibility of the CONTRACTOR, prior to the initiation of construction on easements through private property, to inform the property owner of his intent to begin construction. Before beginning construction in areas of public dedication, the CONTRACTOR shall inform the agency having jurisdiction in the area prior to the initiation of the work.

17. TEMPORARY TRAFFIC CONTROL

A. DESCRIPTION

- 1) Work Included: The CONTRACTOR shall provide barricades, signs and flagmen as necessary for the safe and orderly conduct of vehicular traffic as directed by the ENGINEER, as stated herein and as specified in the Uniform Act Regulating Traffic on Highways (V.C.S. 6701d)
- 2) Related Work Described Elsewhere: In addition to standards and requirements described in this section, comply with all standards and requirements for safety and access as described in various other sections of the Specifications.

B. STANDARDS: The CONTRACTOR shall provide and install barricades, delineators, warning devices and construction signs in accordance with the State of Texas Manual of Uniform Traffic Control Devices, latest edition.

C. ROAD CLOSURES AND DETOURS: The CONTRACTOR shall not close any public street or highway without first obtaining the approval of the ENGINEER and OWNER. Barricading, traffic control and detour diagrams shall be submitted by the CONTRACTOR as required by the ENGINEER.

D. ACCESS: The CONTRACTOR shall make every effort to complete construction and allow immediate access to adjacent property at all driveway entrances. At such times as driveways are inaccessible due to the CONTRACTOR'S work they shall be blocked by two (2) Class II barricades or one (1) Class II barricade and two (2) delineators. Driveways that are ramped or planked for temporary access shall be provided with a barricade or delineator at each side. The CONTRACTOR shall give 24-hour notice to affected property owners. All driveways shall be opened for access at the end of each workday unless permission to do otherwise is given in writing by the affected property owners prior to blocking any driveway. Where existing paved or improved driveway surfacing has been disturbed by CONTRACTOR'S work, CONTRACTOR shall place a minimum of 3 inches crushed rock base on the disturbed areas prior to opening the access to traffic. This temporary rock surfacing shall be maintained until permanent repairs have been completed to the driveway. This temporary surfacing shall be at the CONTRACTOR'S expense and will not be paid for separately.

The CONTRACTOR shall provide access for refuse collection on the regularly scheduled days. He shall also facilitate or assist in the collection where such work is hampered by his operation.

The CONTRACTOR shall provide flagmen to direct traffic whenever the normal traffic path is obstructed. Such flagmen shall be dressed and equipped in accordance with TxDOT regulations.

E. BARRICADES: The CONTRACTOR shall provide and maintain Class II barricades along excavation edges parallel to the flow of traffic at a spacing of twenty-five feet (25'). Class II barricades mounted with flashers shall be installed around work areas in parkways and shoulder areas. Class II barricades shall have alternating black and white (or yellow) reflecting stripes at an angle of 45 degrees. The stripe width shall be four to six inches (4" – 6").

During pavement operations barricades may be supplemented with minimum size eighteen-inch (18") high traffic cones and delineators such that spacing between barricades and/or cones or delineators is no greater than twenty-five feet (25'). At all access points such as intersecting streets, alleys and driveways, barricades and/or cones shall be provided at five-foot (5') intervals so as to prevent vehicular access to the paving area. Where access from an intersecting street is prohibited, a "Road Closed" sign shall be provided. "No Left Turn" signs shall be provided

wherever required by the ENGINEER.

When one-way access from a side street or alley is permitted, barricades and cones shall be provided at five foot (5') intervals for a distance of fifty feet (50') on either side of centerline of the existing street or alley.

The CONTRACTOR shall submit to the ENGINEER at least three (3) copies of his plans for barricading and traffic control for all portions of the project, at least two (2) business days before the pre-construction conference. Applications for street cuts and barricading for specific locations shall be submitted to the ENGINEER not less than five (5) business days prior to the proposed work.

The ENGINEER may require revisions to barricading plans submitted with an application if, in his opinion, such revisions are necessary to serve the best interest of the OWNER

F. RESPONSIBILITY FOR DAMAGES: The CONTRACTOR shall, at all times, keep a sufficient width of the roadway clear of dirt and other material to allow the free flow of traffic. The CONTRACTOR shall assume any and all responsibility for damage, personal or otherwise, that may be caused by the construction along public roadways or private driveways.

G. INSUFFICIENT SAFETY DEVICES: Should the CONTRACTOR fail to furnish a sufficient amount of traffic and/or pedestrian safety devices, the OWNER will place such necessary items and the CONTRACTOR shall be liable for the cost of providing such devices. Judgment as to adequate or sufficient barricading shall be that which is adequate or sufficient in the opinion of the ENGINEER.

H. RELOCATION AND MAINTENANCE: The CONTRACTOR shall relocate, preserve and maintain the visibility of all existing signs within the project limits which affect the flow of traffic as directed by the ENGINEER. Any signs that are damaged or found to be missing during the course of construction shall be replaced by the CONTRACTOR at his expense as directed by the ENGINEER.

I. NOTIFICATION OF AGENCIES: The CONTRACTOR is responsible for notifying all affected agencies including, but not limited to, police, fire, schools and ambulance, of any proposed detours or road closures. Such Notice shall be no less than seventy-two (72) hours prior to any closure or detour in place.

J. ADVERSE WEATHER CONDITIONS: During adverse weather or unusual traffic or working conditions additional traffic devices shall be placed by the CONTRACTOR as directed by the ENGINEER.

18. CONSTRUCTION IN HIGHWAY RIGHT-OF-WAY

No construction within a highway right-of-way shall be carried closer than thirty (30) feet to all pavement edges without written permission of the Texas Department of Transportation (TxDOT). No dirt, debris, material or equipment from trench excavation shall be piled on roadway shoulders and slopes, ditches, and berms shall be restored to their original condition.

The CONTRACTOR shall notify TxDOT of his construction schedule not less than five (5) days prior to commencing the work within the right-of-way. The CONTRACTOR shall, in any event, conform to the requirements of the TxDOT as to their methods of construction and time of construction.

19. FENCES, DRAINAGE CHANNELS AND CROP DAMAGE

Boundary fences or other improvements removed to permit the prosecution of the work shall be replaced in the same location and left in a condition as good or better than that in which they were found.

Where surface drainage channels are disturbed or blocked during construction, they shall be restored to their original condition or grade and cross section after the work of construction is completed. The CONTRACTOR shall be responsible for minimizing and correction of any erosion damage.

The CONTRACTOR shall provide temporary outlets for any surface water, the flow of which is blocked by his work, to the extent necessary to prevent damage to private property or hindrance to the public.

The CONTRACTOR shall not be held liable for unavoidable damage to crops provided such damage occurs within the

construction easement provided by the OWNER.

20. PROTECTION OF TREES, PLANTS AND SHRUBS

Care shall be exercised to prevent damage to trees, plants and shrubs along the work site. No tree, plant or shrub shall be removed unless it is designated for removal or interferes unduly with the construction work. Permission for such removal must first be obtained from the OWNER. Trees, plants and shrubs designated for protection shall be replaced at the CONTRACTOR'S expense if construction operations or neglect, in the opinion of the ENGINEER, caused damage to the trees, plants or shrubs.

In the event that rare or endangered plant species are encountered during construction, the CONTRACTOR shall notify the ENGINEER immediately and shall immediately cease construction in the affected area. The ENGINEER will immediately consult with appropriate wildlife management agencies and/or a professional biologist to determine appropriate measures.

The CONTRACTOR shall take care to locate and identify before clearing operation those plant species along with surrounding vegetation, which are designated for preservation.

21. HISTORICAL AND ARCHEOLOGICAL PROPERTIES

If previously undiscovered, buried archeological and/or historical features are discovered during construction, the CONTRACTOR shall take steps to protect and preserve the discovery, ceasing work immediately in the vicinity and notifying the OWNER, who shall report the discovery to the State Historic Preservation Officer (SHPO). If the SHPO determines that the discovery is significant, then the SHPO will proceed in accordance with the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800), the Federal Native American Graves Protection and Repatriation Act, and the Texas Antiquities Codes, prior to taking any action which would affect the cultural resources. The CONTRACTOR shall not resume construction in the vicinity of the discovery until notified by the OWNER that the discovery has been coordinated with the SHPO who have concurred that construction may resume.

22. DISPOSAL OF WASTE AND SURPLUS EXCAVATION

All trees, stumps, slashings, brush or other debris cleared from the Project site or right-of-way as a preliminary to the construction of the work or its appurtenances shall be removed from the property and disposed of in a manner approved by the ENGINEER. The CONTRACTOR shall be responsible for the cost of all waste disposal, including landfill gate fees and any other charges related to waste disposal.

All excavated earth in excess of that required for backfilling shall be removed from the job site and disposed of in a satisfactory manner except in locations where, in the judgment of the ENGINEER, it can be neatly spread over and along the right-of-way.

23. WATER FOR CONSTRUCTION

If water has been approved by the OWNER to be taken from a fire hydrant, the CONTRACTOR must use a hydrant meter provided by the OWNER. CONTRACTOR must make application and make deposits for such meter.

Water used for testing, sterilizing and flushing of pipelines and tanks or any other purposes incidental to this project shall be paid for by the CONTRACTOR. The CONTRACTOR shall make the necessary arrangements for securing and/or transporting such water and shall take such water in a manner and at such times that will not produce a harmful drain or decrease of pressure in the OWNER'S water system. The CONTRACTOR shall be fully responsible for the draining and disposal of all water used in sterilizing and testing. The CONTRACTOR shall obtain approval of the OWNER and ENGINEER of the manner in which the water will be drained and disposed of.

24. OTHER UTILITIES

Unless otherwise indicated in plans or specifications the CONTRACTOR shall arrange for any necessary electric power, telephone service, and other utilities required for his operations at this own expense.

25. WAGE RATES

All employees of the CONTRACTOR on the work to be performed under this CONTRACT shall be paid the prevailing wage scale in this locality for work of a similar character.

26. GUARANTY AGAINST DEFECTIVE WORK

The section shall supplement Article 6.30, CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE of the General Conditions.

The CONTRACTOR shall warrant the work against defects in material and workmanship for a period of one year (warranty period) from the date of Final Acceptance of the work as complete. If within the one year warranty period, 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, the 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 the 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 architects, engineers, attorneys and other professionals, shall be paid by the CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the work, the correction period for that item shall start at the commencement of continuous service.

27. COORDINATION WITH OTHERS

In the event other contractors are doing work in the same area simultaneously with this project, the CONTRACTOR shall coordinate his proposed construction with that of the other contractors. The CONTRACTOR shall coordinate all work with the public utilities to prevent prolonged interruption of service to any customer.

28. CLEANUP

As soon as the work has been performed, or no less than once per day, the CONTRACTOR shall to the satisfaction of the ENGINEER, clean and restore the construction site and any adjoining areas used or disturbed by the work.

At the conclusion of the work, all tools, temporary structures and materials belonging to the CONTRACTOR shall be promptly removed and all dirt, rubbish and other foreign substances all be disposed of. All areas disturbed by the work of the project shall be restored to a condition equal or better than existed prior to the beginning of the work.

The CONTRACTOR shall submit to the ENGINEER a signed release from each affected property owner accepting the clean-up and restoration as a condition of receiving final payment.

The CONTRACTOR shall thoroughly clean all equipment and materials installed by him and shall deliver over such materials and equipment undamaged in a bright, clean, polished and new appearing condition.

29. CONTRACTOR'S AND SUB-CONTRACTOR'S INSURANCE

The CONTRACTOR shall not commence work under this Contract until he has obtained at his expense all insurance required under this section of the Special Conditions and by the Contract Documents, and such insurance has been approved by the OWNER, nor shall the CONTRACTOR allow any sub-contractor to commence work on any sub-contract until all similar insurance required of the sub-contractor has been so obtained and approved. Such insurance shall remain in full force and effect on all phases of the work, whether or not the work under the contract is completed and has been accepted by the OWNER.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the CONTRACTOR'S responsibility for payment of damages resulting from his operation under the Contract. Any insurance bearing an adequacy of performance will be maintained after completion of the project for the full guarantee period.

The CONTRACTOR shall obtain and maintain for the full period of the Contract the following types of insurance in the form, minimum limits and amounts herein specified or as may be otherwise required in the Contract Documents. The CONTRACTOR shall automatically renew any policy that expires during the performance of his Contract and notify the OWNER and ENGINEER of such a renewal prior to expiration date.

A. Workmen's Compensation including Occupation Disease, and Employer's Liability Insurance. Before commencement of the work, the CONTRACTOR shall take out and maintain during the life of this Contract, Statutory Workmen's Compensation Insurance and Occupational disease disability Insurance for all of his employees to be engaged in work under this Contract, and in case any work is sublet, the CONTRACTOR shall require the sub-contractor similarly to provide Workmen's Compensation and Occupation disease Disability Insurance for the latter's employees engaged in such work unless such employees are covered by the protection afforded by the CONTRACTOR'S insurance. In case any class of employees engaged in hazardous work under the Contract is not protected under the Workmen's Compensation Statute, or in Statute, the CONTRACTOR shall provide, and shall cause each sub-contractor to provide adequate insurance for the protection of his employees not otherwise protected.

B. Public Liability and Property Damage Insurance (Note "Indemnity" clause hereinafter). Before commencement of work, the CONTRACTOR shall submit written evidence that he and all his sub-contractors have obtained for the period of the Contract full Comprehensive General Liability and Property Damage Insurance Coverage. This coverage shall protect the CONTRACTOR; the OWNER; the ENGINEER, its engineers; and each of the officers, agents and employees; from claims for damages for bodily or personal injury, sickness or disease, property, which may arise directly or indirectly out of or in connection with the performance of work under this Contract by the CONTRACTOR, by any of his Sub-Contractors, or by anyone directly or indirectly employed of either of them, or under the control of either of them, and the minimum amount of such insurance shall be as follows unless higher minimums are otherwise required in the Contract Documents:

Public Liability Insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for damages arising out of bodily or personal injury, sickness or disease, or death of one person and subject to the same limit for each person and in an amount not less than One Million Dollars (\$1,000,000.00) in any one occurrence; and Property Damage Insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000) for all damages arising out of injury to or destruction of property of others in any one occurrence with an aggregate limit in the same amount. The property damage portion of this coverage shall include where applicable, explosion, collapse and underground exposure coverage. In addition, where Completed Operation Insurance coverage is applicable, such coverage will be maintained after completion and acceptance of the project for the full guarantee.

C. Automobile Liability and Property Damage Insurance. Before commencement of the work, the CONTRACTOR shall submit written evidence that he and all his Sub-Contractors have obtained Automobile Liability and Property Damage Insurance coverage on all self-propelled vehicles used in connection with the Contract, whether owned, non-owned, or hired. The liability limits shall be not less than Five Hundred Thousand Dollars (\$500,000.00) for injury or death of one person and in an amount not less than One Million Dollars (\$1,000,000.00) in any one occurrence; and Property Damage limits of not less than Five Hundred Thousand Dollars (\$500,000.00) in any one occurrence.

D. Contractual Liability Coverage. Each and every policy for Liability Insurance carried by each CONTRACTOR and Sub-Contractor will include a "Contractual Liability Coverage" endorsement sufficiently broad to insure the provision titled "Indemnity" hereinafter set forth.

E. Indemnity. The CONTRACTOR shall defend, indemnify and hold harmless the OWNER; the ENGINEER; its engineers; and each of the officers, agents, servants and employees; from any and all suits, actions, claims, losses or damage of any character and from all expenses incidental to the defense of such suits, alleged to be based upon or arising out of (1) any injury, disease, sickness or death of any person or persons, (2) any damages to any property including in part loss of use thereof, caused by an act or omission of the CONTRACTOR, or by their officers, agents, servants, employees, or anyone else under the CONTRACTOR'S direction and control, and arising out of, occurring in connection with, resulting from, or caused by the performance of any work or services called for by the Contract or from conditions created by the performance or non-performance of said work or services, but not including the sole negligence of any party herein indemnified.

F. Evidence of Insurance Coverage. Before commencement of any work, the CONTRACTOR shall submit written evidence that he and all his Sub-Contractors have obtained the minimum insurance required by the Contract

Documents. Such written evidence shall be in the form of a Certificate of Insurance (see sample form provided herein) executed by the CONTRACTOR'S insurance carrier showing such policies in force for the specified period of by furnishing a copy of the actual policy or policies. Each policy or certificate will bear an endorsement or statement waiving right of cancellation or reduction in coverage without ten (10) days notice in writing to be delivered by registered mail to the OWNER.

30. CONTRACT TIME AND WORKING HOURS

The time of completion of the work for this project shall be measured in consecutive calendar days.

The CONTRACTOR shall observe normal working days of Monday through Friday and normal working hours of 7:00 a.m. to 6:00 p.m. each working day. Work on weekends and holidays and work at other than normal working hours may be allowed if the CONTRACTOR provides at least 48 hours advanced notice to the OWNER and that the OWNER has personnel available to observe the work at these times.

31. LIQUIDATED DAMAGES FOR DELAY

The CONTRACTOR agrees that time is of the essence in this Contract, and that for each day of delay beyond the number of calendar days herein agreed upon for the completion of the work herein specified and contracted for (after due allowance for such extension of time as is provided for in the General Conditions to the Agreement), the OWNER may withhold, permanently, from the CONTRACTOR'S total compensation, the amount stated in the "Information For Bidders" and the "Agreement" as stipulated damages for such delay.

32. MEASUREMENT

For lump sum priced contracts, the CONTRACTOR, before ordering any material or doing any work, shall verify all measurements of any existing and new work and shall be responsible for their correctness. No extra compensation will be allowed because differences between actual dimensions and measurements indicated on the working drawings. For unit price contracts, measurement shall be made of the actual installed quantities and CONTRACTOR'S compensation shall be based on same.

33. PARTIAL PAYMENTS

1. An approved "Payment Request" form shall be used when estimating periodic payments due to the CONTRACTOR.

B. When the partial payment includes materials and equipment not incorporated in the WORK, but delivered and suitably stored at or near the site, the following conditions must be complied with:

- 1) To establish the OWNER'S title to the material and equipment, the CONTRACTOR will furnish invoices showing the material or equipment has been paid in full.
- 2) The material will be inspected by the ENGINEER prior to payment. Material storage location and security must be acceptable to the ENGINEER.
- 3) Evidence that the material is covered by insurance by the CONTRACTOR.

C. Payment for materials or equipment does not relieve CONTRACTOR of any obligations in the CONTRACT DOCUMENTS. The CONTRACTOR will be responsible for protection of all materials and equipment until the project is completed and accepted by the OWNER.

34. WITHHOLDING PAYMENTS

A. The OWNER may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any approved partial payment estimate to such extent as may be necessary to protect the OWNER from the loss due to:

- 1) Defective work not remedied.
- 2) Claims filed or reasonable evidence indicating probable filing of claims.
- 3) Failure of CONTRACTOR to make payments properly to SUBCONTRACTORS or for material or labor.
- 4) A reasonable doubt that the work can be completed for the balance then unpaid.
- 5) Damage to another CONTRACTOR.
- 6) Performance of work in violation of the terms of the CONTRACT documents.

B. Where work on unit price items are substantially complete but lack cleanup and/or corrections ordered by the OWNER amounts shall be deducted from unit prices in partial payment estimates to amply cover such clean-up and corrections.

C. When the above grounds in (34.A.) and (34.B.) are cured, payment shall be made for amounts withheld.

D. For Contracts under \$400,000.00 in value, ten (10) percent retainage shall be withheld from each periodic payment request. For Contracts greater than \$400,000.00 in value, five (5) percent retainage shall normally be withheld from each periodic payment request. On Contracts greater than \$400,000.00 in value, payments withheld over five (5) percent shall be deposited in an interest bearing account. Amounts retained, including all accrued interest, will be paid to the CONTRACTOR after final acceptance

35. CHANGE ORDERS

CONTRACTOR acknowledges and agrees that the adjustments in contract price and/or contract time stipulated in Change Orders for this Contract represent full compensation for all increases or decreases in the cost of or the time required to perform the entire work under the Contract, arising directly or indirectly from such Change Orders. Acceptance of this provision constitutes an agreement between OWNER and CONTRACTOR that each Change Order represents an all inclusive, mutually agreed on adjustment to the Contract, and the CONTRACTOR will waive all rights to file a claim on Change Orders after they are properly executed.

Change Orders shall normally provide compensation for labor, overhead, fringe benefit costs, materials and profit relating to extra work items. Additional compensation will not normally be paid to the CONTRACTOR for work time lost or stand-by time when temporary delays in the work schedule occur due to design changes, errors or omissions in the plans, unforeseen utility adjustments or time spent awaiting approval by the OWNER for changes in the scope of work, including processing Change Orders. The CONTRACTOR may request that the contract time be suspended for a reasonable period if a temporary delay in the work schedule occurs due to unforeseen conditions.

All Change Orders require approval by the OWNER prior to being processed and may also require the approval of a City Commission or governing board prior to proceeding with construction. While minor adjustments in the contract quantities can be approved by the Owner=s Representative in the field, payment for such Change Orders must still have the approval of the OWNER board prior to processing payment to the CONTRACTOR.

36. ITEMS FURNISHED UN-INSTALLED

This requirement applies to materials and equipment which are being furnished to the OWNER uninstalled. These items must be purchased by the CONTRACTOR and furnished directly to the OWNER without first being used by the CONTRACTOR. These items shall, if possible, be labeled by the supplier (prior to entering the custody of the CONTRACTOR) as belonging to the OWNER..

The CONTRACTOR may make subsequent use of these items in performing the contract only under the following conditions:

- A. Such use is specifically provided in the plans and specifications or by other written directives of the OWNER.
- B. Such use occurs only after the OWNER takes title to and possession of the items.

These provisions shall not be construed to prevent the CONTRACTOR from any necessary assembly, modification, testing, or transportation of the items to be furnished uninstalled.

These provisions apply also to: (1) materials which are incorporated into an item to be fabricated by the CONTRACTOR and furnished uninstalled, and (2) to items which are being purchased in a used condition by the CONTRACTOR and furnished uninstalled to the OWNER in accordance with plans and specifications.

37. SAFETY

In accordance with generally accepted construction practices, the CONTRACTOR will be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and will not be limited to normal working hours.

38. EXISTING UTILITIES AND SERVICE LINES

The CONTRACTOR shall contact all utility entities known to have existing buried pipe or cables within the construction area. It is not represented by these Contract Documents that all underground utilities and obstacles have been shown. The CONTRACTOR shall verify the location and depth of each entity's main and service lines (i.e. gas, telephone, water, sewer, TV) prior to any construction of the proposed facilities. As other existing utilities (i.e. gas, telephone, water, sewer, TV) are crossed by the proposed facilities, the CONTRACTOR shall note such crossings on the construction drawings and furnish this information to the ENGINEER at the end of the project.

The CONTRACTOR shall be responsible for the protection of all existing utilities or service lines crossed or exposed by his construction operations. Where existing utilities or service lines are cut, broken or damaged, the CONTRACTOR shall replace or repair the utilities or service lines with the same type or original material and construction, or better, at his own cost and expense. Where proposed water mains cross under existing sanitary sewer mains or service laterals, the sanitary sewer shall be replaced with ductile iron pipe as required by the State of Texas.

39. PRE-CONSTRUCTION CONFERENCE AND SCHEDULE

Subsequent to award and prior to any construction, a pre-construction conference will be held between the OWNER, ENGINEER and CONTRACTOR. The CONTRACTOR shall prepare and present to the OWNER at the pre-construction conference, a tentative schedule of the sequence in which the work will be performed. The schedule should include the following information:

- A. Sequence of Work. Sequence in which the construction of each section of work will be done including any traffic control plans or trench safety plans.
- B. Schedule of Payments. Schedule of estimate payments based upon work completed.
- C. Schedule of Completion. Period of approximate time in construction and initiating into service each section of work.
- D. Coordination of Crews. Coordination of work using two (2) or more crews
- E. Schedule of Holiday and Night Work. Schedule of possible holiday and night work.

At this meeting, the CONTRACTOR shall furnish to the ENGINEER a list of CONTRACTOR'S personnel with telephone numbers for notification 24 hours a day, seven (7) days a week. The listed personnel shall have the authority to make personnel and construction decisions for the CONTRACTOR.

The above information may be given to those concerned with emergency equipment (fire-fighting equipment, police ambulance, etc.) in the area so that they may be rerouted to their respective destinations without needless delay. The CONTRACTOR'S schedule shall be updated whenever a change occurs. The updated schedule shall be submitted immediately to the ENGINEER for review and approval.

40. OBSERVATION OF THE WORK

It is agreed by the CONTRACTOR that the ENGINEER shall be and is hereby authorized to appoint from time to time such representatives as the said OWNER may deem proper to observe the material furnished and the work done under this contract and to see that the said material is furnished and said work is done in accordance with the specifications therefore.

The CONTRACTOR shall furnish all reasonable aid and assistance required by these representatives for the proper observation of the work and access to all parts of the work. Except as hereinbefore provided, the authority of subordinate representatives shall be limited to the rejection of unsatisfactory work and materials until the questions of acceptability can be referred to the ENGINEER.

Representatives of various facilities being crossed or paralleled by the project shall have similar rights when their facilities are involved.

41. CONSTRUCTION STAKES AND PROPERTY CORNERS

The OWNER will establish such general reference points and construction stakes as in his judgment will enable the CONTRACTOR to proceed with the work. The CONTRACTOR will be responsible for the layout of the work from these stakes and will protect and preserve the established referenced points and construction stakes and will make no

changes or relocation's without prior written approval of the OWNER. He will report to the ENGINEER whenever any reference point or construction stake is lost or destroyed or requires relocation because of necessary changes in grades or locations. The CONTRACTOR shall provide the OWNER a minimum of 48 hours advance notice to re-establish accurately any reference point so lost, destroyed, or moved, and shall reimburse the OWNER for all associated costs. Any work performed by the CONTRACTOR from a reference point that was not established by the OWNER is subject to rejection at no cost to the OWNER.

The CONTRACTOR shall similarly be responsible for preserving all property corners, benchmarks, USGS monuments etc.

42. MATERIAL TESTING

If the OWNER desires testing to be performed, other than items specified for materials furnished by the CONTRACTOR, the following procedure will be used:

- A. OWNER will select the laboratory and authorize the tests.
- B. The OWNER will pay the cost of each initial test.
- C. In those cases where the item being tested fails to meet the specification requirements, the cost of retesting shall be charged to the CONTRACTOR.

All costs to furnish and perform the infiltration, exfiltration, hydrostatic pressure, low air pressure, and deflection testing, as specified, shall be borne by the CONTRACTOR, except for the free use of water.

43. CHANGES TO LINES AND GRADES

It may be found necessary for the ENGINEER and OWNER to make whatever revisions necessary in alignment, grades and materials where during construction there is found to be existing conditions which would warrant a more practical and economical installation. The CONTRACTOR will be paid only for the materials actually installed as listed in the Proposal and any other compensation for the revision will not be considered.

44. CONNECTING WITH OLD WORK

The CONTRACTOR shall do all work that may be necessary to connect the new work with existing improvements in a proper and workmanlike manner. Only such portion of existing improvements shall be removed for new construction as shown on the plans or as ordered by the ENGINEER. Any other damage to existing improvements shall be repaired by the CONTRACTOR at his own expense.

45. DE-WATERING EXCAVATIONS

The prospective bidders shall make sufficient subsurface explorations to determine the location of ground water which might be encountered. If directed by the ENGINEER, the CONTRACTOR shall, at his own expense, utilize a well point pumping system in order to place facilities in the de-watered excavation.

46. COPIES OF PLANS AND SPECIFICATIONS FURNISHED

Five (5) sets of Contract Documents will be furnished to the CONTRACTOR at no cost. Additional copies may be obtained at cost of reproduction upon request by the CONTRACTOR.

The CONTRACTOR shall have at least two (2) complete sets of the latest Contract Documents on the work site at all times. One (1) set shall be the "working" set and the other shall be used for the "as-built" record drawings.

47. TERMINOLOGY

Throughout these specifications the word "shall" denotes mandatory. The word "may" implies only permission. All other "terms" or "word phrases" shall be interpreted as having the meaning customarily ascribed to them by the several building trades of the United States.

48. DATA, MEASUREMENTS AND REPORTS

The data given herein and shown on the drawings is as accurate as could be obtained; its accuracy is not guaranteed. The CONTRACTOR must take all tests, levels, locations, measurements and dimensions at the job site and adapt his work into the required construction. Scaled measurements taken from prints are not considered for more than reference; the larger scale drawings take precedence over all others.

Geotechnical reports, soil borings or other reports included in the Contract Documents are for the CONTRACTOR'S information and use; however, neither accuracy nor adequacy of these documents is hereby warranted. The CONTRACTOR shall make whatever investigations he may deem necessary to properly prepare the bid proposal and perform the work. No additional compensation will be made to the CONTRACTOR for the cost of any investigation.

49. AS-BUILT DIMENSIONS, DRAWINGS, AND DATA

The CONTRACTOR shall make appropriate daily measurements of constructed facilities and shall keep accurate records of locations (horizontal and vertical) of all facilities. In cases of underground facilities, the CONTRACTOR shall also give the ENGINEER an opportunity to measure location before backfilling, and/or shall place temporary reference markers as directed by the ENGINEER, adequately protected pending future use by ENGINEER.

Such location measurements shall be reported according to the grid system or reference line used by the ENGINEER for the facility under construction, or such a manner that the locations can easily be tied into the grid or reference line.

Upon completion of each facility, the CONTRACTOR shall furnish the OWNER with one (1) set of direct prints, marked with red pencil, to show as-built dimensions and locations of all work constructed. As a minimum, the final drawings shall include the following:

- A. Horizontal and vertical locations of work.
- B. Changes in equipment and dimensions due to substitutions.
- C. Nameplate data on all installed equipment.
- D. Deletions, additions, and changes to scope of work.
- E. Any other changes made.

Final acceptance of as-built (record) drawings by the ENGINEER shall be a pre requisite to release of retainage.

50. PRE-QUALIFICATION INFORMATION

The low bidder may be required to submit the following information to the ENGINEER:

- A. Similar Projects. A list of other similar projects completed and the approximate cost.
- B. Present Projects. A list of the projects presently under construction, the percentage complete and the estimated project cost.
- C. Equipment List. A list of the equipment that will be available for constructing this project.
- D. Superintendents. The name(s) of the superintendent(s) that will be on this project and their experience in this type work.
- E. Personnel. The approximate number of personnel (laborers, concrete finishers, etc.) that will be on this project.
- F. Sub-Contractors. The list of sub-contractors (if any) proposed for this project.
- G. Financial Statement. A financial statement of your firm. This will be kept confidential and will be returned to promptly after our review.
- H. Bonding and Insurance Company. The name of the company which would furnish the performance and payment bonds and the insurance on this project.
- I. Construction Schedule. A preliminary schedule of the anticipated progress of construction.
- J. Equipment Suppliers. A list of the major equipment suppliers which will be furnishing the materials for this project.
- K. Other. Any information the ENGINEER shall require related to the experience, qualifications, performance, financial condition, equipment, references or any other information deemed pertinent by the ENGINEER.

51. FORMS, PLANS AND SPECIFICATIONS

Forms of proposal, contract bonds, and plans specifications are on file and may be reviewed at the offices of the ENGINEER and/or OWNER.