

**TOWN OF MARSHFIELD
EMERGENCY WATERSHED PROGRAM 2024**

Contract Documents and Technical Specifications

September 4, 2024

Owner:

Selectboard
Town of Marshfield
122 School Street, Room 1
Marshfield, VT 05658

Engineer:



**New England Consulting Engineers LLC
120 Northgate Avenue
Morrisville, Vermont 05661 802-279-3257 www.newengce.com**

TOWN OF MARSHFIELD

EMERGENCY WATERSHED PROTECTION PROGRAM 2024

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ADVERTISEMENT FOR BIDS

TOWN OF MARSHFIELD
(Owner)

122 School Street, Room 1
Marshfield, VT 05658
(Address)

Separate sealed BIDS for the construction of the Town of MARSHFIELD, Emergency Watershed Program, including the construction of precast block retaining wall, streambank stabilization, debris removal and miscellaneous and appurtenant construction.

Will be received by:

Town of Marshfield, Vermont
(Owner)

at the office of:

Central Vermont Regional Planning Commission
29 Main Street, Suite #4
Montpelier, Vermont 05602
(Agent of Owner)

until 11:00 A.M. Local Time on September 24, 2024 and then at said office publicly opened and read aloud.

A Pre-Bid Meeting is scheduled at the office of the Town Clerk, 122 School Street, Marshfield, Vermont 05658 at 2:00 PM, local time, on September 10, 2024. All prospective bidders are requested to attend this meeting.

Each BID must be accompanied by a CERTIFIED CHECK made payable to the OWNER for FIVE PERCENT (5%) of the total amount of the BID. A BID BOND may be used in lieu of a certified check.

The CONTRACT DOCUMENTS may be examined at the following locations:

- New England Consulting Engineers LLC, 120 Northgate Avenue, Morrisville, Vermont 05661
- Town of Marshfield, Town Clerk, 122 School Street, Marshfield, Vermont 05658
- Central Vermont Regional Planning Commission, Eli Toohey, 29 Main Street, Suite #4, Montpelier, Vermont

Printed copies of the CONTRACT DOCUMENTS may be obtained at the office of:

- Central Vermont Regional Planning Commission, 29 Main Street, Suite #4, Montpelier, VT 05602
 - o Phone: 802-229-0389
 - o Email: toohey@cvregion.com
 - o Office Hours: 8:30 AM - 4:30 PM
 - o Appointments welcome, but not necessary

An electronic copy (.pdf) of the CONTRACT DOCUMENTS may be downloaded from the [Vermont Business Registry and Bid System website](http://www.vermontbusinessregistry.com/) (<http://www.vermontbusinessregistry.com/>) and the [Central Vermont Regional Planning Commission website](https://centralvtplanning.org/) (<https://centralvtplanning.org/>).

INFORMATION FOR BIDDERS

BIDS will be received by the Central Vermont Regional Planning Commission (herein called the "AGENT OF OWNER"), at 29 Main Street, Suite #4, Montpelier, Vermont until 11:00 A.M. local time on September 24, 2024, and then at said office publicly opened and read aloud.

Each BID must be submitted in a sealed envelope. Each sealed envelope containing a BID must be plainly marked on the outside as BID FOR MARSHFIELD EMERGENCY WATERSHED PROTECTION PROGRAM and the envelope should bear on the outside the name of the BIDDER, their address, their license number if applicable, 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 to:

Eli Toohey
Central Vermont Regional Planning Commission
29 Main Street, Suite #4
Montpelier, VT 05602

All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. Only one copy of the BID form is required.

The OWNER may waive any informalities or minor defects 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 ninety (90) days after the actual date of the opening thereof. Should there be reasons why the CONTRACT cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID Schedule by examination of the site and a review of the drawings and specifications including ADDENDA. After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done.

All questions by prospective BIDDERS as to the interpretations of the INFORMATION FOR BIDDERS, Forms of PROPOSAL, Form of CONTRACT, Plans, Specifications or BONDS, must be submitted via email to Eli Toohey (toohey@cvregion.com) with the Subject "Marshfield Emergency Watershed Protection Program Bid Question" at least seven (7) days before the date herein set for the opening of BIDS. Responses to all questions received by the deadline will be posted on the [Vermont Business Registry and Bid System website](#) and the [Central Vermont Regional Planning Commission website](#) at least five (5) days before the date herein set for the opening of BIDS. Responses will also be emailed directly to prospective BIDDERS that have submitted questions and prospective BIDDERS that have requested this information via email to Eli Toohey (toohey@cvregion.com). Failure of any BIDDER to receive any such ADDENDUM or interpretation shall not relieve such BIDDER from any obligation under their BID as submitted. All ADDENDA so issued shall become part of the CONTRACT DOCUMENTS.

In the event there is any discrepancy in the PROPOSAL between any unit price in figures and the extended totals, the unit price in figures shall govern and the extended totals in each case shall be corrected accordingly. No BID will be accepted which does not contain a unit price for each item in this PROPOSAL.

Prospective BIDDERS and their agents, with permission from the landowner, will be permitted to make, at their own responsibility and expense, such borings, soundings, or other investigations over the site of the proposed work as they deem necessary. They must satisfy themselves by personal examination of the location of the proposed work, and by such other means as they deem necessary, as to the actual conditions and requirements of the WORK and as to the actual quantities required for the construction. Prices bid shall include every and all costs for the construction complete between the limits indicated on the Plans and/or as set out in the specifications.

At the time of the opening of BIDS, each BIDDER will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Drawings and CONTRACT DOCUMENTS (including all ADDENDA). The failure or omission of any BIDDER to receive or examine any form, instrument, or documents shall in no way relieve any BIDDER from the obligation in respect to their BID.

The OWNER shall provide to BIDDERS prior to BIDDING, all information which is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve them from fulfilling any of the conditions of the CONTRACT DOCUMENTS.

The party to whom the contract is awarded will be required to execute the Agreement within ten (10) calendar days from the date when NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD shall be accompanied by the necessary Agreement. In case of failure of the BIDDER to execute the Agreement, the OWNER may, at their option, consider the BIDDER in default, in which case the BID BOND or certified check accompanying the proposal shall become the property of the OWNER.

The OWNER, within ten (10) days of receipt of acceptable Agreement signed by the party to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE, withdraw their signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The NOTICE TO PROCEED shall be issued within ten (10) days of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

The OWNER may make such investigations as they deem 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 Agreement and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted.

Award will be made to the lowest responsive, responsible BIDDER.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT, shall apply to the CONTRACT DOCUMENT throughout.

Each BIDDER is responsible for thoroughly inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of any BIDDER to do any of the foregoing shall, in no way, relieve any BIDDER from any obligation in respect to their BID.

The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUB-CONTRACTORS when requested to do so by the OWNER.

The ENGINEER is: New England Consulting Engineers LLC.
Address: 120 Northgate Avenue, Morrisville, Vermont 05602
Email: dlefavour@newengce.com
Telephone: 802-279-3257.

Inspection trips for prospective BIDDERS may be scheduled upon request.

If requested, BIDDERS must attend a pre-award conference.

BID FORM

Proposal of _____
(hereinafter called "BIDDER"), organized and existing under the
laws of the State of _____ doing business as

(a corporation, a partnership or an individual)

To the TOWN OF MARSHFIELD (hereinafter called "OWNER".)

In compliance with your Advertisement for BIDS, BIDDER hereby
proposes to perform all WORK for the construction of:

MARSHFIELD EMERGENCY WATERSHED PROTECTION PROGRAM

in strict accordance with the CONTRACT DOCUMENTS, within the
time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the
case of a joint BID, each party thereto certifies as to their
own organization, that their BID has been arrived at
independently, without consultation, communication, or agreement
as to any matter relating to this BID with any other BIDDER or
with any competitor.

BIDDER hereby agrees to commence WORK under this contract on the
date of issuance of the NOTICE TO PROCEED and to fully complete
the PROJECT within ninety (90) consecutive calendar days
thereafter. BIDDER further agrees to pay as liquidated damages,
the sum of \$500 for each consecutive calendar day thereafter as
provided in Section 15 of the General Conditions.

BIDDER acknowledges receipt of the following ADDENDUM:

_____.

BIDDER agrees to perform all the WORK described in the CONTRACT
DOCUMENTS for the following unit prices or lump sum:

SCHEDULE OF PRICES

BID

Item No.	Estimated Quantity	Brief Description of Item With Unit Price Written in Words	Unit Price in Figures	Total Amount in Figures
1	1 L.S.	MARSHFIELD EMERGENCY WATERSHED PROTECTION PROGRAM - LUMP SUM		

TOTAL BID = \$ _____

TOTAL ESTIMATED PRICE FOR BID IN WORDS:

NOTE: "TOTAL ESTIMATED PRICE FOR BID" is the basis for BID comparison.

NOTES ON SCHEDULE OF PRICES

1. The Bidder shall insert the unit price or the lump sum price in words and figures and the total amount in all of the blank spaces provided for that purpose in the Schedule of Prices.
2. In the event there is any discrepancy in the BID between any unit or lump sum price in words, in figures, and the extended totals, the unit or lump sum price in words shall govern and the extended totals in each case shall be corrected accordingly. No BID PROPOSAL will be accepted which does not contain a unit or lump sum price as indicated for each item contained in the BID.
3. The BIDDER shall fill in the Subtotal for each page in the Schedule of Prices in the BID.
4. The BIDDER shall transfer the Subtotal of the figures from the Total Amount in Figures column from each page in the Schedule of Prices to the appropriate space on the Summary of Prices page. The BIDDER shall then fill in the Total Estimated Contract Price in both figures and words.

5. All entries in the Schedule of Prices must be made clearly and in ink or typewritten.

6. The Statement of Compliance with Bid Conditions (Page BID-10) Must be completed by the BIDDER.

The undersigned understands that it is the intention of the OWNER not to award a Contract for this work under this or any other PROPOSAL if the BIDDER cannot furnish satisfactory evidence that they have the ability and experience to perform this class of work, and that they have sufficient capital and equipment to enable them to prosecute the work successfully and to complete it within the time named in the CONTRACT DOCUMENTS, and that the OWNER reserves the right to reject this or any other PROPOSAL or to award the CONTRACT as is deemed to be in the best interest of said OWNER. The undersigned understands further that the quantities given in the Schedule of Prices of this PROPOSAL are approximate only, and are given as a basis for the comparison of the PROPOSALS, that the OWNER does not agree, expressly or by implication, that the actual amount of work will correspond even approximately therewith; but reserves the right to increase or decrease the amount of any item of the work listed as may be found desirable or necessary during the carrying out of the construction work, and that the unit prices quoted in the Schedule of Prices apply without change to such variation in the quantity of each or all items.

IMPORTANT: The undersigned must fill in all of the below information.

Name and residences of all persons and parties interested in this proposal as Principals are as follows:

Note: Give first and last names in full. In case of corporation, give names of officers and directors; in case of partnership, give names of all partners.

The undersigned also agrees that all work to be performed by subcontractors and sums to be paid subcontractors for same, by Contractor are as follows:

Description of Subcontract Work	Name & Address of Subcontractor	Unit Prices	Amounts
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The undersigned submits answers to following questions to enable Owner to judge of his experience and ability in, and facilities for, work proposed to be done.

1. Work, if awarded to you, will have resident personal supervision of Whom? State their special qualifications.

2. Describe equipment you propose to furnish: (a) your own, (b) rented.

a) _____

b) _____

3. How many years has your organization been in business as a General Contractor under the name in which you propose to execute this Contract? _____

4. What projects have your present organization completed of character similar to that proposed? Give information indicated by following tabulation.

Name & Address of Owner for Whom Work was Done	Work Done as Contractor	Description of Work	Approximate Amount of Contract	Approximate Date Work was Done

5. Has your present organization ever failed to complete any work awarded to it? If so, state when, where, and why.

6. Give below name of one or more banks which have information that would enable them to advise regarding financial ability of your company.

<u>Name of Bank</u>	<u>Address</u>

ADDRESS OF BIDDER: _____

The CONTRACTOR must submit the following additional documents with the bid proposal:

- a. Bid bond.

Respectfully submitted:

Signature: _____

Title: _____

Address: _____

Date: _____

License Number (if applicable): _____

(SEAL - if BID is by a corporation)

Attest: _____

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of _____ }

SS:

County of _____ }

On this _____ day of _____ 2024
before me personally came and appeared

to me known, who being duly sworn, did depose and say that they
reside at _____ that they
are the _____ of _____,
corporation described in and which executed foregoing
instrument; that the know seals of said corporation, that one of
impressions affixed to said instrument is an impression of such
seal; that it was so affixed by order of directors of said
corporation, and that they signed their name thereto by like
order.

(SEAL)

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____ }

SS:

County of _____ }

On this _____ day of _____ 2024
before me personally came and appeared

to me known and known to me to be the person described in and
who executed the foregoing instrument and acknowledged that the
executed the same.

(SEAL) _____
Notary Public

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ }

SS:

County of _____ }

On this _____ day of _____ 2024

before me personally came and appeared to me known and known to me to be one of the members of the

_____ firm of

_____, described in and who executed the foregoing instrument and acknowledged to me that they executed the same as and for the act and deed of said firm.

(SEAL) _____

Notary Public

STATEMENT OF COMPLIANCE WITH BID CONDITIONS

I hereby certify that:

I have read, understand, and agree to comply with all statements as noted on page BID-1 of this specification.

Signature

Title

Dated

(SEAL)

Notary Public

NOTICE OF AWARD

TO: _____

PROJECT Description: _____

The OWNER has considered the BID submitted by you for the above-described WORK in response to its ADVERTISEMENT FOR BIDS dated _____, 2024 and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$_____.

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND and certificates of insurance within ten (10) calendar days from the date of this NOTICE to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) days from the date of this NOTICE, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE TO AWARD to the AGENT OF OWNER.

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by _____ this the _____ day of _____, 2024.

By _____

Title _____

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2024 by and between the TOWN OF MARSHFIELD hereinafter called "OWNER" and _____ doing business as (an individual, a partnership or a corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of _____.
2. The CONTRACTOR will furnish all the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.
3. The CONTRACTOR will commence the WORK required by the CONTRACT DOCUMENTS on the date of issuance of the NOTICE TO PROCEED and will complete the same within _____ calendar days unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS. The CONTRACTOR acknowledges that the date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the CONTRACTOR further agrees to pay as liquidated damages, the sum of \$ _____ for each consecutive calendar day that the CONTRACTOR shall be in default after the time specified in the Agreement and as provided in Section 15 of the General Conditions.
4. The CONTRACTOR agrees to perform all the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ _____ or as shown in the BID schedule.
5. The term "CONTRACT DOCUMENTS" means and includes the following:
 - (A) ADVERTISEMENT FOR BIDS
 - (B) INFORMATION FOR BIDDERS
 - (C) BID
 - (D) BID BOND
 - (E) NOTICE OF AWARD
 - (F) AGREEMENT

(G) GENERAL CONDITIONS

(H) DRAWINGS prepared by _____ numbered _____
through _____, and dated _____ 2024.

(I) SPECIFICATIONS prepared or issued by _____
_____, and dated _____, 2024.

(J) ADDENDA:

No. _____ dated _____ 2024.

No. _____ dated _____ 2024.

No. _____ dated _____ 2024.

No. _____ dated _____ 2024.

6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in (_____) (# of copies) each of which shall be deemed an original on the date first above written.

OWNER: _____

BY: _____

Typed Name: _____

Title: _____ (SEAL)

ATTEST: _____

Typed Name: _____

Title: _____

CONTRACTOR: _____

BY: _____

Typed Name: _____

Title: _____ (SEAL)

Address: _____

ATTEST: _____
Typed Name: _____
Title: _____

NOTICE TO PROCEED

To: _____ Date of Issuance: _____
(Contractor)

Project: _____

You are hereby notified to commence WORK in accordance with the Agreement dated _____, 20____. The date of completion of all WORK is _____ 20____.

(OWNER)

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____, this the _____ day of _____, 2024.

By: _____

Title: _____

CHANGE ORDER

CHANGE ORDER # _____

Project # _____ Date: _____

Contract # _____ Agreement Date: _____

CONTRACT TITLE: _____

ORIRIGNAL PRICE:\$ _____

OWNER (GRANTEE): _____

CONTRACTOR: _____

The following changes are hereby made to the CONTRACT DOCUMENTS:

DESCRIPTION:

JUSTIFICATION:

PRICE: This C.O.(1) will (not change/increase/decrease) the

Contract Price By: \$ _____

Current Contract Price per most recent C.O.: \$ _____

The new Contract Price including this C.O. is: \$ _____

TIME: Current Contract Calendar Days as per most recent C.O.:

DAYS _____

This C.O. will (not change/increase/decrease) the Contract Calendar Days by:

DAYS _____

The new Contract Calendar Days including this C.O. is:

DAYS _____

The new Contract Completion Date is, therefore: _____

The attached Contractor's Revised Project Schedule reflects increases or decreases in Contract Time as authorized by this C.O.

Stipulated price and time adjustment includes all costs and time associated with the above described change. Contractor waives all rights for additional compensation or time extension for said change. Contractor and owner agree that the price(s) and time adjustment(s) stated above are equitable and acceptable to both parties.

REQUESTED BY: _____

SIGNATURES/APPROVALS:

Recommended By: _____ (ENGINEER)

Accepted By: _____ (CONTRACTOR)

Ordered By: _____ (OWNER)

GENERAL CONDITIONS

1. Definitions
2. Additional Instructions & Detail Drawings
3. Schedules, Reports and Records
4. Drawings and Specifications
5. Shop Drawings
6. Materials, Services and Facilities
7. Inspection and Testing
8. Substitutions
9. Patents
10. Surveys, Permits, Regulations
11. Protection of Work, Property, Persons
12. Supervision by Contractor
13. Changes in the Work
14. Changes in Contract Price
15. Time for Completion & Liquidated Damages
16. Correction of Work
17. Subsurface Conditions
18. Suspension of Work, Termination & Delay
19. Payments to Contractor
20. Acceptance of Final Payment as Release
21. Insurance
22. Contract Security
23. Assignments
24. Indemnification
25. Separate Contracts
26. Subcontracting
27. Engineer's Authority
28. Land and Rights-of-Way
29. Guaranty
30. Taxes

1. DEFINITIONS

- 1.1 Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:

- 1.2 ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS and SPECIFICATIONS, by additions, deletions, clarifications or corrections.
- 1.3 BID - The offer or proposal of the BIDDER submitted on the prescribe form setting forth the prices for the WORK to be performed.
- 1.4 BIDDER - Any person, firm or corporation submitting a BID for the WORK.
- 1.5 BONDS - Bid, Performance, and Payment Bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the CONTRACT DOCUMENTS.
- 1.6 CHANGE ORDER - A written order to the CONTRACTOR authorizing an addition, deletion or revision in the WORK within the general scope of the CONTRACT DOCUMENTS, or authorizing an adjustment in the CONTRACT PRICE or CONTRACT TIME.
- 1.7 CONTRACT DOCUMENTS - The contract, including Advertisement For Bids, Information For Bidders, BID, Bid Bond, Agreement, Payment Bond, Performance Bond, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS, SPECIFICATIONS, and ADDENDA.
- 1.8 CONTRACT PRICE - The total monies payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.
- 1.9 CONTRACT TIME - The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.
- 1.10 CONTRACTOR - The person, firm or corporation with whom the OWNER has executed the Agreement.
- 1.11 DRAWINGS - The part of the CONTRACT DOCUMENTS which show the characteristics and scope of the WORK to be performed and which have been prepared or approved by the ENGINEER.
- 1.12 ENGINEER - The person, firm or corporation named as such in the CONTRACT DOCUMENTS.
- 1.13 FIELD ORDER - A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or

an extension of the CONTRACT TIME, issued by the ENGINEER to the CONTRACTOR during construction.

- 1.14 NOTICE OF AWARD - The written notice of the acceptance of the BID from the OWNER to the successful BIDDER.
- 1.15 NOTICE TO PROCEED - Written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the WORK and establishing the date of commencement of the WORK.
- 1.16 OWNER - A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the WORK is to be formed.
- 1.17 PROJECT - The undertaking to be performed as provided in the CONTRACT DOCUMENTS.
- 1.18 RESIDENT PROJECT REPRESENTATIVE - The authorized representative of the ENGINEER who is assigned to the PROJECT site or any part thereof.
- 1.19 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a CONTRACTOR, manufacturer, SUPPLIER or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.
- 1.20 SPECIFICATIONS - A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- 1.21 SUBCONTRACTOR - An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other SUBCONTRACTOR for the performance of a part of the WORK at the site.
- 1.22 SUBSTANTIAL COMPLETION - That date as certified by the ENGINEER when the construction of the PROJECT or a specified part thereof is sufficiently completed, in accordance with the CONTRACT DOCUMENTS, so that the PROJECT specified part can be utilized for the purposes for which it is intended.

- 1.23 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions required by a Federal agency for participation in the PROJECT and approved by the agency in writing prior to inclusion in the CONTRACT DOCUMENTS, or such requirements that may be imposed by applicable state laws.
- 1.24 SUPPLIER - Any person or organization who supplies materials or equipment for the WORK, including that fabricated to a special design, but who does not perform labor at the-site.
- 1.25 WORK - All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the PROJECT.
- 1.26 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered 'in person to said party or his authorized representative on the WORK.

2. ADDITIONAL INSTRUCTION AND DETAIL DRAWINGS

- 2.1 The CONTRACTOR may be furnished additional instructions and detail drawings, by the ENGINEER, as necessary to carry out the WORK required by the CONTRACT DOCUMENTS.
- 2.2 The additional drawings and instruction thus supplied will become a part of the CONTRACT DOCUMENTS. The CONTRACTOR shall carry out the WORK in accordance with the additional detail drawings and instructions.

3. SCHEDULES, REPORTS AND RECORDS

- 3.1 The CONTRACTOR shall submit to the OWNER such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required-by the CONTRACT DOCUMENTS for the WORK to be performed.
- 3.2 Prior to the first partial payment estimate the CONTRACTOR shall submit construction progress schedules showing the order in which they propose to carry on the WORK,

including dates at which they will start the various parts of the WORK, estimated date of completion of each part and, as applicable:

- 3.2.1 The dates at which special detail drawings will be required; and
 - 3.2.2 Respective dates for submission of SHOP DRAWINGS, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.
- 3.3 The CONTRACTOR shall also submit a schedule of payments that they anticipate to earn during the course of the WORK.

4. DRAWINGS AND SPECIFICATIONS

- 4.1 The intent of the DRAWINGS and SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and all incidental work necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy or operation by OWNER.
- 4.2 In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over scale dimensions, and detailed DRAWINGS shall govern over general DRAWINGS.
- 4.3 Any discrepancies found between the DRAWINGS and SPECIFICATIONS and site conditions or inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS shall be immediately reported to the ENGINEER, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the CONTRACTOR after their discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR'S risk.

5. SHOP DRAWINGS

- 5.1 The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the proper execution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER shall promptly review all SHOP DRAWINGS. The ENGINEER'S approval of any

SHOP DRAWING shall not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS. The approval of any SHOP DRAWING which substantially deviates from the requirements of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER.

5.2 When submitted for the ENGINEER'S review, SHOP DRAWINGS shall bear the CONTRACTOR'S certification that they have reviewed, checked and approved the DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.

5.3 Portions of the WORK, requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission has been approved by ENGINEER. A copy of each approved SHOP DRAWING and each approved sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the ENGINEER.

6. MATERIALS, SERVICES AND FACILITIES

6.1 It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the CONTRACTOR shall provide and pay for all material labor, tools, equipment, water, light, power, transportation, supervision temporary construction of any nature, and all other services and facility of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.

6.2 Materials and equipment shall be so stored as to ensure the preservation of their quality and fitness for the WORK. Stored materials and equipment to be incorporated in the WORK shall be located so as to facilitate prompt inspection.

6.3 Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as by directed the manufacturer.

6.4 Materials, supplies and equipment shall be in accordance with sample submitted by the CONTRACTOR and approved by the ENGINEER.

6.5 Materials, supplies or equipment to be incorporated into the WORK shall not be purchased by the CONTRACTOR or the

SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7. INSPECTION AND TESTING

- 7.1 All materials and equipment used in the construction of the PROJECT shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the CONTRACT DOCUMENTS.
- 7.2 The OWNER shall provide all inspection and testing services not required by the CONTRACT DOCUMENTS.
- 7.3 The CONTRACTOR shall provide at their expense the testing and inspection services required by the CONTRACT DOCUMENTS.
- 7.4 If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the ENGINEER timely notice of readiness. The CONTRACTOR will then furnish the ENGINEER the required certificates of inspection, testing or approval.
- 7.5 Inspections, tests or approvals by the engineer or others shall not relieve the CONTRACTOR from their obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.
- 7.6 The ENGINEER and his representatives will at all times have access to the WORK. In addition, authorized representatives and agents of any participating federal or State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, other relevant data and records. The CONTRACTOR will provide proper facilities for such access and observation of the WORK and also for any inspection, or testing thereof.
- 7.7 If any WORK is covered contrary to the written instructions of the ENGINEER it must, if requested by the ENGINEER, be uncovered for their observation and replaced at the CONTRACTOR'S expense.

7.8 If the ENGINEER considers it necessary or advisable that covered WORK be inspected or tested by others, the CONTRACTOR, at the ENGINEER'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the ENGINEER may require, that portion of the WORK in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such WORK is defective, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection testing and of satisfactory reconstruction. If, however, such WORK is not found to be defective, the CONTRACTOR will be allowed an increase in CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to such uncovering, exposure, observation, inspection, testing reconstruction and an appropriate CHANGE ORDER shall be issued.

8. SUBSTITUTIONS

8.1 Whenever a material, article or piece of equipment is identified on the DRAWINGS or SPECIFICATIONS by reference to brand name or catalog number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the CONTRACT DOCUMENTS by reference to brand name or catalog number, and in the opinion of the ENGINEER, such material, articles or piece of equipment is of equal substance and function to that specified, the ENGINEER may approve its substitution and use by the CONTRACTOR. Any cost differential shall be deductible from the CONTRACT PRICE and the CONTRACT DOCUMENTS shall be appropriately modified by CHANGE ORDER. The CONTRACTOR warrants that if substitutes are approved, no major changes in the function or general design of the PROJECT will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the CONTRACT PRICE or CONTRACT TIME.

9. PATENTS

9.1 The CONTRACTOR shall pay all applicable royalties and license fees. They shall defend all suits or claims for

infringement of any patent rights save the OWNER harmless from loss on account thereof, except that the OWNER shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, however, if the CONTRACTOR has reason to believe that the design, process they product specified is an infringement of a patent, they shall be responsible for such loss unless they promptly gives such information to the ENGINEER.

10. SURVEYS, PERMITS, REGULATIONS

- 10.1 The OWNER shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the WORK together with a suitable number of bench marks adjacent to the WORK as shown in the CONTRACT DOCUMENTS. From the information provided by the OWNER, unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.
- 10.2 The CONTRACTOR shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, they shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.
- 10.3 Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the CONTRACTOR unless otherwise stated in the SUPPLEMENTAL GENERAL CONDITIONS. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, they shall promptly notify the ENGINEER in writing, and any necessary changes shall be adjusted as provided in Section 13, CHANGES IN THE WORK.

11. PROTECTION OF WORK, PROPERTY AND PERSONS

- 11.1 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. They will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby, all the WORK and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 11.2 The CONTRACTOR will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. They will erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. They will notify owners of adjacent utilities when prosecution of the WORK may affect them. CONTRACTOR will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any CONTRACTOR or anyone directly or indirectly employed by any of them or one for whose acts any of them be liable, except damage or loss attributable to the fault of the CONTRACT DOCUMENTS or to the acts or omissions of the OWNER or the ENGINEER or anyone employed by either of them anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the CONTRACTOR.
- 11.3 In emergencies affecting the safety of persons or the WORK or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the ENGINEER or OWNER, shall act to prevent threatened damage, injury or loss. They will give the ENGINEER prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from the CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER shall thereupon be issued covering the changes and deviations involved.

12. SUPERVISION BY CONTRACTOR

12.1 The CONTRACTOR will supervise and direct the WORK. They will be solely responsible for the means methods, techniques, sequences and procedures of construction. The CONTRACTOR will employ and maintain on the WORK a qualified supervisor or superintendent who shall have been designated in writing by the CONTRACTOR as the CONTRACTOR'S representative at the site. The supervisor shall have full authority to act on behalf of the CONTRACTOR. All communications given to the supervisor shall be as binding as if given to the CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of WORK.

13. CHANGES IN THE WORK

13.1 The OWNER may at any time, as the need arises, order changes within scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in the required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

13.2 The ENGINEER, also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles them to a change in CONTRACT PRICE or TIME, or both, in which event they shall give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days. The CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further inspection from the OWNER.

14. CHANGES IN CONTRACT PRICE

14.1 The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- (a) Unit prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the WORK. In addition, there shall be added an amount to be agreed upon-but not to exceed fifteen (15) percent of the actual cost of the WORK to cover the cost of general overhead and profit.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- 15.1 The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on a date specified in the NOTICE TO PROCEED.
- 15.2 The CONTRACTOR will proceed with the WORK at such rate of progress to ensure final completion within the CONTRACT TIME. It is expressly understood and agreed, by and between the CONTRACTOR and the OWNER, that the CONTRACT TIME for the completion of the WORK described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK.
- 15.3 If the CONTRACTOR shall fail to complete the WORK within the CONTRACT TIME, or extension of time granted by the OWNER, then the CONTRACTOR will pay to the OWNER the amount for liquidated damages as specified in the BID for each calendar day that the CONTRACTOR shall be in default after the time stipulated in the CONTRACT DOCUMENTS.
- 15.4 The CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following, and the CONTRACTOR has promptly given WRITTEN NOTICE of such delay to the OWNER or ENGINEER.
 - 15.4.1 To any preference, priority or allocation order duly issued by the OWNER;
 - 15.4.2 To unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God, or of the public enemy, acts of the OWNER, acts of another CONTRACTOR in

the performance of a CONTRACT with the OWNER, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; and

- 15.4.3 To any delays of SUBCONTRACTORS occasioned by any of the causes specified in paragraphs 15.4.1. and 15.4.2 of this article.

16. CORRECTION OF WORK

16.1 The CONTRACTOR shall promptly remove from the premises all WORK rejected by the ENGINEER for failure to comply with the CONTRACT DOCUMENTS, either incorporated in the construction or not, and the CONTRACTOR shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the OWNER and shall bear the expense of making good all WORK of other CONTRACTORS destroyed or damaged by such removal or replacement.

16.2 All removal and replacement WORK shall be done at the CONTRACTOR's expense. If the CONTRACTOR does not take action to remove such rejected work within ten (10) days after receipt of WRITTEN NOTICE, the OWNER may remove such WORK and store the materials at the expense of the CONTRACTOR.

17. SUBSURFACE CONDITIONS

17.1 The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the ENGINEER and OWNER by WRITTEN NOTICE of:

17.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the CONTRACT DOCUMENTS; or

17.1.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the CONTRACT DOCUMENTS.

17.2 The OWNER shall promptly investigate the conditions, and if they find that such conditions do so materially differ and

cause an increase or decrease in the cost of, or in the time required for, performance of the WORK, an equitable adjustment shall be made and the CONTRACT DOCUMENTS shall be modified by a CHANGE ORDER. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless they have given the required WRITTEN NOTICE; provided that the OWNER may, if they determine the facts so justify, consider and adjust any such claims asserted before the date of partial payment.

18. SUSPENSION OF WORK, TERMINATION AND DELAY

- 18.1 The OWNER may suspend the WORK or any portion thereof for a period of more than ninety (90) days or such further time as agreed upon by the CONTRACTOR, by WRITTEN NOTICE to the CONTRACTOR and the ENGINEER which notice shall fix the date on which WORK shall be resumed. The CONTRACTOR shall resume the WORK on the date so fixed. The CONTRACTOR will be allowed increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to any suspension.
- 18.2 If the CONTRACTOR is adjudged as bankrupt or insolvent, or if they make a general assignment for the benefit of their creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of their property, or if they file a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if they repeatedly fail to supply sufficient skilled workers or suitable materials or equipment, or if they repeatedly fail to make prompt payments to SUBCONTRACTORS or for labor materials or equipment or if they disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK, or if they disregards the authority of the ENGINEER, or if they otherwise violate any provision of the CONTRACT DOCUMENTS, then the OWNER may, without prejudice to any other right or remedy and after giving the CONTRACTOR and their surety a minimum of ten (10) days from delivery of a WRITTEN NOTICE, terminate the services of the CONTRACTOR and take possession of the PROJECT and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the WORK by whatever method they may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT

price exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess SHALL BE PAID TO THE CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the OWNER. Such costs incurred by the OWNER will be determined by the ENGINEER and incorporated in a CHANGE ORDER.

- 18.3 Where the CONTRACTOR's services have been so terminated by the OWNER, said termination shall not affect any right of the OWNER against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the OWNER due the CONTRACTOR will not release the CONTRACTOR from compliance with the CONTRACT DOCUMENTS.
- 18.4 After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the ENGINEER, the OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the CONTRACT. In such case, the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.
- 18.5 If, through no act or fault of the CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the OWNER or under an order of court or other public authority, or the ENGINEER fails to act on any request for payment within thirty (30) days after it is submitted, or the OWNER fails to pay the CONTRACTOR substantially the sum approved by the ENGINEER or awarded by arbitrators within thirty (30) days of this approval and presentation, then the CONTRACTOR may, after ten (10) days from delivery of a WRITTEN NOTICE to the OWNER and the ENGINEER, terminate the CONTRACT and recover from the OWNER payment for All WORK executed and all expenses sustained. In addition and in lieu of terminating the CONTRACT, if the ENGINEER has failed to act on a request for payment or if the OWNER has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) days WRITTEN NOTICE to the OWNER and the ENGINEER stop the WORK until they have been paid all amounts then due, in which event and upon resumption the WORK, CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

18.6 If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER or ENGINEER to act within the time specified in the CONTRACT DOCUMENTS, or if no time specified, within a reasonable time, an adjustment in the CONTRACT PRICE an extension of the CONTRACT TIME, or both, shall be made by CHANGE ORDER to compensate the CONTRACTOR for the costs and delays necessarily caused by the failure of the OWNER or ENGINEER.

19. PAYMENTS TO CONTRACTOR

19.1 At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the ENGINEER a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the WORK but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the OWNER, as will establish the OWNER's title to the material and equipment and protect his interest therein, including applicable insurance. The ENGINEER will, within twenty-one (21) days after receipt of each partial payment estimate, either indicate in writing their approval of payment and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating writing their reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within thirty (30) days of the presentation to him of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate. The OWNER shall retain ten (10) percent of the amount of each payment until final completion and acceptance of all WORK covered by the CONTRACT DOCUMENTS. The OWNER at any time, however, after fifty (50) percent of the WORK has been completed, if they find that satisfactory progress is being made, shall reduce retainage to five (5) percent on the current and remaining estimates. When the WORK is substantially complete (operational or beneficial occupancy), the retained amount may be further reduced below five (5)

percent to only that amount necessary to assure completion. On completion and acceptance of a part of the WORK on which price is stated separately in the CONTRACT DOCUMENTS, payment may be made in full, including retained percentages, less authorized deductions.

- 19.2 The request for payment may also include an allowance for the cost of major materials and equipment which are suitably stored either at or near the site.
- 19.3 Prior to SUBSTANTIAL COMPLETION, the OWNER, with the approval of the ENGINEER and with the concurrence of the CONTRACTOR, may use any completed or substantially completed portions of the WORK. Such use shall not constitute an acceptance of such portions of the WORK.
- 19.4 The OWNER shall have the right to enter the premises for the purpose of doing WORK not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.
- 19.5 Upon completion and acceptance of the WORK, the ENGINEER shall issue a certificate attached to the final payment request that the WORK has been accepted by them under the conditions of the CONTRACT DOCUMENTS. The entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR within forty-five (45) days of completion and acceptance of the WORK.
- 19.6 The CONTRACTOR will indemnify and save the OWNER or the OWNER'S agent harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid

compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged thereupon payment to the CONTRACTOR shall be resumed, in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, their Surety or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made-by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

- 19.7 If the OWNER fails to make payment forty-five (45) days after approval by the ENGINEER, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the CONTRACTOR.

20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

- 20.1 The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and others relating to or arising out of this WORK. Any payment, however, final or otherwise, shall not release the CONTRACTOR or their sureties from any legations under the CONTRACT DOCUMENTS or the Performance BOND or Payment BONDS.

21. INSURANCE

- 21.1 The CONTRACTOR shall purchase and maintain such insurance as will protect them from claims set forth below which may arise out of or result from the CONTRACTOR'S execution of the WORK, whether such execution be by themself or by any SUBCONTRACTOR or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be able:

- 21.1.1 Claims under worker's compensation, disability benefit and other similar employee benefit acts;
 - 21.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of their employees;
 - 21.1.3 Claims for damages because of bodily injury, sickness or disease, death of any person other than their employees;
 - 21.1.4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any other person; and
 - 21.1.5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.
- 21.2 Certificates of Insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the WORK. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled unless at least thirty (30) days prior WRITTEN NOTICE has been given to the OWNER.
- 21.3 The CONTRACTOR shall procure and maintain, at their own expense, during the CONTRACT TIME, liability insurance as hereinafter specified:
- 21.3.1 With respect to all operations performed under this CONTRACT, the CONTRACTOR shall carry general liability insurance having all major divisions of coverage including, but not limited to:
 - Premises - Operations
 - Products and Completed Operations
 - Personal Injury Liability
 - Contractual Liability
- The policy shall be on an occurrence form and limits shall not be less than:
- \$1,000,000 Each Occurrence
 - \$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal & Advertising Injury

Automotive Liability: The CONTRACTOR shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the CONTRACT. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this CONTRACT involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this CONTRACT shall include the OWNER and its agencies, departments, officers and employees as Additional Insureds. If performance of this CONTRACT involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the OWNER and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

21.3.2 The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and SUBCONTRACTORS as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.

21.4 The CONTRACTOR shall procure and maintain, at their own expense, during the CONTRACT TIME, in accordance with the provision of the laws of the state in which the WORK is performed, Worker's Compensation Insurance, including occupational disease provisions, for all of their employees at the site of the PROJECT and in case any WORK is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Worker's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any

class of employees engaged in hazardous WORK under this CONTRACT at the site of the PROJECT is not protected under Worker's Compensation statute, the CONTRACTOR shall provide, and shall cause, each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

- 21.5 The CONTRACTOR shall secure "All Risk" type Builder's Risk Insurance for WORK to be performed. Unless specifically authorized by the OWNER, the amount of such insurance shall not be less than the CONTRACT PRICE totaled in the BID. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the CONTRACT TIME, and until the WORK is accepted by the OWNER. The policy shall name as the insured the CONTRACTOR, the ENGINEER, and the OWNER.

22. CONTRACT SECURITY

- 22.1 The CONTRACTOR shall within ten (10) days after the receipt of the NOTICE OF AWARD furnish the OWNER with a Performance BOND and a Payment BOND in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS. Such BONDS shall be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the state in which the WORK is to be performed and named on the-current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these BONDS shall be borne the CONTRACTOR. If at any time a surety on any such BOND is declared bankrupt or loses its right to do business in the state in which the WORK to be performed or is removed from the list of Surety Companies accepted for Federal BONDS, CONTRACTOR shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable BOND (or BONDS) in such form and sum and signed by such other surety or sureties as may be satisfactory 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 an acceptable BOND to the OWNER.

23. ASSIGNMENTS

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

24. INDEMNIFICATION

24.1 The CONTRACTOR will indemnify and hold harmless the OWNER and the ENGINEER and their agents and employees from and against all claims, ages, losses and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that any such claims, age, loss or expense is attributable to bodily injury, sickness, disease death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

24.2 In any and all claims against the OWNER or the ENGINEER, or any of their agents or employees, by any employee of the CONTRACTOR, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them, or one for whose acts any of the may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount type of damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under worker's compensation acts, ability benefit acts or other employee benefits acts.

24.3 The obligation of the CONTRACTOR under this paragraph shall not extend the liability of the ENGINEER, their agents or employees arising out of preparation or approval of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDERS, design or SPECIFICATIONS.

25. SEPARATE CONTRACTS

- 25.1 The OWNER reserves the right to let other CONTRACTS in connection with the PROJECT. The CONTRACTOR shall afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and shall properly connect and coordinate his WORK with theirs. If the proper execution or results of any part of the CONTRACTOR'S WORK depends upon the WORK of any other CONTRACTOR, the CONTRACTOR shall inspect and promptly report to the ENGINEER any defects in such WORK that render it unsuitable for such proper execution and results.
- 25.2 The OWNER may perform additional WORK related to the PROJECT by themselves or they may let other CONTRACTS containing provisions similar to these. The CONTRACTOR will afford the other CONTRACTORS who are parties to such CONTRACTS (for the OWNER, if they are performing the Additional WORK themselves), reasonable opportunity for the introduction and storage of materials and equipment and the execution of WORK, and shall properly connect and coordinate Additional WORK with theirs.
- 25.3 If the performance of additional WORK by other CONTRACTORS or the OWNER is not noted in the CONTRACT DOCUMENTS prior to the execution of the CONTRACT, WRITTEN NOTICE thereof shall be given to the CONTRACTOR prior to starting any such additional WORK. If the CONTRACTOR believes that the performance of such additional WORK by the OWNER or others involves them in additional expense or entitles them to an extension of the CONTRACT TIME, they may make a claim therefore as provided in Section 14 and 15.

26. SUBCONTRACTING

- 26.1 The CONTRACTOR may utilize the services of specialty SUBCONTRACTORS for those parts of the WORK which under normal contracting practices, are performed by specialty SUBCONTRACTORS.
- 26.2 The CONTRACTOR shall not award WORK to SUBCONTRACTOR(S), in excess of fifty (50) percent of the CONTRACT PRICE, without prior written approval of the OWNER.

- 26.3 The CONTRACTOR shall be fully responsible to the OWNER for the acts and omissions of his SUBCONTRACTORS, and of persons wither directly or indirectly employed by them, as they are for the acts and omissions of persons directly employed by them.
- 26.4 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.
- 26.5 Nothing contained in this CONTRACT shall create any contractual relation between any SUBCONTRACTOR and the OWNER.

27. ENGINEER'S AUTHORITY

- 27.1 The ENGINEER shall act as the OWNER'S representative during the construction period. He shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed. He shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The ENGINEER will make visits to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.
- 27.2 The CONTRACTOR-will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply.
- 27.3 The ENGINEER will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.
- 27.4 The ENGINEER shall promptly make decisions relative to interpretation of the CONTRACT DOCUMENTS.

28. LAND AND RIGHTS-OF-WAY

- 28.1 Prior to issuance of NOTICE TO PROCEED, the OWNER shall obtain all land and rights-of-way necessary for carrying out and for the completion of WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.
- 28.2 The OWNER shall provide to the CONTRACTOR information which delineates and describes the lands owned and rights-of-way acquired.
- 28.3 The CONTRACTOR shall provide at his own expense and without liability he OWNER any additional land and access thereto that the CONTRACTOR may require for temporary construction facilities, or for storage of materials.

29. GUARANTY

- 29.1 The CONTRACTOR shall guarantee all materials and equipment furnished performed for a period of one, (1) year from the date of SUBSTANTIAL COMPLETION or FINAL COMPLETION OF THE PROJECT or specified party as appropriate. The CONTRACTOR warrants and guarantees for a period one (1) year from the date of SUBSTANTIAL COMPLETION or FINAL COMPLETION OF THE PROJECT or specified part, as appropriate, that the completed project is free from all defects due to faulty materials or workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the project resulting from such defects. The OWNER will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other WORK may be made necessary by such defects, the OWNER may do so and charge the CONTRACTOR the cost thereby incurred. The Performance BOND shall remain in full force and effect through the guarantee period.

30. TAXES

- 30.1 The CONTRACTOR will pay all sales, consumer, use and other similar required by the law of the place where the WORK is performed.

GENERAL CONTRACTOR'S OR SUBCONTRACTOR'S RELEASE
AND WAIVER OF LIEN

For and in consideration of the receipt of _____, in payment for labor and/or materials furnished, the undersigned does hereby waive, release and relinquish any all claims, demands and rights of lien for all work, labor, materials, machinery or other goods, equipment or services done, performed or furnished for the construction located at the site hereinafter described, wit:

(Project Name)

(OWNER)

_____ Vermont as of _____

(Date)

The undersigned further warrants and represents that any and all valid materials and equipment bills, now due and payable on the party hereinabove described in behalf of the undersigned, have been paid full to date of this waiver, or will be paid from these funds.

Total Paid to Date This Contract Current Payment Due

Total Billed to Date This Contract Contractor/Sub-Contractor

By: _____

(Witness)

Title: _____

(Witness)

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner's Project No. _____ Engineer's Project No. _____

Project _____

Contractor _____ Contract Date _____

Contract For _____

Contract or Specified Part Shall Include

DEFINITION OF SUBSTANTIAL COMPLETION

The date of Substantial Completion of a PROJECT or specified part of a PROJECT is the date when the construction is sufficiently completed, in accordance with the Contract Documents, so that the PROJECT or specified part of the PROJECT can be utilized for the purpose for which it was intended.

To: _____
(Owner)

And To: _____
(Contractor)

Date of Substantial Completion: _____

The work performed under this contract has been inspected by authorized representatives of the OWNER, CONTRACTOR and ENGINEER, and the PROJECT is hereby declared to be substantially completed on the above date.

If a tentative list of items to be completed or corrected is appended hereto, the failure to include an item on it does not alter the responsibility of the CONTRACTOR to complete all the WORK in accordance with the Contract Documents contract time.

Recommended By:

_____	_____	_____
ENGINEER	AUTHORIZED REPRESENTATIVE	DATE

Approved By:

_____	_____	_____
OWNER	AUTHORIZED REPRESENTATIVE	DATE

The contractor accepts the above Certificate of Substantial Completion.

_____	_____	_____
CONTRACTOR	AUTHORIZED REPRESENTATIVE	DATE

EXCEPTIONS AS TO GUARANTEES AND WARRANTIES:

ATTACHMENTS:

CERTIFICATE OF FINAL COMPLETION OF WORK

CONTRACT NO. _____ AGREEMENT DATE: _____

CONTRACT DESCRIPTION: _____

COMPLETION DATE PER AGREEMENT AND CHANGE ORDERS: _____

FINAL CERTIFICATION OF CONTRACTOR

I hereby certify that the WORK as identified in the Final Estimate of Payment for construction CONTRACT WORK dated _____, represents full compensation for the actual value of WORK completed. All WORK completed conforms to the terms of the AGREEMENT and authorized changes.

CONTRACTOR: _____

DATE: _____

SIGNATURE: _____

TITLE: _____

FINAL CERTIFICATION OF ENGINEER

I have reviewed the CONTRACTOR'S Final Payment Request dated _____ **and hereby certify that to the best of my knowledge, the cost of the WORK identified on the Final Estimate represents full compensation for the actual value of WORK completed and that the WORK has been completed in accordance with**

the terms of the AGREEMENT and authorized changes. This certification is provided in accord with the terms of GENERAL CONDITION 19.5.

ENGINEER: _____
DATE: _____
SIGNATURE: _____
TITLE: _____

FINAL ACCEPTANCE OF OWNER

I, as representative of the OWNER, accept the above Final certifications and authorize Final Payment in the amount of \$_____ and direct the CONTRACTOR'S attention to the GENERAL CONDITION #20. The guaranty for all WORK completed subsequent to the date of SUBSTANTIAL COMPLETION, expires one (1) year from the date of this Final Acceptance.

Date

OWNER

AUTHORIZED REPRESENTATIVE

Title

SPECIAL CONDITIONS

1. TECHNICAL SPECIFICATIONS

The CONTRACTOR shall follow the Vermont Agency of Transportation 2024 Standard Specifications for construction for all work. The Vermont Agency of Transportation 2024 Standard Specifications and Standard Details are hereby incorporated into the CONTRACT DOCUMENTS by reference.

2. UNANTICIPATED UTILITY CONFLICTS

The OWNER reserves the right to make any repairs or other construction with the OWNER's forces, to resolve conflicts with utilities that are not identified in the CONTRACT DOCUMENTS or otherwise included in the WORK.

END OF SECTION