

**City of Lowell**  
**Purchasing Department**  
City Hall  
375 Merrimack Street, Room 60  
Lowell, Massachusetts 01852

Services: **Catch Basin Cleaning**  
IFB No.: **16-01**  
Date: **June 17, 2015**  
Buyer: **P. Michael Vaughn**  
Tel. No.: **978-970-4110**  
Fax No.: **978-970-4114**  
Email: **pmvaughn@lowellma.gov**

The City is seeking bids to clean various catch basin in the City using a Vacuum Truck. To assist the City in this effort, the City is issuing this Invitation for Bid ("IFB") to solicit responses from qualified Bidders who can meet the project requirements stated herein.

**DUE DATE**

Sealed bids are due on: **July 1, 2015** and will be publically opened, at City Hall in the Purchasing Department, Room 60, 375 Merrimack Street, Lowell, MA 01852, at 11:00 AM, EST/EDST, for the work described herein. **BIDDERS ARE REQUIRED TO SUBMIT A BID INCLUDING ALL BID FORMS CONTAINED IN THIS PACKAGE. DO NOT REMOVE PAGES.**

**DURATION**

The contract shall be for the period beginning on or about **July 1, 2015** and ending **June 30, 2018**.

**CLARIFICATIONS OF SPECIFICATIONS**

Any request for clarification to, or relief from, the specifications, must be submitted in writing to the attention of the assigned Buyer at the Purchasing Department's office no later than **five (5) business days prior to the Due Date**. Should the City make changes to any specification, stipulation, requirement, or procedure, notification will be made to all Bidders in the form of written Addenda. No officer, agent, or employee of the City is authorized to amend any provision contained in this IFB, including the specifications, unless such amendment is issued as an Addendum and sent to all Bidders in accordance with this Section (Clarification of Specifications). Bidder is required to acknowledge all addenda.

**APPROPRIATION CONTINGENCY**

If the City fails to appropriate operating funds, or if funds are not otherwise made available for the continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated. The City's fiscal year begins July 1<sup>st</sup>.

# **CATCH BASIN CLEANING**

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## **INFORMATION FOR BIDDERS**

### **1. RECEIPT AND OPENING OF BIDS**

The City of Lowell herein called the “Owner” invites sealed bids on the separate copies of Bid Forms furnished for that purpose, all blanks of which must be appropriately filled in. The bound-in Bid Forms in the Contract Documents are for continuity and the convenience of Bidders and are not to be detached from the Contract Documents, filled out or executed.

Bids will be received by the OWNER at the Office of the Lowell City Hall Purchasing Department, 375 Merrimack Street, Room 60, Lowell, Massachusetts, 01852 up to 11:00 A.M. local time, **Wednesday July 1, 2015** and then at said Office publicly opened and read aloud. The envelope containing the bids for the **CATCH BASIN CLEANING** shall be sealed, addressed to the City of Lowell, Purchasing Department and designated as Bid for the **CATCH BASIN CLEANING**.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 60 days after the actual date of the opening thereof.

### **2. PREPARATION OF BID**

Each bid for the **CATCH BASIN CLEANING** shall be submitted on the prescribed bid forms.

All blank spaces for bid prices must be filled in, with ink or typewriter, in both words and figures, and both of the foregoing Certifications must be fully completed and executed when submitted.

Each bid for the **CATCH BASIN CLEANING** must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified above.

### **3. PRE-BID CONFERENCE – n/a**

### **4. SURVEYS – n/a**

## 5. QUALIFICATIONS OF BIDDER

The OWNER may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the OWNER that such bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein. Conditional bids will not be accepted.

- A. Each bid **must include** evidence of the Bidder's ability to complete the Work in accordance with the Contract Documents. **Each bid must include the name of the Superintendent who is to be used on this project, and his/her experience.**
- B. Each bid **must include** :
  - 1. A comprehensive list of any and all citations and /or violations issued by regulatory agencies and/or judgments against bidder from a court of law.
  - 2. All assessed penalties or liquidated damages, and the project in which they occurred.
  - 3. Any and all contract terminations.
  - 4. A list of at least five references.

## 6. BID SECURITY

### **Bid Bond, Performance & Payment Bonds**

A **Bid bond or certified check** made payable to the "City of Lowell" in the amount of **5%** must accompany this bid. Bid bonds are acceptable.

A **performance bond** in the amount of **0%** of the total dollar award is required prior to contract execution.

A **payment bond** in the amount of **50%** of the total dollar award is required prior to contract execution.

## 7. DAMAGES FOR FAILURE TO ENTER INTO CONTRACT

The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the OWNER, as liquidated damages for such failure or refusal, the security deposited with his bid.

## **8. CONTRACT DURATION**

**Start Date: July 1, 2015**  
**Completion Date: June 30, 2018**

## **9. CONDITIONS OF WORK**

Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract insofar as possible the contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

## **10. ADDENDA AND INTERPRETATIONS**

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to Chief Procurement Officer, City Hall, Lowell, Massachusetts 01852 and to be given consideration must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective addresses furnished for such purposes), not later than three days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligations under his bid as submitted. All addenda so issued shall become part of the contract documents.

## **11. SECURITY FOR FAITHFUL PERFORMANCE**

Simultaneously with his delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this Contract and for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company, licensed to do business in the Commonwealth of Massachusetts, and satisfactory to the OWNER.

## **12. POWER OF ATTORNEY**

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

**13. NOTICE OF SPECIAL CONDITIONS**

Attention is particularly called to those parts of the contract documents and specifications, which deal with the following:

- (a) Inspection and testing of materials
- (b) Insurance requirements
- (c) Wage rates
- (d) Stated Allowances
- (e) Non-discrimination in employment

**14. LAWS AND REGULATIONS**

The bidder’s attention is directed to the fact that all applicable State Laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as through herein written out in full.

**15. METHOD OF AWARD - LOWEST QUALIFIED BIDDER**

If at the time this contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the OWNER as available to finance the Project, the Contract will be awarded on the base bid and any or all accepted alternatives. If such bid exceeds such amount, the OWNER may reject all bids.

**16. OBLIGATION OF BIDDER**

At the time of the opening of bids it is presumed that each bidder has inspected the site and has read and is thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect to his bid.

**17. LIST OF UTILITIES IN THE AREA:**

Attention is called to the fact that the following Utility Companies have facilities in the area:

|  |              |
|--|--------------|
| Lowell Water Utility                     | 978-674-4242 |
| Lowell Regional Wastewater Utility       | 978-674-4249 |
| Lowell Engineering Department            | 978-674-4070 |
| National Grid Electric/Gas-David Gendall | 978-725-1353 |
| Verizon Telephone                        | 877-686-7007 |
| Comcast                                  | 888-633-4266 |
| Lowell Fire Alarm/Electrician            | 978-674-4114 |

The Contractor shall notify the controlling utility agency at least 72 hours in advance of its intent to excavate in any way or manner, within six feet of any existing utility agency owned pole, anchor guy, underground duct, conduit, pipe, valve or manhole. No excavation shall take place within six feet of any existing utility agency owned pole, anchor guy,

underground duct, conduit, pipe, valve or manhole owned by a utility agency without this notification. In addition, Dig Safe must be notified 72 hours prior to commencing excavation.

**18. SOIL CONDITIONS**

No soil sampling has been performed in conjunction with this project.

**19. NONDISCRIMINATION IN EMPLOYMENT**

Contracts for work under this proposal will obligate the Contractors and subcontractors not to discriminate in employment practices.

Bidders must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive the award of the Contract.

The successful bidder must be prepared to comply in all respects with the Contract Provisions regarding Equal Employment Opportunity which are located in the Special Conditions Section of these Specifications.

**20. BLANK**

**21. SALES TAX**

Materials and equipment purchased for permanent installation in this project will be exempt from the Massachusetts Sales and Use Tax. The exemption certificate number will be furnished to the Contractor. Each bidder shall take this exemption into account in calculating his bid for the work.

**22. BORINGS**

No soil borings have been performed in conjunction with this project.

**23. COMPLIANCE WITH AIR AND WATER ACTS**

This contract is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et. seq. and the regulations of the Environmental Protection Agency with respect thereto, 40 CFR Part 15, as amended from time to time, the major provisions of same being located in the special conditions of these specifications.

**24. INTEREST OF MEMBERS, OFFICERS, or EMPLOYEES of the OWNER, MEMBERS of LOCAL GOVERNING BODY, or OTHER PUBLIC OFFICIALS**

No member, officer, or employee of the OWNER, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure of for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with this Contract.

## BASIS OF AWARD: IFB 16-01

In accordance with the Specifications, and under the terms and conditions mentioned above, I (We) hereby offer to furnish and deliver to departments described above the following services which shall in all respects meet the attached specifications, as required during the terms contained within:

Catch basin cleaning will be paid for at the Contract unit price for each catch basin. The Contract unit price shall include all labor, equipment, transportation within the community and incidental costs required to complete the Work. The Contract Unit Price also includes the cost for the proper disposal of any removed catch basin debris.

| Catch Basin Vacuum Truck Cleaning | Unit Price Per Catch Basin | Number of Estimated Catch Basins to be Cleaned | Extended Price |
|-----------------------------------|----------------------------|--|----------------|
| YEAR 1<br>(7/1/2015 ~ 6/30/2016)  |                            | 1,000  |                |
| YEAR 2<br>(7/1/2016 ~ 6/30/2017)  |                            | 1,000  |                |
| YEAR 3<br>(7/1/2017 ~ 6/30/2018)  |                            | 1,000  |                |

**TOTAL CONTRACT PRICE IN FIGURES**

**TOTAL CONTRACT PRICE IN WORDS:** \_\_\_\_\_

Signature of Bidder \_\_\_\_\_

Print Name and Title \_\_\_\_\_

Company Name and Address \_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_

The undersigned offers the following information as evidence of his qualifications to perform the work as bid upon according to all requirements of the Plans and Specifications.

1. Have been in business under present business name of \_\_\_\_\_  
\_\_\_\_\_ for \_\_\_\_\_ years.

2. Ever failed to complete any work? \_\_\_\_\_

3. List one or more recent projects with names of Community and Engineer on which you served as general contractor similar to work required for this project.

| Project and Engineer | Community | Date  | Amount |
|----------------------|-----------|-------|--------|
| a)                   | _____     | _____ | _____  |
| b)                   | _____     | _____ | _____  |
| c)                   | _____     | _____ | _____  |

4. Bank Reference \_\_\_\_\_

The undersigned agrees that, if he is selected as general contractor, he will within ten (10) days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the awarding authority, execute a contract in accordance with the terms of the general bid and furnish a performance bond and also a labor and materials or payment bond, each of a Surety company qualified to do business under the laws of the Commonwealth and satisfactory to the awarding authority and each in the sum of one hundred percent (100%) of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price.

The undersigned hereby certifies that he is able to furnish labor and can work in harmony with all other elements of labor employed or to be employed on the work.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name of General Bidder)

BY \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title of Signer)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(City and State)

\_\_\_\_\_  
(Phone Number)

## CONFLICT OF INTEREST CERTIFICATION

The undersigned hereby certifies that the Bidder shall comply with Massachusetts Conflict of Interest Laws, G.L. c. 268A and with the City's Conflict of Interest terms stated in Article 33 of these Contract Documents.

BIDDER'S NAME: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

---

## ACKNOWLEDGEMENT OF ADDENDA

The Bidder acknowledges all addenda.

ADDENDA NUMBER

DATE ISSUED

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**

State of \_\_\_\_\_ )

ss

County of \_\_\_\_\_ )

\_\_\_\_\_ being duly sworn,  
deposes and says that:

(1) He is (owner, partner, office representative or agent) of \_\_\_\_\_  
\_\_\_\_\_ the Bidder that has submitted the  
attached bid;

(2) He is fully informed respecting the preparation and contents of the attached bid and of  
all pertinent circumstances respecting such bid;

(3) Such bid is genuine and is not a collusive or sham bid;

(4) Neither the said bidder nor any of its officers, partners, owners, agents,  
representatives, employees or parties in interest, including this affiant, has in any way  
colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or  
person to submit a collusive or sham bid in connection with the Contract for which the  
attached bid has been submitted, or to refrain from bidding in connection with such contract,  
or has in any manner directly or indirectly, sought by agreement or collusion or  
communication or conference with any other Bidder, firm or person to fix the price or prices  
in the attached bid, or of any other Bidder; or to fix any overhead, profit or cost element of  
the bid price, or the bid price of any other Bidder; or to secure through any collusion,  
conspiracy, connivance or unlawful agreement any advantage against the **CITY OF  
LOWELL** or any person interested in the proposed Contract; **CATCH BASIN  
CLEANING.**

(5) The price or prices quoted in the attached bid are fair and proper and are not tainted  
by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or  
any of its agents, representatives, owners, employees, or parties in interest, including this  
affiant.

\_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Title)

Subscribed and sworn to before me on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Title

My commission expires \_\_\_\_\_

**A. Contractors' Certification**

A contractor will not be eligible for award of a contract unless such contractor has submitted the following certification, which is deemed a part of the resulting contract:

**CONTRACTOR'S CERTIFICATION**

\_\_\_\_\_ certifies  
that:

Contractor

1. It intends to use the following listed construction trades in the work under the contract

\_\_\_\_\_  
\_\_\_\_\_ ; and

2. Will comply with the minority manpower ratio and specific affirmative action steps contained herein; and

3. Will obtain from each of its subcontractors and submit to the contracting or administering agency prior to the award of any subcontract under this contract the subcontractor certification required by these bid conditions.

\_\_\_\_\_  
(Signature of authorized representative of contractor)

**B. Subcontractors' Certification**

Prior to the award of any subcontract, regardless of tier, the prospective subcontractor must execute and submit to the Prime Contractor the following certification, which will be deemed a part of the resulting subcontract:

## GENERAL CONDITIONS

### SUBSECTION

1. Definitions
2. Notice
3. Intent
4. Codes, Regulations and Issue Date of Standard Specifications
5. Drawings and Specifications
6. Conflicting Conditions
7. Samples
8. Quality of Equipment and Materials
9. Shop Drawings
10. Equipment and Material Approval
11. Rejected Work and Materials
12. Separate Contracts
13. Rights of Various Interests
14. Notice to proceed
15. Time for Completion and Liquidated Damages
16. The Contractor's Duties and Rights
17. The Engineer's Authority
18. The Owner's Duties and Rights
19. Assignment
20. Oral Agreements
21. Insurance
22. Contract Security
23. Extra Work
24. Extension of Contract Time
25. Progress Payments
26. Acceptance and Final Payment
27. Correction of Faulty Work After Final Payment
28. Substitutions and Deletions
29. Provisions Required by Law Deemed Inserted
30. Protection of Lives and Health
31. Obstructions Encountered
32. Standard Specifications

## GENERAL CONDITIONS

### 1. DEFINITIONS

#### 1. CONTRACT AND CONTRACT DOCUMENTS

The Contract comprises the following documents, including all additions, deletions and modifications incorporated therein before the execution of the Contract:

##### a. Legal and Procedural Documents

- 1) Advertisement for Bids
- 2) Information for Bidders
- 3) Bid Proposal
- 4) Certifications of Bidders
- 5) Contract Agreement
- 6) Performance Bond
- 7) Payment Bond
- 8) Certificate of OWNER'S Attorney
- 9) Form for Sub-bid (when required)

##### b. General Conditions

##### c. Special Conditions

##### d. Technical Specifications, Drawings, and Addenda as enumerated in the Special Conditions

2. ENGINEER: City of Lowell, City Engineer or his designated representative.

3. STATE: The Commonwealth of Massachusetts

4. OWNER, AWARDED AUTHORITY OR MUNICIPALITY: The party of the first part designated in the Contract or any board, officer or agent duly authorized to act for the said party of the first part in the matter covered by the Contract. The OWNER is the City of Lowell, acting through its Commissioner of the Department of Public Works.

5. CONTRACTOR: The General Contractor, and is the CONTRACTOR, and is the CONTRACTOR named in the Contract Documents.

6. SUBCONTRACTOR: Any person, firm or corporation with a direct contract with the CONTRACTOR who acts for or in behalf of the CONTRACTOR in executing any part of the Contract, but does not include one who merely furnishes material.

7. WORK ON (AT) THE PROJECT: Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the CONTRACTOR and any Subcontractor.

8. DIRECTED, REQUIRED APPROVED, ACCEPTABLE: Whenever they refer to the work or its performance, "Directed", "Required", "Permitted", "Ordered",

“Designated”, “Prescribed” and words of like import shall imply the direction, requirement, permission, order, designation or prescription of the ENGINEER, and “Approved”, “Acceptable”, “Satisfactory”, “In the Judgement of” and words of like import shall mean approval by, or acceptable to, or satisfactory to or in the judgement of the ENGINEER.

9. PROPOSAL: The offer of a bidder to perform the work described by the Contract Documents when made out and submitted on the prescribed form properly signed and guaranteed.

10. PROPOSAL GUARANTEE: The bid deposit accompanying the proposal submitted by the bidder, as a guaranty that the bidder will enter into a Contract with the OWNER for the construction of the work if the Contract is awarded to him.

11. CONTRACT: The agreement covering the performance of the work described in the Contract Documents and Plans including all supplemental agreements thereto and all general and special provisions pertaining to the work or materials therefor.

12. PERFORMANCE AND PAYMENT BONDS: the approved forms of security furnished by the CONTRACTOR and his Surety as a guaranty of good faith on the part of the CONTRACTOR to execute the work in accordance with the terms of the Contract.

13. SURETY: The person, firm or corporation who executes the CONTRACTOR’S Performance and Payment Bonds.

14. SPECIFICATIONS: The Legal and Procedural Documents, General Conditions, Special Conditions and Technical Specifications with all addenda thereto.

15. DRAWINGS: Those listed herein in the Special Conditions.

16. PROVIDE: Furnish and install.

17. SHOP DRAWINGS: Fabrication and erection drawings and instructions.

18. ACT OF GOD: An earthquake, flood, cyclone, or other cataclysmic phenomenon of nature. Rain, wind, flood, or other natural phenomenon of normal intensity for the locality shall not be construed as an Act of God and no reparation shall be made to the CONTRACTOR for damages to the work resulting therefrom.

19. EXTRA WORK: Work other than that required either expressed or implied by the Contract in its present form.

20. SITE: The area upon or in which the CONTRACTOR’S operations are carried on and such other areas adjacent thereto as may be designated as such by the ENGINEER.

21. CHANGE ORDER: A written order issued by the ENGINEER to the CONTRACTOR directing certain changes, additions, or reductions in the work or in the materials or methods to be used.

## **2. NOTICE**

Written notice shall be considered as served when delivered in person or sent by certified mail to the individual, firm or corporation or to the last business address known to him who serves the Notice. It shall be the duty of each party to advise the other parties to the Contract as to any change in his business address until completion of the Contract.

### **3. INTENT**

1. The intent of the Contract Documents is that the CONTRACTOR shall provide and pay for all police details, materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

2. Any work performed after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the OWNER.

### **4. CODES, REGULATIONS AND ISSUE DATE OF STANDARD SPECIFICATIONS.**

1. Where standard specifications, codes, regulations and similar publications of governmental agencies, technical societies, manufacturer's associations and regulatory groups or bureaus are referred to in these specifications, the applicable portion thereof shall be of the same effect as if fully printed herein, and the work done in full accordance therewith. The edition current as of the date of issue of this specification shall be used except where publication date is specifically stated.

### **5. DRAWINGS AND SPECIFICATIONS**

1. Except as provided for otherwise, all required copies of Drawings and Specifications necessary for the execution of the work shall be furnished to the CONTRACTOR without charge. One complete set of all Drawings and Specifications shall be maintained at the job site and shall be available to the ENGINEER at all times.

2. All Drawings and Specifications and other data prepared by the ENGINEER shall remain the property of the ENGINEER, and they shall not be re-used on other work.

3. Figured dimensions on the Plans will be used in preference to scaling the Drawings. Where the work of the CONTRACTOR is affected by finish dimensions, these shall be determined by the CONTRACTOR at the site, and he shall assume the responsibility therefor.

4. Any discrepancies found between the Drawings and Specifications and site conditions of any errors or omissions in the Drawings and Specifications shall be immediately reported to the ENGINEER, who shall promptly correct such error or omission in writing. Any work done by the CONTRACTOR after his discovery of such discrepancies, errors or omissions without notifying the ENGINEER shall be done at the CONTRACTOR'S risk.

### **6. CONFLICTING CONDITIONS**

1. Anything shown on the plans and not mentioned in the Specifications, or mentioned in the Specifications and not shown on the Plans, shall have the same effect as if shown or mentioned respectively on both. On the Plans, the dimensions shown shall govern in case of any discrepancy between a scaled distance and the figures shown. Either party shall take advantage of any obvious error or omission in the contract documents. Any apparent discrepancies shall be submitted to the ENGINEER for determination. The decision of the ENGINEER thereupon shall be conclusive.

2. The fact that specific mention of a fixture, or any part of the work is omitted in the Specifications, whether intentionally or otherwise, when the same is clearly shown or indicated on the Plans, or is usually and customarily required to complete fully such work as is specified herein, will not entitle the CONTRACTOR to consider action in the manner of any claim for extra compensation, but the same fixtures or work, or both, must be installed or done the same as if called for by both the Plans and Specifications.

## **7. SAMPLES**

All samples called for in the Specifications or required by the ENGINEER shall be furnished by the CONTRACTOR at his expense and shall be submitted to the ENGINEER for his approval. Samples shall be furnished so as not to delay fabrication, allowing the ENGINEER reasonable time for the consideration of the samples submitted. CONTRACTOR shall furnish such samples of materials, and workmanship shall be in accordance with approved samples.

## **8. QUALITY OF EQUIPMENT AND MATERIALS**

1. Everything furnished and provided shall be new and all materials and equipment shall be of the quality specified. All unspecified materials and equipment shall be equal in grade and quality to specified materials.

2. In order to establish standards of quality, ENGINEER has, in the detailed Specifications, referred to certain products by name and catalog number. This procedure is not to be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable in design.

3. The CONTRACTOR shall furnish one complete list of proposed desired substitutions prior to signing of the Contract, together with such engineering catalog data and sketches the ENGINEER may require.

4. The CONTRACTOR shall abide by the ENGINEER'S judgement when proposed substitute materials or items or equipment are judged to be unacceptable and shall furnish the specified materials or item of equipment in such cases. All proposals for substitutions shall be submitted in writing by the General CONTRACTOR and not by individual trades or material suppliers. The ENGINEER will approve or disapprove proposed substitutions in writing within a reasonable time. No substitute materials shall be used unless approved in writing.

## **9. SHOP DRAWINGS n/a**

## **10. EQUIPMENT AND MATERIAL APPROVAL**

1. As soon as practical and within fifteen (15) days after date of award of Contract and before any materials, fixtures or equipment are purchased, the CONTRACTOR shall furnish three copies of complete catalog data for every manufactured item of equipment and all components to be used in the work, including specific performance data, material description, rating, capacity, working pressure and general type. This submittal shall be compiled by the CONTRACTOR and approved by the ENGINEER before any of the equipment is ordered. Each data sheet or catalog in the submittal shall be indexed according to specifications section and paragraph for easy reference.

2. If prior to the expiration of the above specified period or of any authorized extension thereof, the CONTRACTOR fails to submit a list of materials, fixtures and equipment as specified above, the selection made by the ENGINEER shall be final and binding and all items shall be furnished and installed by the CONTRACTOR without change in contract price or time of completion.

3. Where conformance to any standard is specified, the catalog data for that item shall state that the item conforms to that standard; or after the ENGINEER'S approval of the item subject to conformance to the standard, the CONTRACTOR shall furnish a notarized affidavit on the manufacturer's letterhead signed by an officer certifying compliance to the standard. The CONTRACTOR shall stamp all such affidavits by which it is understood that the item certified is the item provided.

4. The name and address of and organization authorized by the manufacturer to service each item of equipment shall be included with the submittal. Proof of authorization shall be furnished on request. If the ENGINEER decides that the service organization is too far distant for practical servicing, such equipment shall be rejected.

5. After written approval, this submission shall become a part of the Contract, and may not be deviated from except upon written approval of the ENGINEER.

6. Catalog data for equipment approved by the ENGINEER does not in any case supersede the ENGINEER'S Contract Documents. The approval of the ENGINEER shall not relieve the CONTRACTOR from responsibility for deviations from Drawings or Specifications unless he has in writing called to the ENGINEER'S attention such deviations at the time of submission, nor shall it relieve him from responsibility for errors of any in the items submitted. The CONTRACTOR shall check the work described by the catalog data with the ENGINEER'S Contract Documents for deviations and errors.

7. It shall be the responsibility of the Contractor to ensure that items to be furnished fit the space available. He shall make necessary field measurements to ascertain space requirements, including those for connections, and shall order such sizes and shapes of equipment that the final installation shall suit the true intent and meaning of the Drawings and Specifications.

8. Where equipment requiring different arrangement of connections from those shown is approved, it shall be the responsibility of the CONTRACTOR to install the equipment to operate properly and in harmony with the intent of the Drawings and Specifications, and to make all changes in the work required by the different arrangement of connections.

9. Manufactured articles, material and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer unless herein specified to the contrary.

10. After the execution of the Contract, substitution of equipment of makes other than those named in the Contract will be considered only if the equipment proposed for substitution is equal in construction and/or efficiency to that named in the Contract. It will be assumed that the cost to the CONTRACTOR of the equipment proposed to be substituted is less than the equipment named in the Contract and if the substitution is approved, the Contract Price shall be reduced a corresponding amount.

To receive consideration, requests for substitution must be accompanied by documentary proof of the actual difference in cost to the CONTRACTOR in the form of certified copies of equipment company's quotation to the CONTRACTOR covering the original equipment and also equipment proposed for substitution or other proof satisfactory to the OWNER. It is the intention that the OWNER shall receive the full benefit of the savings in cost involved in any substitution. In all cases the burden of proof that the equipment offered for substitution is equal or superior in construction and/or efficiency to that named in the Contract shall rest on the CONTRACTOR, and unless the proof is satisfactory to the OWNER, the substitution will not be approved. Requests for substitution on the grounds that better delivery can be obtained on the equipment proposed for substitution will not be approved for it will be assured that the CONTRACTOR in his proposal has named equipment on which he has received proposals from equipment manufacturers giving a delivery time which will permit completion of the project within the contract time. Requests for substitution of equipment which the CONTRACTOR can not prove to the satisfaction of the OWNER to be equal or superior in construction and/or efficiency to that so named in the Contract will not be approved.

In the event that the CONTRACTOR obtains the ENGINEER'S approval on equipment other than that which is shown on the Plans and specified herein, the CONTRACTOR shall, at his own expense, make any changes in the structures, buildings or piping necessary to accommodate the equipment.

## **11. REJECTED WORK AND MATERIALS**

1. All materials which do not conform to the requirements of the Contract Documents, are not equal to samples approved by the ENGINEER, or are in any way unsatisfactory or unsuitable for the purpose for which they are intended, shall be rejected. Any defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, shall be removed within ten (10) days after written notice is given by the ENGINEER, and the work shall be re-executed by the CONTRACTOR. The fact that such defective work may not have been reported on previous inspections shall not constitute an acceptance of any part of it.

2. Should the CONTRACTOR fail to remove rejected work or materials within ten (10) days after written notice to do so, the OWNER may remove the rejected work and then may store the materials.

3. The removal of rejected work or materials and storage of materials by the OWNER shall be paid for by the CONTRACTOR within thirty (30) days after the written notice to pay is given by the OWNER. If the CONTRACTOR does not pay the expense of such removal and after ten (10) days written notice being given by the OWNER of his intent to sell the materials, the OWNER may sell the materials at auction or at a private sale and shall pay to the CONTRACTOR the net proceeds therefrom after deducting all the costs and expenses that should have been borne by the CONTRACTOR.

## **12. SEPARATE CONTRACTS**

The OWNER may let other contracts in connection with the work of the CONTRACTOR. The Contractor shall cooperate with other CONTRACTORS with regard to storage of materials and execution of their work. It shall be the CONTRACTOR'S responsibility to inspect all work by other CONTRACTORS affecting his work and to report to the ENGINEER any irregularities which will not permit him to complete his work in a satisfactory manner. His failure to notify the ENGINEER of such irregularities shall indicate the work of other CONTRACTORS has been satisfactorily completed to receive his work. The CONTRACTOR shall not be responsible for defects of which he could not have known which develop in the work of others after the work is completed. It shall be the responsibility of the CONTRACTOR to measure the completed work in place and report to the ENGINEER immediately any difference between completed work by others and the Drawings.

## **13. RIGHTS OF VARIOUS INTERESTS**

Whenever work being done by the OWNER'S forces or by other contractors is contiguous to work covered by this Contract, the respective rights of the various interests involved shall be established by the ENGINEER, to secure the completion of the various portions of the work in general harmony.

## **14. NOTICE TO PROCEED**

Following the execution of the Contract by the OWNER, Written Notice to Proceed with the work shall be given to the CONTRACTOR. Computation of Contract Time shall commence on a date to be specified in the Notice to Proceed and every calendar day following, except as herein provided, shall be counted in the time for completion.

## **15. LIQUIDATED DAMAGES - NA**

## **16. THE CONTRACTOR'S DUTIES AND RIGHTS**

1. The CONTRACTOR shall begin and shall prosecute the work regularly and uninterruptedly after Notice to Proceed has been given (unless otherwise directed in writing by the OWNER) with such force as to secure the completion of the work, in and acceptable manner, within the time stated in the Proposal.

2. The CONTRACTOR shall submit at such times as may reasonably be requested by the ENGINEER, schedules which shall show the order in which the CONTRACTOR proposes to carry on the work, with dates at which the CONTRACTOR will start the several parts of the work, and estimated dates of completion of the several parts.

3. On Lump Sum Contracts the CONTRACTOR shall within ten (10) days of receipt of Notice to Proceed, submit a complete breakdown of the Contract Amount showing the value assigned to each part of the work, including an allowance for profit and overhead. Upon approval of the breakdown of the Contract Amount by the Engineer, it shall be used as the basis for all Requests for Payments.

4. The CONTRACTOR shall utilize the services of specialty subcontractors on those parts of the work which under normal contracting practices are performed by specialty subcontractors; provided that if the ENGINEER shall determine that the specialty work in question has been customarily performed by the CONTRACTOR'S own organization and that such organization is presently competent to perform such work, the CONTRACTOR shall be permitted to do so; provided further that, if the ENGINEER shall determine that the performance of any specialty work by specialty subcontractors will result in materially increased costs or inordinate delays, the requirements of this paragraph shall not apply. At the time specified by the Contract Documents or when requested by the ENGINEER, the CONTRACTOR shall submit in writing to the OWNER for the ENGINEER, the names of the subcontractors proposed for the work. Subcontractors may not be changed except at the request of the CONTRACTOR with the approval of the ENGINEER. The CONTRACTOR is responsible to the OWNER for the acts and omissions of his subcontractors, and of their direct and indirect employees to the same extent as he is responsible for the acts and omissions of his employees. The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the OWNER. The CONTRACTOR shall bind every subcontractor by the terms of the Contract Documents. For convenience of reference the Specifications are separated into titled sections. Such separations shall not, however, operate to make the ENGINEER an arbiter to establish limits to the contracts between CONTRACTOR and Subcontractors.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the CONTRACTOR by the terms of the Contract Documents insofar as applicable to the work of subcontractors and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the Contract Documents.

5. The CONTRACTOR shall develop and make all detail surveys necessary for construction, including slope stakes, batter boards, stakes for pile locations and other working points, lines and elevations. The ENGINEER will establish reference base lines and bench marks for the use of the CONTRACTOR in laying out the work. The CONTRACTOR shall be responsible for the accuracy of all lines and levels and of the work as built in accordance therewith. The CONTRACTOR shall have the responsibility to carefully preserve bench marks, reference points and stakes established by the ENGINEER and in the case of destruction thereof by the CONTRACTOR or resulting from his negligence, resulting therefrom and shall be responsible for any mistakes that may be caused by the unnecessary loss or disturbance of such bench marks, reference points and stakes.

6. The CONTRACTOR, if required, shall employ at his own expense a competent surveyor or engineer registered in the STATE as a Professional Engineer or Land Surveyor, and necessary assistants who shall stake out all structures and other parts of the work, using as reference the base lines and bench marks established by the ENGINEER. The CONTRACTOR shall be responsible for the accuracy of all levels of the work as built in accordance therewith.

7. The CONTRACTOR shall secure and pay for all permits and licenses necessary for the prosecution of the work.

8. The CONTRACTOR shall give all notices and comply with all Federal, State and Local laws, or ordinances and regulations in any manner affecting the conduct of the work, and all such orders and decrees as exist, or may be enacted by bodies or tribunals having any jurisdiction or authority over the work, and shall indemnify and save harmless the OWNER against any claim or liability arising from or based on, the violation of any such law, ordinance, regulation, order or decree, whether by himself or his employee.

9. The CONTRACTOR shall pay all royalties and license fees for any design, device, material or process covered by letters, patent or copyright by legal agreement with the owner of the patent or a duly authorized licensee of such owner, and shall save harmless the OWNER from any and all loss or expense on account thereof, including its use by the OWNER.

10. The CONTRACTOR shall confine his apparatus and storage of materials and operation of his workmen to those areas described in the Drawings and Specifications and such additional areas which he may provide as approved by the ENGINEER.

11. The CONTRACTOR shall not enter upon private property for any purpose without obtaining permission, and he shall be responsible for the preservation of all public property, trees, monuments, etc., along and adjacent to the street and/or right -of-way, and shall use every precaution necessary to prevent damage or injury thereto. He shall use suitable precautions to prevent damage to pipes, conduits, and other underground structures, and shall protect carefully from disturbance or damage all monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.

12. The CONTRACTOR shall provide adequate signs, barricades, red lights and watchman and take all necessary precautions for the protection of the work and the safety of the public. All barricades and obstructions shall be protected at night by red signal lights which shall be of substantial construction and shall be painted white or whitewashed to increase their visibility at night. Suitable warning signs shall be so placed and illuminated at night as to show in advance where construction, barricades, or detours exist.

13. The CONTRACTOR shall conduct his work at all times to ensure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work, and to ensure the protection of persons and property in a manner satisfactory to the ENGINEER. No road or street shall be closed to the public except with the permission of the ENGINEER and proper governmental authority. Fire hydrants on or adjacent to the work shall be kept accessible to fire fighting equipment at all times. Temporary provisions shall be made by the CONTRACTOR to ensure the use of sidewalks

and the proper functioning of all gutters, sewer inlets, drainage ditches, and irrigation ditches, which shall not be obstructed except as approved by the ENGINEER.

14. The CONTRACTOR shall secure written permission from the proper authority before executing new construction when such new construction crosses highways, railroad, streets or utilities under jurisdiction of State, County, or other public agency, public utility or private entity. A copy of this written permission must be filed with the ENGINEER or OWNER before any work is done.

The CONTRACTOR will be required to furnish a release from the proper authority before final acceptance of the work.

15. The CONTRACTOR shall provide and maintain such sanitary accommodations for the use of his employees and those of his subcontractors as may be necessary to comply with the requirements and regulations of the Local and State Departments of Health and as directed by the ENGINEER.

16. The CONTRACTOR shall maintain on the work a qualified superintendent who is acceptable to the ENGINEER, and who shall give efficient supervision to the work until its completion. The Superintendent shall have full authority to act in behalf of the CONTRACTOR, and all directions given to the Superintendent shall be considered given to the CONTRACTOR. In general, the ENGINEER'S instructions shall be confirmed in writing and always upon written request from the CONTRACTOR.

17. The CONTRACTOR shall be responsible for the conduct and discipline of his employees and/or any subcontractor or persons employed by subcontractors. All workmen must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. Any foreman or workman employed by the CONTRACTOR or subcontractor who, in the opinion of the ENGINEER, does not perform his work, in a skillful manner or appears to be incompetent or to act in a disorderly or intemperate manner shall, at the written request of the ENGINEER, be discharged immediately and shall not be employed again in any portion of the work without approval of the ENGINEER.

18. The CONTRACTOR shall provide suitable on-site storage for all equipment and materials necessary for use in construction of the project. All materials improperly stored shall be subject to rejection by the ENGINEER. Private property shall not be used for storage purposes without the written permission of the owner or lessee.

19. The CONTRACTOR shall perform any work and shall furnish and install any materials and equipment necessary during an emergency endangering life or property. In all cases he shall notify the ENGINEER of the emergency as soon as practical but he shall not wait for instructions before proceeding to properly protect both life and property.

20. The CONTRACTOR shall do all necessary cutting and patching of the work that may be required to properly receive the work of the various trades or as required by the Drawings and Specifications to complete the structure. He shall restore all such cuts or patch work as directed by the ENGINEER. Cutting of existing structures that shall endanger the work, adjacent property, workmen or the public shall not be done unless approved by the ENGINEER and under his direction.

21. The CONTRACTOR shall keep the OWNER'S property free at all times from accumulations of waste materials or rubbish and shall remove from the OWNER'S property, and from all public and private property, all temporary structures, rubbish, and waste materials resulting from his operation or caused by his employees, and remove all surplus materials resulting from his operation or caused by his employees, leaving the site smooth, clean and true to line and grade.

22. The CONTRACTOR shall pay for all transportation and utility services not later than the twentieth day of the calendar month following that in which such services are rendered; pay for all materials, tools and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the twentieth day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the thirtieth day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used; and pay to each of his subcontractors not later than the fifth day following each payment to the CONTRACTOR, the respective amounts allowed to CONTRACTOR on account of the work performed by his subcontractors, to the extent of each subcontractor's interest therein.

23. The CONTRACTOR shall at the termination of this Contract before acceptance of the work by the ENGINEER, remove all his equipment, tools and supplies from the property of the OWNER. Should the CONTRACTOR fail to remove such equipment, tools and supplies, the OWNER shall have the right to remove them, and the CONTRACTOR shall pay all costs incurred by the OWNER in removing them.

24. The CONTRACTOR shall deliver to the OWNER a complete release of all liens arising out of this Contract before the retained percentage or before the final Request for Payment is paid. If any lien remains unsatisfied after all payments are made, the CONTRACTOR shall refund to the OWNER such amounts as the OWNER may have been compelled to pay in discharging such liens including all costs and a reasonable attorney's fee.

25. The CONTRACTOR shall warrant all material and equipment furnished and work performed by him for a period of one year from the date of written acceptance of the work, and furnish all guarantees applicable to definite parts of the work as stipulated in the sections of the Technical Provisions.

26. The CONTRACTOR shall have the right to suspend work or terminate the Contract upon ten (10) days written notice to the OWNER and the ENGINEER, for any of the following reasons:

- a. If an order of any court, or other public authority caused the work to be stopped or suspended for a period of ninety (90) days through no act of the CONTRACTOR or his employees.
- b. If the ENGINEER should fail to act upon any Request for Payment within fifteen (15) days after it is presented in accordance with the General Conditions of the Contract.
- c. If the OWNER should fail to act upon any Request for Payment within thirty (30) days after its approval by the ENGINEER.

27. Blank

28. The CONTRACTOR shall maintain at the site a set of drawings on which shall be accurately shown the actual installation of all work under each section, indicating thereon any variations from the Contract Drawings, including changes in sites, locations and dimensions. For this purpose the ENGINEER will furnish two sets of black or blue line on white drawings. At the conclusion of the work, both sets of prints showing the entire work as actually installed shall be delivered to the ENGINEER for approval and shall become property of the OWNER.

## **17. THE ENGINEER'S AUTHORITY**

1. The ENGINEER shall have general supervision and direction of the work. The ENGINEER shall decide any and all questions which may arise as to the quality and acceptability of materials furnished, work performed, rate of progress of work, interpretation of Drawings and Specifications and all questions as to the acceptable fulfillment of the Contract on the part of CONTRACTOR. All claims of the OWNER or the CONTRACTOR shall be presented to the ENGINEER for decision which shall be made in writing within a reasonable time. All decisions of the ENGINEER shall be final.

2. The ENGINEER shall have the authority to suspend the work, wholly or in part, for such period or periods, as he may deem necessary, due to unsuitable weather, or such other conditions as are considered unfavorable for prosecution of the work, or failure on the part of the CONTRACTOR to carry out the provisions of the Contract or to supply materials meeting the requirements of the Specifications. The CONTRACTOR shall not suspend operations due to unsuitable weather without the ENGINEER'S permission.

3. In the event of temporary suspension of work or during inclement weather or whenever the ENGINEER shall direct, the CONTRACTOR will and will cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the ENGINEER, any work or materials shall have been damaged or injured from the weather, by reason of failure on the part of the CONTRACTOR or any of his subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the CONTRACTOR.

4. The ENGINEER shall have the authority at all times to inspect all materials and each part or detail of the work and the CONTRACTOR will be held strictly to the true intent of the Specifications in regard to quality of materials, workmanship and the diligent execution of the Contract. Such inspection may include mill, plant or shop inspection, and any material furnished under these Specifications is subject to such inspections. The ENGINEER shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the CONTRACTOR as is required to make a complete detailed inspection.

5. The ENGINEER shall have the authority at any time before acceptance of the work to direct the CONTRACTOR to remove or uncover any portions of the finished work. After examination, the CONTRACTOR shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed shall be paid for as Extra Work, but should the work so exposed or

examined prove unacceptable, the uncovering, removing and replacing shall be at the CONTRACTOR'S expense.

6. The ENGINEER shall have the authority to direct the CONTRACTOR to correct work that has been damaged or that was not performed in accordance with the Contract Documents. An equitable deduction from the Contract Amount shall be made to compensate the OWNER from the uncorrected work.

## **18. THE OWNER'S DUTIES AND RIGHTS**

1. The OWNER will provide the land shown on the Drawings upon which the work under the Contract is to be performed and to be used for rights-of-way for access. Any delay in furnishing these lands by the OWNER shall be deemed proper cause for adjustment in the Contract Amount and in time of completion.

2. The OWNER shall have the right to suspend the work or any portion thereof at any time provided that he gives the CONTRACTOR five (5) days written notice of suspension which shall set forth the date on which work is to be resumed. The CONTRACTOR shall resume the work upon written notice from the OWNER and within ten (10) days after the date set forth in the notice of suspension, the CONTRACTOR may abandon that portion of the work so suspended and shall be entitled to payment for all work done on the portions so abandoned, plus 15 percent of the value of the abandoned work to compensate for overhead, plant expense, and anticipated profit.

3. The OWNER, acting upon the recommendation of its ENGINEER, shall have the authority to suspend the work wholly or in part, for such period or periods, as may be deemed necessary, due to unsuitable weather, or such other conditions as are considered unfavorably for prosecution of the work, or failure on the part of the CONTRACTOR to carry out the provisions of the Contract or to supply materials meeting the requirements of the Specifications. The CONTRACTOR shall not suspend operations due to unsuitable weather without the OWNER'S permission.

4. In the event of temporary suspension of work or during inclement weather or whenever the OWNER, acting upon the recommendation of the ENGINEER, shall direct, the CONTRACTOR and his subcontractors will protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the OWNER, acting upon the recommendation of the ENGINEER, any work or materials shall have been damaged or injured from the weather, by reason of failure on the part of the CONTRACTOR or any of his subcontractors to protect his work, such materials shall be removed and replaced at the expense of the CONTRACTOR.

5. The OWNER shall have the right to correct any deficiencies, without prejudice to any other remedy he may have, upon failure of the CONTRACTOR to perform the work in accordance with the CONTRACT documents, including any requirements with respect to the Schedule of Completion, after five (5) days written notice to the CONTRACTOR and receipt of written approval from the ENGINEER. The cost of the work so performed by the owner shall be paid for by the CONTRACTOR.

6. The OWNER, acting upon the recommendation of the ENGINEER, shall have the authority to direct the CONTRACTOR not to correct work that has been damaged, or that

was not performed in accordance with the Contract Documents. An equitable deduction from the Contract Amount shall be made to compensate the OWNER for the uncorrected work.

7. The OWNER shall have the right to terminate the employment of the CONTRACTOR giving ten (10) days written notice of termination to the CONTRACTOR in the event of any default by the CONTRACTOR and upon receiving written notice from the ENGINEER certifying cause for such action in the event of such termination, the OWNER may take possession of the work and of all materials, tools and equipment thereon and may finish the work by whatever method and means he may select. It shall be considered a default by the CONTRACTOR whenever he shall:

- a.) Declare bankruptcy, become insolvent, or assign his assets for the benefit of his creditors.
- b.) Disregard or violate important provisions of the Contract Documents of the ENGINEER'S instructions, or fail to prosecute the work according to the agreed Schedule of Completion including extensions thereof.
- c.) Fail to provide a qualified superintendent, competent workmen or subcontractors, or proper materials, or fail to make prompt payment therefor.

If the right of the CONTRACTOR to proceed is so terminated, the OWNER may take possession of and utilize in completing the work such materials, appliances, supplies, plant and equipment as may be on the site of the work, and necessary therefor. Upon termination of the Contract by the OWNER, no further payments shall be due the CONTRACTOR until the work is completed. If the unpaid balance of the Contract Amount shall exceed the cost of completing the work including all overhead costs, the excess shall be paid to the CONTRACTOR.

If the cost of completing the work shall exceed the unpaid balance, the Contractor and his sureties shall pay the difference to the OWNER. The cost incurred by the OWNER, as herein provided, and the damage incurred through the CONTRACTOR'S default, shall be certified by the OWNER, and approved by the ENGINEER.

8. The OWNER shall have the right to order changes in the work through additions, deletions or modifications without invalidating the Contract. Compensation and time completion affected by the change shall be adjusted at the time of ordering such change.

9. The OWNER shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding that the time for completing the entire work or such portions may not have expired; but such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the completion of uncompleted work or causes refinishing of completed work, the CONTRACTOR shall be to such extra compensation, or extension of time or both, as the ENGINEER may determine.

## **19. ASSIGNMENT**

Neither the CONTRACTOR nor the OWNER shall sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title or interest therein, or his obligations thereunder, without written consent of the other party.

## **20. ORAL AGREEMENTS**

No oral order, objection, claim or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing, and no evidence shall be introduced in any proceeding of any other waiver or modification.

## **21. INSURANCE**

1. The CONTRACTOR shall not commence work under this Contract until he has obtained all the insurance required hereunder and such insurance has been approved by the OWNER, nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Approval of the insurance by the OWNER shall not relieve or decrease the liability of the CONTRACTOR hereunder. The amounts of such Insurance shall not be less than those enumerated in the Limits of Insurance Section of the Special Conditions. Certificates from the CONTRACTOR'S insurance, carriers stating the coverage provided, the limits of liability, and expiration dates shall be filed in triplicate with the ENGINEER before operations are begun.

### **a. Workmen's Compensation and Employer's Liability Insurance:**

The CONTRACTOR shall take out and maintain during the life of this Contract, the statutory Workmen's Compensation and Employer's Liability Insurance for all of his employees to be engaged in work on the project under this Contract and in case any such work is sublet the CONTRACTOR shall require the subcontractor similarly to provide Workman's Compensation and Employer's Liability Insurance for all the latter's employees engaged in such work.

### **b. Bodily Injury Liability and Property Damage Liability Insurance**

The CONTRACT shall take out and maintain during the life of this Contract such Bodily Injury Liability and Property Damage Liability Insurance and Automobile Bodily Injury Liability Insurance and Automobile Property Damage Liability Insurance as shall protect him and any subcontractor performing work covered by this Contract for claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them.

**c. Builder's Risk Insurance:**

The CONTRACTOR shall procure and maintain during the life of this Contract, fire and extended coverage insurance in an amount equal to the insurable value of the Contract.

**d. Contractual Liability Insurance:**

The CONTRACTOR shall indemnify and save harmless the OWNER and the ENGINEER and their officers, agents, servants and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgements, awards, losses, damages, costs and expenses, including attorney's fees, on account of bodily injury, sickness, disease or death sustained by any person or persons or injury or damage to or destruction of any property, directly or indirectly arising out of, relating to or in connection with the Work, whether or not due or claimed to be due in whole or in part to the active, passive or concurrent negligence or fault of the CONTRACTOR, his officers, agents, servants or employees and/or any other person or persons, and whether or not such claims demands, suits or proceedings are just, unjust, groundless, false or fraudulent; and the CONTRACTOR shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits and proceedings, provided, however, that the CONTRACTOR shall not be required to indemnify the ENGINEER, his officers, agents, servants or employees, against any such damages, occasioned solely by defects in maps, plans, drawings, designs or specifications prepared, acquired or used by the ENGINEER and/or solely by the negligence or fault of the ENGINEER; and provided further, that the CONTRACTOR shall not be required to indemnify the OWNER, his officers, agents, servants or employees, against any such damages occasioned solely by acts or omissions of the OWNER other than supervisory acts or omissions of the OWNER in connection with the work.

**e. Special Coverage Insurance:**

1. Hazards resulting from storage and use of explosives and storage of highly flammable liquids shall be covered by riders to the insurance policies or by separate policies.

2. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of the Contract and shall operate as and immediate termination thereof.

3. All policies shall be so written that the OWNER will be notified in writing of cancellation or restrictive amendment at least thirty (30) days prior to the effective date of such cancellation or amendment.

Renewal certificates must be furnished by the CONTRACTOR prior to the expiration date of any of the initial insurance.

**22. CONTRACT SECURITY**

1. The CONTRACTOR shall furnish a payment bond in an amount not less than Fifty Percent (50%) of the Contract price as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract.

2. The Sureties of all bonds shall be such surety company or companies as are approved by the OWNER, and are authorized to transact business in the State.

3. If at any time the OWNER, for justifiable cause, shall be or become dissatisfied with any surety or sureties then upon the Performance or Payment Bonds, the CONTRACTOR shall within five (5) days after notice from the OWNER to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such bond shall be paid by the CONTRACTOR. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such and acceptable bond to the OWNER.

### **23. EXTRA WORK**

Payment for extra work shall be governed by Sec. 9.03 of the Standard Specifications.

### **24. EXTENSION OF CONTRACT TIME**

When extra work is ordered at any time during the progress of the work which, in the sole judgement of the ENGINEER, unavoidably increases the time for the completion of the work, an extension of time shall be granted.

A delay beyond the CONTRACTOR'S control occasioned by an Act of God, an act of omission on the part of the OWNER or by strikes, lockouts, fires, etc., may entitle the CONTRACTOR to an extension of time in which to complete the work as determined by the ENGINEER, provided however, that the CONTRACTOR shall immediately give written notice to the ENGINEER of the cause of such delay, together with a statement of the portions of work so delayed. Delays in work for which necessary material has not been received by the CONTRACTOR will not be recognized or allowed until after receipt of such necessary material.

### **25. PROGRESS PAYMENTS**

1. The CONTRACTOR may submit once each month, a Request for Payment for work done. The CONTRACTOR shall furnish the ENGINEER all reasonable facilities required for obtaining the necessary information relative to the progress and execution of the work. Each Request for Payment shall be computed from the work completed on all items listed in the detailed breakdown of Contract Amount, less Five percent (5%) to be retained until final completion and acceptance of the work, and less previous payments.

If the ENGINEER determines that the progress of the Work will be benefitted by the delivery to the site of certain materials and equipment, when available, in advance of actual requirement therefor and if such materials and equipment are delivered and properly stored and protected, the cost to the CONTRACTOR or subcontractor as established, by invoices or other suitable vouchers satisfactory to the ENGINEER, less the retained percentages as above provided, may be included in the progress estimates; provided always that there be duly executed and delivered by the CONTRACTOR to the ENGINEER at the same time a Bill of Sale in form satisfactory to the OWNER, transferring and assigning to the OWNER, full ownership and title to such materials or equipment.

2. Within fifteen (15) days of submission of any Request for Payment by the CONTRACTOR, the ENGINEER shall:

- a.) Approve the Request for Payment as submitted, or
- b.) Approve such other amount as he shall decide is due to the CONTRACTOR, informing the CONTRACTOR in writing of his reasons for approving the amended amount, or
- c.) Withhold the Request for Payment, informing the CONTRACTOR in writing of his reasons for withholding it.

3. Within thirty (30) days from the date of approval of a Request for Payment by the ENGINEER, the OWNER shall:

- a.) Pay the Request for Payment as approved, or
- b.) Withhold payment in whole or in part on an approved Request for Payment to the extent necessary to protect itself from loss on account of any of the following causes discovered subsequent to approval of Request for Payment by the ENGINEER provided he informs the CONTRACTOR and the ENGINEER in writing of his reasons for withholding payment in whole or in part:
  1. Defective Work
  2. Evidence indicating the probable filing of claims by other parties against the CONTRACTOR.
  3. Failure of the CONTRACTOR to make payments to Subcontractors, material suppliers or labor.
  4. Damage to another CONTRACTOR.

## **26. ACCEPTANCE AND FINAL PAYMENT**

When the CONTRACTOR shall have completed the work in accordance with the terms of the Contract Documents, the ENGINEER shall certify his acceptance to the OWNER and his approval of the CONTRACTOR'S final Request for Payment, less any money to be retained for repairs if so specified in the Special Conditions Section of these Specifications, which shall be the Contract Amount plus all approved additions less all approved deductions and less previous payments made. The CONTRACTOR shall furnish evidence that he has fully paid all debts for labor, materials and equipment incurred in connection with the work, following which the OWNER shall accept the work and release the CONTRACTOR except as to the conditions of the Performance Bond, any legal rights of the OWNER, required guarantees, and Corrections of Faulty Work after final payment and shall pay the CONTRACTOR'S final Request for Payment. The CONTRACTOR must allow sufficient time between the time of completion of the work and approval of the final Request for Payment for the ENGINEER to assemble and check the necessary data.

## **27. CORRECTION OF FAULTY WORK AFTER FINAL PAYMENT**

The approval of the Final Request for Payment by the ENGINEER and the making of the final payment by the OWNER to the CONTRACTOR shall not relieve the CONTRACTOR of the responsibility for faulty materials or workmanship. The OWNER shall promptly give notice of faulty materials or workmanship and the CONTRACTOR shall promptly replace any such defects discovered within one year from the date of written acceptance of the work. The ENGINEER shall decide all questions arising under this paragraph.

## **28. SUBSTITUTIONS AND DELETIONS**

Substitutions and deletions in the work shall be accomplished by the CONTRACTOR upon written order from the OWNER as approved by the ENGINEER or upon written order from the ENGINEER: which order shall state the reasons for original inclusion and subsequent elimination or substitution for materials, fixtures or equipment; and that the deviation does not materially injure the project as a whole, is in the best interest of the OWNER and is of the same cost and quality as originally specified or giving the amount in dollars of any equitable adjustment to which the parties have agreed.

## **29. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forth will be physically amended to make such insertion or correction.

## **30. PROTECTION OF LIVES AND HEALTH**

In order to protect the lives and health of his employees under this Contract, the CONTRACTOR and his Subcontractors shall comply with all pertinent provisions of the "Manual of Accident Prevention in Construction" issued by the Associated General Contractors of America, Inc., and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in course of employment on work under the Contract. He alone shall be responsible for the safety, efficiency, ad adequacy of his plant, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance or operation.

## **31. OBSTRUCTIONS ENCOUNTERED**

The Drawings may show certain information which has been obtained by the OWNER regarding the existing structure and various pipe lines and other utilities which exist at the location of the project.

The OWNER expressly disclaims any responsibility for the accuracy or completeness of the information given on the Drawings with regard to existing structures and utilities, and the CONTRACTOR will not be entitled to any extra compensation on account of inaccuracy or incompleteness of such information, said structures and utilities being shown only for the

convenience of the CONTRACTOR, who must verify the information to his own satisfaction. The giving of this information upon the Contract Drawings will not relieve the CONTRACTOR of his obligations to support and protect all utilities and other structures which may be encountered during the construction of the work, and to make good all damages done to such utilities and structures, as provided in these Specifications.

### **32. STANDARD SPECIFICATIONS**

For the purpose of governing the work to be done under this contract, the OWNER has adopted as its Standard Specifications format the “Standard Specifications for Highways, Bridges and Waterways” published by the Commonwealth of Massachusetts, Department of Public Works, dated 1988 including the Supplemental Specifications dated December 11, 2002.

This Standard Specifications shall apply as if reprinted herein except as modified by the General Conditions, Special Conditions and Technical Specifications.

In case of conflict between these documents, the Supplement to Standards and the Special Provisions of these Specifications shall govern.



## SPECIAL CONDITIONS

### SUBSECTION

1. Enumeration of Plans, Specifications and Addenda
2. Time for Completion and Liquidated Damages
3. Inspection
4. Photographs of Project
5. Limits for Insurance
6. Blank
7. Money to be Retained for Repairs
8. Blank
9. Blank
10. Blank
11. Traffic Control
12. Communication
13. Owner's Rights
14. Daily Cleanup
15. Prevailing Wage Rates
16. Contractor Evaluation

**SPECIAL CONDITIONS**

**1. ENUMERATION OF PLANS AND SPECIFICATIONS**

Following are the Plans and Specifications which form a part of this Contract, as set forth in paragraph 1 of the General Conditions.

Project: **CATCH BASIN CLEANING**

**2. LIQUIDATED DAMAGES - NA**

**3. INSPECTION**

The OWNER shall have access and be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records whenever these are in progress of preparation. The Contractor shall provide proper and necessary facilities for such access and inspection.

**4. PHOTOGRAPHS OF PROJECT n/a**

**5. LIMITS FOR INSURANCE**

The limits for the various types of insurance required under the Insurance Subsection of the General Conditions shall be as follows:

- a. For Workman's Compensation, as required by State Statute;
- b. Minimum amounts of Public Liability, Bodily Injury Liability and Property damage Liability Insurance are as follows:

|   |                |
|---|----------------|
| Injury or death of one person:                          | \$500,000.00   |
| Injury to more than one person<br>In a single accident: | \$1,000,000.00 |
| Property damage in one accident:                        | \$250,000.00   |
| Property damage in all accidents:                       | \$500,000.00   |
- c. Minimum amounts of Automobile and Truck (Vehicular) Public Liability, Bodily Injury Liability, and Property Damage Liability are as follows:

|   |              |
|---|--------------|
| Injury or death of one person;                          | \$500,000.00 |
| Injury to more than one person in<br>a single accident; | \$500,000.00 |
| Property damage in one accident;                        | \$250,000.00 |
| Property damage in all accidents;                       | \$500,000.00 |

- d. Builder's Risk Insurance shall be procured and maintained by the Contractor covering loss by fire and extended coverage in the completed value form in the amount of the total insurance value of all structures, materials, and equipment to be built and installed. The policy shall indicate the Owner, the Contractor, and all subcontractors as the named insured with loss payable to the Owner as Trustee, the policy shall provide for a thirty (30) day notice to the Owner of cancellation or restrictive amendment. A copy of the policy shall be furnished to the Owner and a Certificate of Insurance shall be furnished to the Engineer.

The Builder's Risk Insurance shall be obtained before the work is started and shall be maintained until the date of completion of the work as stated in the final estimate, or until the Owner occupies or otherwise takes possession of the project, whichever occurs first.

- e. Contractual Liability Insurance covering the liability assumed by the Contractor as outlined under section (d) of the Insurance Section of the General Conditions to the amounts required under Section (b) above.

**6. BLANK**

**7. MONEY TO BE RETAINED FOR REPAIRS**

1. The CONTRACTOR agrees that the OWNER may retain out of the final payment due to the CONTRACTOR under this Contract, five percent (5%) of the amount thereof, and may expend the same in the manner hereinafter provided, in making such repairs or replacements of said work as the OWNER may deem expedient.

2. If at any time within one-year period of guarantee any part of the work constructed under the terms of this Contract requires repairing or replacement, the OWNER may notify the CONTRACTOR in writing to make the required repairs or replacements. If the CONTRACTOR neglects to begin making such repairs or replacements within ten (10) days from the date of receipt of such notice, the OWNER may employ other persons to make the same. The OWNER shall pay the expense of the repairs out of the sum retained for that purpose. Upon the expiration of the one year period of guarantee, provided that the work at the time is in good order, the CONTRACTOR will be entitled to receive the whole or such part of the sum retained as may remain after the expense of making repairs or replacements has been paid.

3. For settlement of all claims arising out of this Contract against the OWNER, its officers, or agents and for all expenses, losses, or damages incurred by the OWNER by reason of said claims, it is agreed that the OWNER may keep the whole or any portion of the sum retained.

**8. BLANK**

**9. BLANK**

**10. BLANK**

## **11. TRAFFIC CONTROL**

The intent of this project is to maintain access to all homes and businesses at all times during construction. The CONTRACTOR must furnish all required traffic control, including detour signs and drums. The CONTRACTOR may not close traffic lanes, roadways, driveways or sidewalks without prior written approval from the OWNER. The CONTRACTOR shall submit a Traffic Control Plan for each street indicating proposed staging of traffic to complete the required work. No work shall begin on a street until the Traffic Control Plan has been reviewed and approved by the OWNER. The Traffic Control Plan shall show proposed signage and placement of drums. **When directed by the ENGINEER, the CONTRACTOR shall call for police details, which will be paid for by the CONTRACTOR.**

During the progress of the work, the CONTRACTOR shall make every effort to maintain access to abutting properties. When it becomes necessary to temporarily block access to a property, the CONTRACTOR shall notify the owner of the property in writing at least 72 hours in advance of blocking access so that the property owner can move vehicles and make alternate arrangements.

Cost for preparation of the Traffic Control Plan shall be considered as incidental to the work. No separate payment will be made for preparation of the Traffic Control Plan.

## **12. COMMUNICATION**

The Contractor must furnish a portable phone (Nextel) to communicate with the Engineer's field engineer. The Contractor's foreman/supervisor must have radio/phone to the engineer before start of work. The Contractor shall pay all phone charges reasonable within contract scope of work. The Contractor shall receive no additional compensation for communications.

## **13. OWNER'S RIGHTS**

OWNER'S Rights to be exercised by the Department of Public Works wherever in this Contract the OWNER is to give or receive a notice or provisions are included for the exercise of rights and privileges and without limiting the generality thereof, the acts dealing with the OWNER'S prerogatives in the Contract shall be exercised by the Commissioner of Public Works or his authorized representative for and in behalf of the OWNER.

## **14. DAILY CLEAN UP**

Before completion of each day's work, the CONTRACTOR shall be responsible for cleaning up and removing and relocating all removed material, debris, equipment and the like to ensure the continuous flow of traffic in roadways where work is progressing including access to private property during non-working hours.