

## RESOLUTION 2006 – 006

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AWARDED WEEKLEY ASPHALT PAVING, INC. WITH THE EAST PALOMINO DRIVE ROAD RESURFACING PROJECT; APPROVING AN AGREEMENT WITH WEEKLEY ASPHALT PAVING, INC., WHICH ESTABLISHES THE SCOPE AND COMPENSATION FOR ITS SERVICES; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on October 7, 2005 and on October 23, 2005, the town, in compliance with the Town's procurement procedures, published a Request for Bid ("RFB") seeking road resurfacing services for East Palomino Drive; and

**WHEREAS**, on October 31, 2005, at 3:00 PM, the Town opened the two (2) responses that it received from both Weekley Asphalt Paving, Inc. and Williams Paving; and

**WHEREAS**, the bid proposal received from Weekley Asphalt Paving, Inc. was for \$81,110.55, and the bid proposal received from Williams Paving was for \$126,496.00; and

**WHEREAS**, the Town's Capital Projects Team concluded that the lowest responsive bidder was Weekley Asphalt Paving, Inc.; and

**WHEREAS**, the Town is desirous of entering into an agreement with Weekley Asphalt Paving, Inc. for road resurfacing services for East Palomino Drive.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Southwest Ranches, Florida:

**Section 1:** The above referenced recitals are true and correct and are incorporated herein by reference.

**Section 2:** The Town Council of the Town of Southwest Ranches hereby awards the Town's procurement for East Palomino Drive road resurfacing services to Weekley Asphalt Paving, Inc.

**Section 3:** The Town Council of the Town of Southwest Ranches hereby approves the Agreement, attached hereto as Exhibit "A" between the Town of Southwest Ranches and Weekley Asphalt Paving, Inc., for road resurfacing services on East Palomino Drive, for an amount not to exceed \$81,110.55.

**Section 4:** The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into an Agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary to effectuate the intent of this Resolution.

**Section 5:** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 3<sup>rd</sup> day of November, 2005, on a motion by Council Member Aster Knight and seconded by Council Member Don Maines.


Fink	<u>Y</u>	Ayes	<u>5</u>
Blanton	<u>Y</u>	Nays	<u>0</u>
Knight	<u>Y</u>	Absent	<u>0</u>
Maines	<u>Y</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		

  
Mecca Fink, Mayor

ATTEST:

  
Susan A. Owens, Town Clerk

Approved as to Form and Correctness:

  
Gary A. Poliakoff, J.D., Town Attorney  
940972\_1.DOC



**CONTRACT DOCUMENTS  
& SPECIFICATIONS FOR**

**EAST PALOMINO DRIVE RESURFACING**

**FOR  
THE TOWN OF SOUTHWEST RANCHES  
6589 SW 160<sup>th</sup> AVENUE  
SOUTHWEST RANCHES, FLORIDA 33331  
Tel: 954-434-0008  
Fax: 954-434-1490**

**PREPARED BY:  
R.J. BEHAR & COMPANY, INC.  
6861 S.W. 196 AVENUE, SUITE 302  
PEMBROKE PINES, FLORIDA 33332  
TEL: 954-680-7771  
FAX: 954-680-7781**

**CERTIFICATE OF AUTHORIZATION NO. 00008365**

## TABLE OF CONTENTS

SECTION 30 - GENERAL CONDITIONS .....	30-1
DEFINITIONS .....	30-1
PRELIMINARY MATTERS .....	30-3
CONTRACT DOCUMENTS .....	30-5
AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS .....	30-6
BONDS AND INSURANCE .....	30-8
CONTRACTOR'S RESPONSIBILITIES .....	30-12
OTHER WORK .....	30-19
TOWN'S RESPONSIBILITIES .....	30-20
ENGINEER'S STATUS DURING CONSTRUCTION .....	30-21
CHANGES IN THE WORK .....	30-23
CHANGE OF CONTRACT PRICE .....	30-24
CHANGE OF CONTRACT TIME .....	30-29
WARRANTY AND GUARANTEE; TEST AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK .....	30-30
PAYMENTS TO CONTRACTOR AND COMPLETION .....	30-32
SUSPENSION OF WORK AND TERMINATION .....	30-37
ARBITRATION .....	30-39
MISCELLANEOUS .....	30-40
SECTION 40 - PROPOSAL .....	40-1
QUOTATION FORM .....	40-2
SECTION 41 - SUMMARY OF QUALIFICATIONS .....	41-1
SECTION 50 - COMPENSATION .....	50-1
PAY ITEMS .....	50-1
UNIT COMPENSATION .....	50-3
SECTION 60 - AGREEMENT .....	60-1
WORK: .....	60-1
ENGINEER: .....	60-1
CONTRACT TIME: .....	60-1
CONTRACT PRICE: .....	60-1
PAYMENT PROCEDURES: .....	60-1
INTEREST: .....	60-2
CONTRACTOR'S REPRESENTATIONS: .....	60-2
CONTRACT DOCUMENTS: .....	60-3
LIQUIDATED AND SPECIAL DAMAGES: .....	60-3
MISCELLANEOUS .....	60-4
OTHER PROVISIONS: .....	60-4
SECTION 80 - STANDARD FORMS .....	80-1
NOTICE TO PROCEED .....	80-1
CHANGE ORDER .....	80-2
ENGINEER'S RECOMMENDATION OF PAYMENT .....	80-3
FINAL AFFIDAVIT .....	80-4
SECTION 130 - STORM DRAINAGE SYSTEM SPECIFICATIONS .....	130-1
SECTION 140 - PAVING SPECIFICATIONS .....	140-1

## ATTACHMENTS

## PLAN & DETAILS

SECTION 30  
GENERAL CONDITIONS

**Effective Date of the Agreement:** The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date, on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

**ENGINEER:** R.J. BEHAR & COMPANY, INC.

**Field Order:** A written order issued by ENGINEER which orders minor changes in the Work in accordance with paragraph 309.5 but which does not involve a change in the Contract Price or the Contract Time.

**General Requirements:** Sections of the Specifications.

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

**Notice of Award:** The written notice by TOWN to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent enumerated therein, within the time specified, TOWN will sign and deliver the Agreement.

**Notice to Proceed:** A written notice given by TOWN to CONTRACTOR (with a copy to ENGINEER) fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR'S obligations under the Contract Documents.

**OWNER:** The public body or authority, corporation, association, limited partnership, firm or person (herein referred to as TOWN) with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

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

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

**Resident Project Representative:** The authorized representative of ENGINEER who is assigned to the site or any part thereof.

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

**Specifications:** Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

**Subcontractor:** An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

**Substantial Completion:** The Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER as evidenced by ENGINEER's definitive certificate of Substantial Completion, it is sufficiently complete and inspected, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if there be no such certificate issued, when final payment is due in accordance with paragraph 3014.9.1. The terms "substantially complete" and "substantially completed" as applied to any Work refer to Substantial Completion thereof.

SECTION 30  
GENERAL CONDITIONS

**Supplementary Conditions:** The part of the Contract Documents, if included, which amends or supplements these General Conditions.

**Supplier:** A manufacturer, fabricator, supplier, distributor, material-man or vendor.

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

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

**Work:** The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

**Work Directive Change:** A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by TOWN and recommended by ENGINEER, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in paragraph 304.2 or 304.3 or to emergencies under paragraph 306.13. A Work Directive Change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Time as provided in paragraph 3010.2.

**Written Amendment:** A written amendment of the Contract Documents, signed by TOWN and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the non-engineering or non-technical rather than strictly Work-related aspects of the Contract Documents.

**2      PRELIMINARY MATTERS**

**30.2.1      Delivery of Bonds:**

When CONTRACTOR delivers the executed Agreements to TOWN, CONTRACTOR shall also deliver to TOWN such Bonds as CONTRACTOR may be required to furnish in accordance with paragraph 305.1.3.

**30.2.2      Copies of Documents:**

TOWN shall furnish to CONTRACTOR up to ten copies (unless otherwise specified in the Supplementary Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

**30.2.3      Commencement of Contract Time; Notice to Proceed:**

The Contract Time will commence to run on the thirtieth day after the Effective Date of the Agreement, or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the Effective Date of the Agreement. In no event will Contract Time commence to run later than the seventy-fifth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

SECTION 30  
GENERAL CONDITIONS

30.2.4 Starting the Project:

CONTRACTOR shall start to perform the Work on the date when the Contract Time commences to run, but no Work shall be done at the site prior to the date on which the Contract Time commences to run.

30.2.5 Before Starting Construction:

30.2.5.1 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to TOWN or ENGINEER for failure to report any conflict, error or discrepancy in the Contract Documents, unless CONTRACTOR has actual knowledge thereof or should reasonably have known thereof.

30.2.5.2 Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for review:

30.2.5.2.1 An estimated progress schedule indicating the starting and completion dates of the various stages of the Work;

30.2.5.2.2 A preliminary schedule of Shop Drawing submissions; and

30.2.5.2.3 A preliminary schedule of values for all the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work, which will be confirmed in writing by CONTRACTOR at the time of submission.

30.2.5.3 Before any Work at the site is started, CONTRACTOR shall deliver to TOWN, with a copy to ENGINEER, certificates (and other evidence of insurance requested by TOWN), which CONTRACTOR is required to purchase and maintain in accordance with paragraphs 305.2.1 and 305.3.

30.2.6 Pre-construction Conference:

Within twenty days after the Effective Date of the Agreement, but before CONTRACTOR starts the Work at the site, a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to discuss the schedules referred to in paragraph 302.5.2, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work.

30.2.7 Finalizing Schedules:

At least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to finalize the schedules submitted in accordance with paragraph 302.5.2. The finalized progress schedule will be acceptable to ENGINEER as providing an orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on ENGINEER responsibility for the progress or scheduling of the Work nor relieve

SECTION 30  
GENERAL CONDITIONS

30.3.2.2.2 A Work Directive Change (pursuant to paragraph 3010.1). As indicated in paragraphs 3011.2 and 3012.1, Contract Price and Contract Time may only be changed by a Change Order or a Written Amendment.

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

30.3.2.3.1 A Field Order (pursuant to paragraph 309.5),

30.3.2.3.2 ENGINEER's approval of a Shop Drawing or sample (pursuant to paragraphs 306.14.5 and 306.14.6), or

30.3.2.3.3 ENGINEER's written interpretation or clarification (pursuant to paragraph 309.4).

30.3.3 Reuse of Documents:

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

**4      AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS**

30.4.1 Availability of Lands:

TOWN shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by TOWN, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay in TOWN's furnishing these lands, rights-of-way or easements entitles CONTRACTOR to an extension of the Contract Time, CONTRACTOR may make a claim therefor as provided in Article 3012. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment in accordance with all governmental and environmental protection rules and regulations. CONTRACTOR shall be responsible for the proper storage, handling, and removal of all regulated substances at no additional cost to the TOWN.

30.4.2 Physical Conditions:

30.4.2.1 Explorations and Reports:

Reference is made to the Supplementary Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports, but not upon nontechnical data, interpretations or opinions contained therein or for the completeness thereof for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in paragraph 304.2.6, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.

30.4.2.2 Existing Structures:



SECTION 30  
GENERAL CONDITIONS

Reference is made to the Supplementary Conditions for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in paragraph 304.3.1) which are at or contiguous to the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such drawings, but not for the completeness thereof for CONTRACTOR's purposes. Except as indicated in the immediately preceding sentence and in paragraph 304.2.6, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.

30.4.2.3 Report of Differing Conditions:

If CONTRACTOR believes that:

30.4.2.3.1 Any technical data on which CONTRACTOR is entitled to rely as provided in paragraphs 304.2.1 and 304.2.2 is inaccurate, or

30.4.2.3.2 Any physical condition uncovered or revealed at the site differs materially from that indicated, reflected or referred to in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work in connection therewith (except in an emergency as permitted by paragraph 306.13), notify TOWN and ENGINEER in writing about the inaccuracy or difference.

30.4.2.4 ENGINEER's Review:

ENGINEER will promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise TOWN in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

30.4.2.5 Possible Document Change:

If ENGINEER concludes that there is a material error in the Contract Documents or that because of newly discovered conditions a change in the Contract Documents is required, a Work Directive Change or a Change Order will be issued as provided in Article 3010 to reflect and document the consequences of the inaccuracy or difference.

30.4.2.6 Possible Price and Time Adjustments:

In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference. If TOWN and CONTRACTOR are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in Articles 3011 and 3012.

30.4.3 Physical Conditions - Underground Facilities:

30.4.3.1 Shown or Indicated:

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

SECTION 30  
GENERAL CONDITIONS

30.4.3.1.1 TOWN and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and,

30.4.3.1.2 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in paragraph 306.12.1 and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

30.4.3.2 Not Shown or Indicated:

If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 306.13), identify the TOWN of such Underground Facility and give written notice thereof to that TOWN and to TOWN and ENGINEER. ENGINEER will promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 306.12.1. CONTRACTOR shall be allowed a change in the Contract Price or a change of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of. If the parties are unable to agree as to the amount or length thereof, CONTRACTOR may make a claim therefore as provided in Articles 3011 and 3012.

30.4.4 Reference Points:

TOWN shall provide engineering surveys to establish reference points for construction, which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of TOWN. CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

**5 BONDS AND INSURANCE**

30.5.1 Performance and Payment Bonds:

When directed in the Notice of Award, CONTRACTOR shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond and Payment Bond attached hereto.

30.5.1.1 Amount, Duration and Recording:

30.5.1.1.1 Each Bond shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to the TOWN the

SECTION 30  
GENERAL CONDITIONS

completion and performance of the work covered in such Contract as well as full payment of all suppliers, materialmen, laborers, or subcontractors employed pursuant to this project. Each Bond shall be with a surety company which is qualified pursuant to 305.1.3.

30.5.1.1.2 Each Bond shall continue in effect for one year after final completion and acceptance of the work with liability equal to one hundred percent (100%) of the Contract sum, or an additional bond shall be conditioned that CONTRACTOR will, upon notification by the TOWN, correct any defective or faulty work or materials which appear within one year after final completion of the Contract.

30.5.1.1.3 Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, as may be amended from time to time, CONTRACTOR shall ensure that the bond(s) referenced above shall be recorded in the public records of Broward County and provide the TOWN with evidence of such recording.

30.5.1.2 Alternate Form of Security:

In lieu of a Performance Bond and a Payment Bond, CONTRACTOR may furnish alternate forms of security which may be in the form of cash, money order, certified check, cashier's check or unconditional letter of credit in the form furnished by the TOWN. Such alternate forms of security shall be subject to the approval of the TOWN and for same purpose and shall be subject to the same conditions as those applicable above and shall be held by the TOWN for one year after completion and acceptance of the Work.

30.5.1.3 Qualification of Surety:

30.5.1.3.1 Bid Bonds, Performance Bonds and Payment Bonds over Five Hundred Thousand Dollars (\$500,000.00):

30.5.1.3.1.1 Each bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five years.

30.5.1.3.1.2 The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10, Section 223.111). Further, the surety company shall provide the TOWN with evidence satisfactory to the TOWN, that such excess risk has been protected in an acceptable manner.

SECTION 30  
GENERAL CONDITIONS

30.5.1.3.1.3 The TOWN will accept a surety bond from a company with a rating according to the following schedule:

<u>Amount of Bond</u>	<u>Policy holders Ratings</u>	<u>Financial Size Category</u>
500,001 to 1,000,000	B+	Class I
1,000,001 to 2,000,000	B+	Class II
2,000,001 to 5,000,000	A	Class III
5,000,001 to 10,000,000	A	Class IV
10,000,001 to 25,000,000	A	Class V
25,000,001 to 50,000,000	A	Class VI
50,000,001 or more	A	Class VII

If any surety company appears on the Watch List that is published quarterly by Intercom of the Office of the Florida Insurance Commissioner, the TOWN shall review and either accept or reject the surety company based on the financial information available to the TOWN. A surety company that is rejected by the TOWN may be substituted by the bidder or proposer with a surety company acceptable to the TOWN, only if the bid amount does not increase.

30.5.1.3.2 Bid Bonds, Performance Bonds and Payment Bonds under Five Hundred Thousand Dollars (\$500,000.00):  
For projects of \$500,000.00 or less, the TOWN may accept a Bid Bond, Performance Bond and Payment Bond from a surety company which has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued, if the surety is otherwise in compliance with the provisions of the Florida Insurance Code, and if the surety company holds a currently valid certificate of authority issued by the United States Department of the treasury under Section 9304 to 9308 if Title 31 of the United States Code, as may be amended from time to time. A Certificate and Affidavit so certifying should be submitted with the Bid Bond and also with the Performance Bond and Payment Bond.

30.5.1.3.3 More stringent requirements of any grantor agency are set forth within the Supplemental Conditions. If there are no more stringent requirements, the provisions of this section shall apply.

30.5.2 Contractor's Liability Insurance:

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

SECTION 30  
GENERAL CONDITIONS

- 30.5.2.1 Claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts;
- 30.5.2.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
- 30.5.2.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
- 30.5.2.4 Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (b) by any other person for any other reason;
- 30.5.2.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;
- 30.5.2.6 Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and
- 30.5.2.7 Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The insurance required by this paragraph 305.2 shall include the specific coverages and be written for not less than the limits of liability and coverages provided in the Supplementary Conditions, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days' prior written notice has been given to TOWN and ENGINEER by certified mail. All such insurance shall remain in effect until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing defective Work in accordance with paragraph 3013.7. In addition, CONTRACTOR shall maintain such completed operations insurance for at least two years after final payment and furnish TOWN with evidence of continuation of such insurance at final payment and one year thereafter.

30.5.3 Contractual Liability Insurance:

The comprehensive general liability insurance required by paragraph 305.2.1 will include contractual liability insurance applicable to CONTRACTOR's obligations under paragraphs 306.16.1 and 306.16.2.

30.5.4 TOWN's Liability Insurance:

TOWN shall be responsible for purchasing and maintaining TOWN's own liability insurance and, at TOWN's option, may purchase and maintain such insurance as will protect TOWN against claims which may arise from operations under the Contract Documents.

30.5.5 Receipt and Application of Proceeds:

- 30.5.5.1 Any insured loss under the policies of insurance will be adjusted with TOWN and made payable to TOWN as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 305.5.2 TOWN shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interests may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

SECTION 30  
GENERAL CONDITIONS

30.5.5.2 TOWN as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to TOWN's exercise of this power. If such objection be made, TOWN as trustee shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If required in writing by any party in interest, TOWN as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of such duties.

30.5.6 Acceptance of Insurance:

If TOWN has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with paragraphs 305.2.1 and 305.3 on the basis of its not complying with the Contract Documents, TOWN shall notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates to TOWN in accordance with paragraph 302.5.3.

30.5.7 Partial Utilization - Property Insurance:

If TOWN finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with paragraph 3014.6; provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or lapse on account of any such partial use or occupancy.

**6      CONTRACTOR'S RESPONSIBILITIES**

30.6.1 Supervision and Superintendence:

30.6.1.1 CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of others in the design or selection of a specific means method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

30.6.1.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to TOWN and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR 's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

30.6.2 Labor, Materials and Equipment:

30.6.2.1 CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime

SECTION 30  
GENERAL CONDITIONS

work or the performance of Work on Saturday, Sunday or any legal holiday without TOWN's written consent given after prior written notice to ENGINEER.

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

30.6.2.3 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents: but no provision of any such instructions will be effective to assign to ENGINEER, or any of ENGINEER's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 309.10.3 or 309.10.4.

30.6.3 Adjusting Progress Schedule:

CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 302.7) adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto. ENGINEER shall obtain TOWN approval before extending the time allowed to complete the work considering that the extension of the time of completion might cause a default in other contracts.

30.6.4 Substitutes or "Or-Equal" Items:

30.6.4.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier the naming of the items is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by ENGINEER if sufficient information is submitted by CONTRACTOR to allow ENGINEER to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by ENGINEER will include the following as supplemented in the General Requirements. Requests for review of substitute items of material and equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with TOWN for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service

## SECTION 30

### GENERAL CONDITIONS

will be indicated. The application will also contain an itemized estimate of all "II"" costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by ENGINEER in evaluating proposed substitute. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR's expense additional data about the proposed substitute.

30.6.4.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to ENGINEER, if CONTRACTOR submits sufficient information to allow ENGINEER to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in paragraph 306.4.1 as applied by ENGINEER and as may be supplemented in the General Requirements.

~

30.6.4.3 ENGINEER will be allowed a reasonable time within which to evaluate each proposed substitute. ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without ENGINEER's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. TOWN may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute. ENGINEER will record time required by ENGINEER and ENGINEER's consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Contract Documents occasioned thereby. Whether or not ENGINEER accepts a proposed substitute, CONTRACTOR shall reimburse TOWN for the charges of ENGINEER and ENGINEER's consultants for evaluating each proposed substitute.

30.6.5 Concerning Subcontractors, Suppliers and Others:

#### 30.6.5.1

CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization (including those acceptable to TOWN and ENGINEER as indicated in paragraph 306.5.2), whether initially or as a substitute, against whom TOWN or ENGINEER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or



organization to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

30.6.5.2 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to TOWN in advance of the specified date prior to the Effective Date of the Agreement for acceptance by TOWN and ENGINEER and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, TOWN's or ENGINEER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute, the Contract Price will be increased by the difference in the cost occasioned by such substitution and as appropriate Change Order will be issued or Written Amendment signed. No acceptance by TOWN and ENGINEER of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of TOWN or ENGINEER to reject defective work.

~

30.6.5.3 CONTRACTOR shall be fully responsible to TOWN and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and

SECTION 30  
GENERAL CONDITIONS

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

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

30.6.5.5 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of TOWN and ENGINEER.

30.6.6 Patent Fees and Royalties:

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of TOWN or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by TOWN in the Contract Documents. CONTRACTOR shall indemnify and hold harmless TOWN and ENGINEER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

30.6.7 Permits:

Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. TOWN shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids, or if there are no Bids on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and TOWN shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

30.6.8 Laws and Regulations:

30.6.8.1 CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither TOWN nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

30.6.8.2 If CONTRACTOR observes that the Specifications or Drawings are at variance with any Laws or Regulations, CONTRACTOR shall give ENGINEER prompt

SECTION 30  
GENERAL CONDITIONS

written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 303.2.1. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws or Regulations, and without such notice to ENGINEER, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

30.6.9 Taxes:

CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

30.6.10 Use of Premises:

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

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

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

30.6.11 Record Documents:

CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Directive Changes, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 309.4) in good order and annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work,

SECTION 30  
GENERAL CONDITIONS

these record documents, samples and Shop Drawings will be delivered to ENGINEER for TOWN.

30.6.12 Safety and Protection:

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

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

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

30.6.12.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction. CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to in paragraph 306.12.1.2 or 306.12.1.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of TOWN or ENGINEER or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR). CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to TOWN and CONTRACTOR in accordance with paragraph 3014.9.1 that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

30.6.12.2 CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. The person shall be CONTRACTOR's superintendent unless otherwise designated in writing by CONTRACTOR or TOWN.

30.6.13 Emergencies:

In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from ENGINEER or TOWN, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If ENGINEER determines that a change in the Contract Documents

SECTION 30  
GENERAL CONDITIONS

is required because of the action taken in response to an emergency, a Work Directive Change or Change Order will be issued to document the consequences of the changes or variations.

30.6.14 Shop Drawings and Samples:

- 30.6.14.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, CONTRACTOR shall submit to ENGINEER for review and approval in accordance with the accepted schedule of Shop Drawings submissions (see paragraph 302.7), or for other appropriate action if so indicated in the Supplementary Conditions, five copies (unless otherwise specified in the General Requirements) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as ENGINEER may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable ENGINEER to review the information as required.
- 30.6.14.2 CONTRACTOR shall also submit to ENGINEER for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.
- 30.6.14.3 Before submission of each Shop Drawing or sample CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.
- 30.6.14.4 At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to ENGINEER for review and approval of each such variation.
- 30.6.14.5 ENGINEER will review and approve with reasonable promptness Shop Drawings and samples, but ENGINEER's review and approval will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER, and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.
- 30.6.14.6 ENGINEER's review and approval of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission

SECTION 30  
GENERAL CONDITIONS

performance will involve additional expense to CONTRACTOR or requires additional time and the parties are unable to agree as to the extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 3011 and 3012.

30.7.1.2 CONTRACTOR shall afford each utility TOWN and other contractor who is a party to such a direct contract (or TOWN, if TOWN is performing the additional work with TOWN's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of other by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between TOWN and such utility owners and other contractors.

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

30.7.2 Coordination:

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

**8 TOWN'S RESPONSIBILITIES**

30.8.1 TOWN shall issue all communications to CONTRACTOR through ENGINEER.

30.8.2 In case of termination of employment of ENGINEER, TOWN shall appoint an engineer against whom CONTRACTOR make no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER. Any dispute in connection with such appointment shall be subject to arbitration.

30.8.3 TOWN shall furnish the data required of TOWN under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in paragraphs 3014.4.1 and 3014.9.1.

30.8.4 TOWN's duties in respect of proving lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 304.1 and 304.4. Paragraph 304.2 refers to TOWN's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and in existing structures which have been utilized by ENGINEER in preparing the Drawings and Specifications.

SECTION 30  
GENERAL CONDITIONS

- 30.8.5 TOWN is obligated to execute Change Orders as indicated in paragraph 3010.4.
- 30.8.6 TOWN's responsibility in respect of certain inspections, tests and approvals is set forth in paragraph 3013.3.2.
- 30.8.7 In connection with TOWN's right to stop Work or suspend Work, see paragraphs 3013.5 and 3015.2.1. Paragraph 3015.1 deals with TOWN's right to terminate services of CONTRACTOR under certain circumstances.

**9 ENGINEER'S STATUS DURING CONSTRUCTION**

30.9.1 TOWN's Representative:

ENGINEER will be TOWN's representative during the construction period. The duties and responsibilities and limitations of authority of ENGINEER as TOWN's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of TOWN and ENGINEER.

30.9.2 Visits to Site:

ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for TOWN a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations as an experienced and qualified ENGINEER's representative, ENGINEER will keep TOWN informed of the progress of the Work and will endeavor to guard TOWN against defects and deficiencies in the Work.

30.9.3 Project Representation:

If TOWN and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in observing the performance of the Work. The duties, responsibilities and limitations of authority of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions. If TOWN designates another agent to represent TOWN at the site who is not ENGINEER's agent or employee, the duties, responsibilities and limitations of authority of such other person will be as provided in the Supplementary Conditions.

30.9.4 Clarifications and Interpretations:

ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 3011 or Article 3012.

30.9.5 Authorized Variations in Work:

SECTION 30  
GENERAL CONDITIONS

ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field order and will be binding on TOWN, and also on CONTRACTOR who shall perform the Work involved promptly. If CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Article 3011 or 3012.

30.9.6 Rejecting Defective Work:

ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in paragraph 3013.4.2, whether or not the Work is fabricated, installed or completed.

30.9.7 Shop Drawings, Change Orders and Payments:

30.9.7.1 In connection with ENGINEER's responsibility for Shop Drawings and samples, see paragraphs 306.14.1 through 306.15 inclusive.

30.9.7.2 In connection with ENGINEER's responsibilities as to Change Orders, see Articles 3010, 3011 and 3012.

30.9.7.3 In connection with ENGINEER's responsibilities in respect of Applications for Payment, etc., see Article 3014.

30.9.8 Determinations for Unit Prices:

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

30.9.9 Decisions on Disputes:

30.9.9.1 ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 3011 and 3012 in respect of changes in the Contract Price or Contract Time will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph, which ENGINEER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter will be delivered by the claimant to ENGINEER and the other party to the Agreement promptly (but in no event later than thirty days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to ENGINEER and the other party within sixty days after such occurrence unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim.

30.9.9.2 When functioning as interpreter and judge under paragraphs 309.8 and 309.9.1, ENGINEER will not show partiality to TOWN or CONTRACTOR and



SECTION 30  
GENERAL CONDITIONS

will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to paragraphs 309.8 and 309.9.1 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 3014.11) will be a condition precedent to any exercise by TOWN or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

30.9.10 Limitations on ENGINEER's Responsibilities:

30.9.10.1 Neither ENGINEER's authority to act under this Article 309 or elsewhere in the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

30.9.10.2 Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise).

The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 309.10.3 or 309.10.4.

30.9.10.3 ENGINEER will not be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.

30.9.10.4 ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

**10 CHANGES IN THE WORK**

30.10.1 Additions, Deletions or Revisions:

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

30.10.2 Claims:

If TOWN and CONTRACTOR are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Work Directive Change, a claim may be made therefor as provided in Article 3011 or Article 3012.

SECTION 30  
GENERAL CONDITIONS

30.10.3 Increase or Extension Not Permitted:

CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 303.2.1 and 303.2.2, except in the case of an emergency as provided in paragraph 306.13 and except in the case of uncovering Work as provided in paragraph 3013.4.2.

30.10.4 Change Orders:

TOWN and CONTRACTOR shall execute appropriate Change Orders (or Written Amendments) covering:

30.10.4.1 Changes in the Work which are ordered by TOWN pursuant to paragraph 3010.1, are required because of acceptance of defective Work under paragraph 3013.8 or correcting defective Work under paragraph 3013.9, or are agreed to by the parties;

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

30.10.4.3 Changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 309.9.1; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 306.15.

30.10.5 Surety:

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

**11 CHANGE OF CONTRACT PRICE**

30.11.1 Contract Price:

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

30.11.2 Change Order:

The Contract Price may only be changed by a Change Order or by a Written Amendment. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price shall be determined by ENGINEER in accordance with paragraph 309.9.1 if TOWN and CONTRACTOR cannot otherwise agree on the amount involved. No claim for

SECTION 30  
GENERAL CONDITIONS

an adjustment in the Contract Price will be valid if not submitted in accordance with this paragraph 3011.2.

30.11.3 Value of the Work:

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

- 30.11.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of paragraphs 3011.7.1 through 3011.7.3, inclusive).
- 30.11.3.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 3011.5.1.2.1.
- 30.11.3.3 On the basis of the Cost of the Work (determined as provided in paragraphs 3011.4 and 3011.4.2 plus a CONTRACTOR's Fee for overhead and profit (determined as provided in paragraphs 3011.5.1 and 3011.5.2.

30.11.4 Cost of the Work:

- 30.11.4.1 The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by TOWN, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 3011.4.2:

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

- 30.11.4.1.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless TOWN deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to TOWN. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to TOWN, and CONTRACTOR shall make provisions so that they may be obtained.

- 30.11.4.1.3 Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by TOWN, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to TOWN who will then determine, with the advice of

SECTION 30  
GENERAL CONDITIONS

ENGINEER, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as CONTRACTOR's Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

- 30.11.4.1.4 Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.
- 30.11.4.1.5 Supplemental costs including the following:
  - 30.11.4.1.5.1 The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.
  - 30.11.4.1.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.
  - 30.11.4.1.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by TOWN with the advice of ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.
  - 30.11.4.1.5.4 Sales, consumer, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.
  - 30.11.4.1.5.5 Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - 30.11.4.1.5.6 Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work or otherwise sustained by CONTRACTOR in connection with the performance and furnishing of the Work provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and

SECTION 30  
GENERAL CONDITIONS

approval of TOWN. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's Fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraph 3011.5.1.2.

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

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

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

- 30.11.4.2.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 3011.4.1.1 or specifically covered by paragraph 3011.4.1.4 - all of which are to be considered administrative costs covered by the CONTRACTOR's Fee.
- 30.11.4.2.2 Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.
- 30.11.4.2.3 Any part of CONTRACTOR's capital expenses, including interests on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 30.11.4.2.4 Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same.
- 30.11.4.2.5 Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.
- 30.11.4.2.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 3011.4.

30.11.5 CONTRACTOR's Fee:

30.11.5.1 The CONTRACTOR's Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

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

SECTION 30  
GENERAL CONDITIONS

30.11.5.1.2 A fee based on the following percentages of various portions of the Cost of the Work:

30.11.5.1.2.1 For costs incurred under paragraphs 3011.4.1.1 and 3011.4.1.2, the CONTRACTOR's Fee shall be fifteen percent;

30.11.5.1.2.2 For costs incurred under paragraph 3011.4.1.3, the CONTRACTOR's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all Subcontractors shall be fifteen percent;

30.11.5.1.2.3 No fee shall be payable on the basis of costs itemized under paragraphs 3011.4.1.4, 3011.4.1.5 and 3011.4.2;

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

30.11.5.1.2.5 When both additions and credits are involved in any one change, the adjustment in CONTRACTOR's Fee shall be computed on the basis of the net change in accordance with paragraphs 3011.5.1.2.1 through 3011.5.1.2.4, inclusive.

30.11.5.2 Whenever the cost of any Work is to be determined pursuant to paragraph 3011.4.1 or 3011.4.2, CONTRACTOR will submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

30.11.6 Cash Allowances:

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

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

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

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

SECTION 30  
GENERAL CONDITIONS

30.11.7 Unit Price Work:

- 30.11.7.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER in accordance with paragraph 309.8.
- 30.11.7.2 Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.
- 30.11.7.3 Where the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement and there is no corresponding adjustment with respect to any other item of Work and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 3011 if the parties are unable to agree as to the amount of any such increase.

**12      CHANGE OF CONTRACT TIME**

30.12.1 Contract Time Change:

The Contract Time may only be changed by a Change Order or a Written Agreement. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by ENGINEER in accordance with paragraph 309.9.1 if TOWN and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph 3012.1.

30.12.2 Contract Time Extension:

The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefor as provided in paragraph 3012.1. Such delays shall include, but not be limited to, acts or neglect by TOWN or others performing additional work as contemplated by Article 307, or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God. Time extensions are justified only when adverse weather conditions or related adverse soil conditions prevent CONTRACTOR from productively performing controlling items of work resulting in CONTRACTOR being unable to work at least fifty percent (50%) of the normal workday due to adverse weather conditions or if CONTRACTOR must make repairs to the work damaged by weather, providing the damage was not attributable to a failure to perform or

SECTION 30  
GENERAL CONDITIONS

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

30.13.4 Uncovering Work:

30.13.4.1 If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

30.13.4.2 If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals), and TOWN shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in Article 3011. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 3011 and 3012.

30.13.5 TOWN May Stop the Work:

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

30.13.6 Correction or Removal of Defective Work:

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

30.13.7 One Year Correction Period:

If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to TOWN and in accordance with TOWN's written instructions, either correct such defective Work, or, if it has been rejected by TOWN, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, TOWN may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other



SECTION 30  
GENERAL CONDITIONS

professionals) will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

30.13.8 Acceptance of Defective Work:

If, instead of requiring correction or removal and replacement of defective Work, TOWN (and, prior to ENGINEER's recommendation of final payment, also ENGINEER) prefers to accept it, TOWN may do so. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to TOWN's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and TOWN shall be entitled to an appropriate decrease in Contract Price, and, if the parties are unable to agree as to the amount thereof, TOWN may make a claim therefor as provided in Article 3011. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to TOWN.

30.13.9 TOWN May Correct Defective Work:

If CONTRACTOR fails within a reasonable time after written notice of ENGINEER to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 3013.6, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, TOWN may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph, TOWN shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, TOWN may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which TOWN has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow TOWN, TOWN's representatives, agents and employees such access to the site as may be necessary to enable TOWN to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of TOWN in exercising such rights and remedies will be charged against CONTRACTOR in an amount approved as to reasonableness by ENGINEER, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and TOWN shall be entitled to an appropriate decrease in the Contract price, and, if the parties are unable to agree as to the amount thereof, TOWN may make a claim therefor as provided in Article 3011. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by TOWN of TOWN's rights and remedies hereunder.

**14      PAYMENTS TO CONTRACTOR AND COMPLETION**

30.14.1 Schedule of Values:

The schedule of values established as provided in paragraph 302.7 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

SECTION 30  
GENERAL CONDITIONS

30.14.2 Application for Progress Payment:

At least twenty days before each progress payment is scheduled (but no more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that TOWN has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect TOWN's interest therein, all of which will be satisfactory to TOWN. The amount of the retainer with respect to progress payments will be as stipulated in the Agreement.

30.14.3 CONTRACTOR's Warranty of Title:

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

30.14.4 Review of Applications for Progress Payment:

30.14.4.1 ENGINEER will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to TOWN, or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. Ten days after presentation of the Application for Payment with ENGINEER's recommendation, the amount recommended will (subject to the provisions of the last sentence of paragraph 3014.4.4) become due and when due will be paid by TOWN to CONTRACTOR.

30.14.4.2 ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to TOWN, based on ENGINEER's on-site observations of the Work in progress as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of ENGINEER's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 309.8, and to any other qualifications stated in the recommendation); and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment ENGINEER will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents or that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by TOWN or TOWN to withhold payment to CONTRACTOR.

30.14.4.3 ENGINEER's recommendation of final payment will constitute an additional representation by ENGINEER to TOWN that the conditions precedent to CONTRACTOR's being entitled to final payment as set forth in paragraph 3014.9.1 have been fulfilled.

SECTION 30  
GENERAL CONDITIONS

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

- 30.14.4.4.1 The Work is defective, or completed Work has been damaged requiring correction or replacement.
- 30.14.4.4.2 The Contract Price has been reduced by Written Amendment or Change Order.
- 30.14.4.4.3 TOWN has been required to correct defective Work or complete Work in accordance with paragraph 3013.9, or
- 30.14.4.4.4 Of ENGINEER's actual knowledge of the occurrence of the events enumerated in paragraphs 3015.2.1.1 through 3015.2.1.9, inclusive.

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

30.14.5 Substantial Completion:

30.14.5.1 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify TOWN and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Within a reasonable time thereafter, TOWN, CONTRACTOR and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to TOWN a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. TOWN shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within fourteen days after submission of the tentative certificate to TOWN notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of TOWN's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said fourteen days execute and deliver to TOWN and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from TOWN. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to TOWN and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between TOWN and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties. Unless TOWN and CONTRACTOR agree otherwise in writing and so inform ENGINEER prior

SECTION 30  
GENERAL CONDITIONS

to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER'S aforesaid recommendation will be binding on TOWN and CONTRACTOR until final payment.

- 30.14.5.2 TOWN shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but TOWN shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

30.14.6 Partial Utilization:

Use by TOWN of any furnished part of the Work, which has specifically been identified in the Contract Documents, or which TOWN, ENGINEER and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by TOWN without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

- 30.14.6.1 TOWN at any time may request CONTRACTOR in writing to permit TOWN to use any such part of the Work which TOWN believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees, CONTRACTOR will certify to TOWN and ENGINEER that said part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify TOWN and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, TOWN, CONTRACTOR and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify TOWN and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraphs 3014.5.1 and 3014.5.2 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
- 30.14.6.2 TOWN may at any time request CONTRACTOR in writing to permit TOWN to take over operation of any such part of the Work although it is not substantially complete. A copy of such request will be sent to ENGINEER and within a reasonable time thereafter TOWN, CONTRACTOR and ENGINEER shall make an inspection of that part of the Work to determine its status of completion and will prepare a list of the items remaining to be completed or corrected thereon before final payment. If CONTRACTOR does not object in writing to TOWN and ENGINEER that such part of the Work is not ready for separate operation by TOWN, ENGINEER will finalize the list of items to be completed or corrected and will deliver such list to TOWN and CONTRACTOR together with a written recommendation as to the division of responsibilities pending final payment between TOWN and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance, warranties and guarantees for that part of the Work which will become binding upon TOWN and CONTRACTOR at the time when TOWN takes over such operation (unless they shall have otherwise agreed in writing and so informed ENGINEER). During such operation and prior to Substantial Completion of such part of the Work, TOWN shall allow CONTRACTOR reasonable access to complete or correct items on said list and to complete other related Work.
- 30.14.6.3 No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of paragraph 305.7 in respect of property insurance.

30.14.7 Final Inspection:

SECTION 30  
GENERAL CONDITIONS

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

30.14.8 Final Application for Payment:

After CONTRACTOR has completed all such corrections to the satisfaction of ENGINEER and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph 306.11) and other documents - all as required by the Contract Documents, and after ENGINEER has indicated that the Work is acceptable (subject to the provisions of paragraph 3014.11.1), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to TOWN) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by TOWN, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which TOWN or TOWN's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to TOWN to indemnify TOWN against any Lien.

30.14.9 Final Payment and Acceptance:

30.14.9.1 If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application to TOWN for payment. Thereupon ENGINEER will give written notice to TOWN and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 3014.11. Otherwise, ENGINEER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after presentation to TOWN of the Application and accompanying documentation, in appropriate form and substance, and with ENGINEER's recommendation and notice of acceptability, the amount recommended by ENGINEER will become due and will be paid by TOWN to CONTRACTOR.

30.14.9.2 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if ENGINEER so confirms, TOWN shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by TOWN for Work not fully completed or corrected is less than the retainer stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 305.1.3, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

SECTION 30  
GENERAL CONDITIONS

30.14.10 Contractor's Continuing Obligation:

CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by ENGINEER, nor the issuance of a certificate of Substantial Completion, nor any payment by TOWN to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by TOWN, nor any act of acceptance by TOWN nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by ENGINEER pursuant to paragraph 3014.9.1, nor any correction of defective Work by TOWN will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 3014.11).

30.14.11 Waiver of Claims:

The making and acceptance of final payment will constitute:

30.14.11.1 A waiver of all claims by TOWN against CONTRACTOR, except claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 3014.7 or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver by TOWN of any rights in respect of CONTRACTOR's continuing obligations under the Contract Documents; and

30.14.11.2 A waiver of all claims by CONTRACTOR against TOWN other than those previously made in writing and still unsettled.

**15      SUSPENSION OF WORK AND TERMINATION**

30.15.1 TOWN May Suspend Work:

TOWN may, at any time and without cause, suspend Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefor as provided in Articles 3011 and 3012.

30.15.2 TOWN May Terminate:

30.15.2.1 Upon the occurrence of any one or more of the following events:

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

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

SECTION 30  
GENERAL CONDITIONS

- 30.15.2.1.3 If CONTRACTOR makes a general assignment for the benefit of creditors;
- 30.15.2.1.4 If a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR's creditors;
- 30.15.2.1.5 If CONTRACTOR admits in writing an inability to pay its debts generally as they become due;
- 30.15.2.1.6 If CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including, but limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 302.7 as revised from time to time);
- 30.15.2.1.7 If CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;
- 30.15.2.1.8 If CONTRACTOR disregards the authority of ENGINEER; or
- 30.15.2.1.9 If CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents; TOWN may, after giving CONTRACTOR (and the surety, if there be one) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which TOWN has paid CONTRACTOR but which are stored elsewhere, and finish the Work as TOWN may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) such excess will be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to TOWN. Such costs incurred by TOWN will be approved as to reasonableness by ENGINEER and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph TOWN shall not be required to obtain the lowest price for the Work performed.
- 30.15.2.2 Where CONTRACTOR's services have been so terminated by TOWN, the termination will not affect any rights or remedies of TOWN against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by TOWN will not release CONTRACTOR from liability.
- 30.15.2.3 Upon seven days' written notice to CONTRACTOR and ENGINEER, TOWN may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense

SECTION 30  
GENERAL CONDITIONS

sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs).

30.15.3 CONTRACTOR May Stop Work or Terminate:

If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by TOWN or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within thirty days after it is submitted, or TOWN fails for thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to TOWN and ENGINEER, terminate the Agreement and recover from TOWN payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if ENGINEER has failed to act on an Application for Payment or TOWN has failed to make any payment as aforesaid, CONTRACTOR may upon seven days' written notice to TOWN and ENGINEER stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of the obligations under paragraph 306.15 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with TOWN.

16 **ARBITRATION**

30.16.1 Rules of Arbitration:

All claims, disputes and other matters in question between TOWN and CONTRACTOR arising out of, or relating to the Contract Documents or the breach thereof (except for claims which have been waived by the making or acceptance of final payment as provided by paragraph 3014.11.1) may be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining subject to the limitations of this Article 3016. This agreement so to arbitrate and any other agreement or consent to arbitrate entered into in accordance herewith as provided in this Article 3016 may be specifically enforceable under the prevailing law of any court having jurisdiction.

30.16.2 Time Limits:

No demand for arbitration of any claim, dispute or other matter that is required to be referred to ENGINEER initially for decision in accordance with paragraph 309.9.1 will be made until the earlier of (a) the date on which ENGINEER has rendered a decision or (b) the tenth day after the parties have presented their evidence to ENGINEER if a written decision has not been rendered by ENGINEER before that date. No demand for arbitration of any such claim, dispute or other matter will be made later than thirty days after the date on which ENGINEER has rendered a written decision in respect thereof in accordance with paragraph 309.9.1; and the failure to demand arbitration within said thirty days' period shall result in ENGINEER's decision being final and binding upon TOWN and CONTRACTOR. If ENGINEER renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence but will not supersede the arbitration proceedings, except where the decision is acceptable to the parties concerned. No demand for arbitration of any written decision of ENGINEER rendered in accordance with paragraph 309.8 will be made later than ten days after the party making such demand has delivered written notice of intention to appeal as provided in paragraph 309.8.

30.16.3 Filing:

Notice of the demand for arbitration will be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy will be sent to ENGINEER for information. The demand for arbitration will be made within the thirty-day or ten-day period specified in paragraph 3016.2 as applicable, and in all other cases within a reasonable time after the claim, dispute or other matter in question has arisen, and in no



SECTION 30  
GENERAL CONDITIONS

event shall any such demand be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

30.16.4 Parties Involved:

No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder or in any other manner any other person or entity (including ENGINEER, ENGINEER's agents, employees or consultants) who is not a party to this contract unless:

30.16.4.1 The inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration,

30.16.4.2 Such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and

30.16.4.3 The written consent of the other person or entity sought to be included and of TOWN and CONTRACTOR has been obtained for such inclusion, which consent shall make specific reference to this paragraph; but no such consent shall constitute consent to arbitration of any dispute not specifically described in such consent or to arbitration with any party not specifically identified in such consent.

30.16.5 Final Judgement:

The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and may not be subject to modification or appeal except to the extent permitted by Articles 3010 and 3011 of the Federal Arbitration Act (9 U.S.C. §§10,11).

17 **MISCELLANEOUS**

30.17.1 Giving Notice:

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

30.17.2 Computation of Time:

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

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

30.17.3 General:

30.17.3.1 Should TOWN or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the

SECTION 30  
GENERAL CONDITIONS

first observance of such injury or damage. The provisions of this paragraph 3017.3.1 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

- 30.17.3.2 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 306.16.1, 3013.1, 3013.7, 3013.9, 3014.3 and 3015.2.1 and all of the rights and remedies available to TOWN and ENGINEER thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

**SECTION 40  
PROPOSAL**

**PROJECT IDENTIFICATION**

Project Name; Resurfacing of E Palomino Drive

**THIS BID IS SUBMITTED TO**

OWNER: Town of Southwest Ranches  
6589 SW 160<sup>th</sup> Avenue  
Southwest Ranches FL 33331

**BIDDER-COMPANY NAME**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**NAME OF PERSON AUTHORIZED TO BIND ABOVE COMPANY AND TO CONTACT FOR ADDITIONAL  
INFORMATION ON THIS BID**

Name & Title (Print) \_\_\_\_\_

Name (Manual Signature) \_\_\_\_\_

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

Fax Number \_\_\_\_\_

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

1. The above signed BIDDER proposes and agrees, if this bid is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract {Price and within the Contract Time indicated in this bid and in accordance with the other terms and conditions of the Contract Documents.
2. BIDDER accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instruction to Bidders, including without limitation those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for ninety (90) Days after the Bid Opening, BIDDER will sign and submit the Agreement with the Bonds and other documents required by Bidding Requirements within ten (10) days after the date of OWNER'S Notice of Award.
3. In submitting this Bid, BIDDER represents, as more forth in the Agreement, that:
  - A. BIDDER has examined copies of all the bidding Documents and of the following Addenda (receipt of all which is hereby acknowledged):

Date	Number
_____	_____
_____	_____
_____	_____

- B. BIDDER has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
  - C. BIDDER has studied carefully all reports and drawings of physical conditions which are identified in the SUPPLEMENTARY CONDITIONS (if applicable) and accepts the determination of the SUPPLEMENTARY CONDITIONS of the extent of the technical data contained in such reports and drawings upon which BIDDER is entitled to rely.
  - D. BIDDER has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies (in addition to or to supplement those referred to in (C) above) which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress, performance or furnishing of the Work as BIDDER considers necessary for the performance or furnishing of the Work at the Contract Prices within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the GENERAL CONDITIONS; and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by BIDDER for such purposes.
  - E. Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing site conditions and assumes responsibility for such. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said site are or will be required by BIDDER in order to perform and furnish the Work at Work Contract Price, within the Contract Time and in accordance with other terms and conditions of the Contract Documents, including specifically the provisions of the GENERAL CONDITIONS.
  - F. BIDDER has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
  - G. BIDDER has given OWNER written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by OWNER is acceptable to BIDDER.
  - H. This Bid is genuine and not made in the interest or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, or corporation: BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidding or over OWNER.
4. BIDDER agrees that the construction of the Project will be substantially complete with 30 calendar days after the date when Contract Time commences to run as provided in the GENERAL CONDITIONS and completed and ready for final payment within 60 calendar days after the date the Contract Time commences to run. BIDDER accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work on time.
5. BIDDER agrees that all Federal, State and local sales and use taxes are included in the stated bid prices for the Work.
6. BIDDER further proposes to accept as full payment for the work proposed herein the amounts computed under the provisions of the Contract Documents and based on the following unit prices (if applicable) represent a true measure of the labor, material, equipment and any other incidentals required to perform the work, including all allowances for overhead and profits for each type and unit of work called for in these Contract Documents. The amount(s) shown in words shall govern.

SECTION 40  
PROPOSAL

1      QUATOTION FORM

SUMMARY OF PAY ITEMS					
ITEM NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	ITEM TOTAL
1	MOBILIZATION	L.S.	1		
2	MAINTENANCE OF TRAFFIC	L.S.	1		
3	CLEARING AND CRUBBING	L.S.	1		
4	TYPE "S – 3 " ASPHALTIC CONCRETE (1" THICK)	TON	354		
5	TYPE "S – 1" ASPHALTIC CONCRETE (1.5" THICK)	TON	530		
6	SODDING (PENSACOLA BAHIA) (2 APPLICATIONS OF WATER INCL. AT STD. RATES)	S.Y.	1240		
7	SOLID TRAFFIC STRIPE – (6" WHITE)	LF	4732		
8	SOLID TRAFFIC STRIPE – (6" YELLOW)	LF	100		
9	SOLID TRAFFIC STRIPE – (24" WHITE)	LF	12		
10	SKIP 10' – 30' TRAFFIC STRIPE – (6"YELLOW)	LF	625		
11	REFLECTIVE PAVEMENT MARKER – (AMBER/AMBER)	EA	62		
12	POST (BREAKWAY SUPPORT)	EA	15		
				<b>BID TOTAL</b>	

BIDDER:

ADDRESS:

BY:

(Print Name and Title)

SECTION 41  
SUMMARY OF QUALIFICATIONS

- 1      Numbers of years your company has been in business as a contractor:
- 2      List of similar projects, locations and dates of completion:

Project	Location	Completion Date
---------	----------	-----------------

- 3      Has this company ever failed to complete work awarded to it? \_\_\_\_.
- 4      Have you personally inspected the location of the proposed work?
- 5      Will this company be using subcontract labor? \_\_\_\_ If yes, name of primary subcontractor:
- 6      Does this company own the equipment needed to perform this work?
- 7      Will this company need to rent additional equipment?

- 8      Insurance limits:
- |        |   |    |
|--------|---|----|
| 40.9.1 | Work Compensation - limit per accident                  | \$ |
| 40.9.2 | Comprehensive General Liability - limit per occurrence  | \$ |
| 40.9.3 | Business and Automobile Liability -limit per occurrence | \$ |
| 40.9.4 | Other: _____  |    |

(Contractor will be required to furnish documentation as part of Agreement if awarded the contract)

- 9      Is this company a subsidiary? \_\_\_\_.
- 10     Names of principals or officers:

Name	Title
------	-------

BIDDER:

ADDRESS:

BY:

(Print Name and Title)

**SECTION 50  
COMPENSATION**

**1     PAY ITEMS**

50.1.1   Unit Price Items:

50.1.1.1   Description:

The Contractor shall furnish all materials, construct and fully complete the work of Unit Price Items, except those related to the work of these Items, and specifically included under other Payment Items of this contract or other contracts.

The work also includes all accessories, appurtenances or other work required for the completion of the Unit Price Items, except those related to the work of these Items, and specifically included under other Payment Item of this Contract or other Contracts.

50.1.1.2   Payment:

Payment for the work of Unit Price Items will be made at the contract Unit Prices stated in the Bid and appropriate to each item included under this Article.

50.1.1.3   No Payment:

No payment will be made for work performed by the contractor to replace defective work and for work which is not shown or ordered, and which is outside the limits shown or ordered.

50.1.2   Lump Sum Items:

50.1.2.1   Description:

The Contractor shall furnish all materials, construct and fully complete the work of the Lump Sum Items, as shown specifically and directed.

The work also includes all accessories, appurtenances or other work required to complete this Contract and specifically included under other Payment Items of this Contract.

50.1.2.2   Payment:

Payment for the work of Lump Sum Items will be made at the Contract Lump Sum Prices stated in the Bid, and appropriate to each item included under this Article.

50.1.2.3   No Payment:

No payment will be made for work performed by the Contractor to replace defective work and for work which is not shown or ordered, and which is outside the limits shown or ordered.

50.1.3   Time and Material Items:

50.1.3.1   Description:

The Contractor shall furnish all materials and labor necessary to complete the work specified.

This item shall cover additional work not included elsewhere in this contract documents. The use of this item shall be at the request of the Owner or Engineer.

## SECTION 50 COMPENSATION

### 50.1.3.2 Payment:

Payment for the work of the Time and Material Items will be made as follows:

50.1.3.2.1 Payment for time shall be made at the rate agreed upon prior to commencement of the work and shall be for the number of hours spent on that work as approved by the Engineers.

If the rate is not determined prior to commencement of the work, the rate shall be 135% of the rate paid each laborer by the contractor plus 25% for overhead and profit.

50.1.3.2.2 Payment for the materials shall be based on 110% of the cost shown on the suppliers invoice for the materials used.

50.1.3.2.3 Payment for equipment shall be made at the rate agreed upon prior to commencement of the work and shall be for the number of hours spent on that work as approved by the Engineer.

If the rate is not determined prior to commencement of the work the rate shall be 110% of the rental rate and shall be determined by the engineer using locally acceptable rates.

### 50.1.3.3 No Payment:

No payment will be made for unauthorized work or for additional materials required to complete contract items.

### 50.1.4 Testing and Inspections:

#### 50.1.4.1 Description:

The Contractor shall provide all materials, equipment, and labor required to perform the testing and to expose the construction for inspection by the Engineer as specified in the Construction Specifications.

#### 50.1.4.2 Payment by Owner:

Payment by Owner for the Contractor's expenses is included in the payment for the Unit Price or Lump Sum Construction Items. The item costs on the Contractor's proposal shall include the cost of the materials and labor for the testing and inspections. Payment to the Engineer and approval agencies is the responsibility of the Owner for all tests that pass and for the first two final inspections.

#### 50.1.4.3 Payment by Contractor:

Payment is required by Contractor for Owner's expenses for all tests scheduled by the Contractor which fail and for all final inspections scheduled by the Contractor after the first re-inspection.



## SECTION 50 COMPENSATION

### 2 UNIT COMPENSATION

#### D1 Storm Sewer Pipe:

This item includes the furnishing and installing of the storm sewer pipe of the size and material shown on the drawings and scheduled on the quotation sheets. Also included under this item are excavation and backfill to grade, washed rock bedding as required, dewatering as required, closure pieces, restoration of unpaved surfaces, and cleaning of pipe after installation.

Payment for this item will be on a linear foot basis for all depths of trench encountered.

Measurement for length shall be made from centerline of manhole, inlet, or catch basin to termination of pipeline.

#### D3 Storm Sewer Inlet:

This item includes the furnishing and installing of a completed structure as shown on the drawings or approved by the Engineer. Also included under this item are excavation and backfill to grade, washed rock bedding as required, dewatering as required, and cleaning of structure after installation.

Payment for this item will be based upon the actual number of completed installations for the type and size of inlets as shown on applicable details of the construction drawings and in strict accordance with the specifications, for all depths of cut. Pollution retardant baffles are not included in this item.

#### D6 Endwall (or Headwall):

This item includes the furnishing and installing of a completed structure as shown on the drawings or approved by the Engineer. Also included under this item are excavation and backfill to grade, washed rock bedding as required, dewatering as required, and cleaning of structure after installation.

Payment for this item will be based upon the actual number of completed installations for the type and size of endwalls as shown on applicable details of the construction drawings and on strict accordance with the specifications, for all depths of cut.

#### E10 Sodding:

This item includes the furnishing and placing of fertilizer, sod, and water in the areas shown in accordance with the specifications.

Payment for this item shall be on a square yard basis

#### P8 Pavement Restoration

This item includes removal and disposal of existing pavement, and the furnishing and installing of replacement rock base, tack coat and pavement in accordance with the construction plans. Also included is any additional layers of tack coat and pavement to compensate for settlement.

## SECTION 50 COMPENSATION

Payment for this item shall be based upon the units shown on the quotation sheet, which may be lump sum, or the number of square yards of rock base replaced.

### W1 Mainline Pipe:

This item includes the furnishing and installing of the mainline pipe of the sizes and material shown on the plans and scheduled on the quotation sheets. Also included under this item are excavation and backfill to grade, washed rock bedding as required, dewatering as required, closure pieces, cast iron fittings, specials, miscellaneous tie rods, concrete for thrust blocks, restoration of unpaved surfaces, all labor, chemicals, equipment and laboratory fees required for chlorination and testing of mains, and additional inspection fees for tests that fail and for inspections on repair of defective work. (Saddles for service connections to water mains are not included under this item but are specifically included under another payment item of this section).

Payment will be on a unit price per linear foot basis. The amount of pipe measured for payment will be the actual number of linear feet of each size, and type measured along the centerline of the pipe actually incorporated in the completed work as shown, specified and directed. The lengths of reducers and reducing fittings will be included in the measured quantity for the larger size pipe.

### W12 Utility Relocation:

This item includes all the labor and materials necessary to fully complete this item in accordance with the construction plans.

Payment shall be based on a lump sum per relocation.

**SECTION 60  
AGREEMENT**

THIS IS AN AGREEMENT, by and between **THE TOWN OF SOUTHWEST RANCHES, a Special TOWN of the State of Florida**, (hereinafter called TOWN) and (hereinafter called CONTRACTOR).

TOWN and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agrees as follows:

**1      WORK:**

CONTRACTOR shall at his own cost and expense furnish all labor, services, tools, materials, equipment and incidentals necessary to perform all work required by the Contract Documents. The Work is generally described as follows:

**CONSTRUCTION OF ROADWAY IMPROVEMENTS**

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

**EAST PALOMINO DRIVE RESURFACING**

**2      ENGINEER:**

The Project has been designed by **R.J. Behar & Company, Inc.** who is hereinafter called ENGINEER and who is to act as the TOWN'S representative, assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

**3      CONTRACT TIME:**

The Work will be substantially completed within 30 days from the date when the Contract Time commences to run as provided in the General Conditions, and completed and ready for final payment in accordance with the General Conditions within 60 days from the date when the Contract Time commences to run.

**4      CONTRACT PRICE:**

TOWN shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in the prices stipulated in CONTRACTOR'S Bid, which BID is attached hereto and identified as SECTION 40 FORM OF PROPOSAL.

**5      PAYMENT PROCEDURES:**

CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

**60.5.1    Progress Payments:**

TOWN shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in the General Conditions (and in the case of Work performed on the basis of unit prices, based on the number of units completed).

60.5.1.1. The CONTRACTOR shall prepare an application for payment by the twenty-fifth day of the month and the TOWN will make payment on the fourth Thursday of the following month.

## **SECTION 60 AGREEMENT**

60.5.1.2 Prior to Substantial Completion, all progress payments will be on the basis of the progress of the work measured by the schedule of values provided for in the General Conditions, less 10% retainer.

60.5.1.3 Upon Substantial Completion, TOWN shall pay an amount sufficient to increase total payments to CONTRACTOR to 100 percent of the Contract Price, less such amounts as ENGINEER shall determine in accordance with the General Conditions.

### **60.5.2 Final Payment:**

Upon final completion and acceptance of the work in accordance with the General Conditions, TOWN shall pay the remainder of the Contract Price as recommended by ENGINEER.

## **6 INTEREST:**

All moneys not paid when due as provided in the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

## **7 CONTRACTOR'S REPRESENTATIONS:**

In order to induce TOWN to enter into this Agreement CONTRACTOR makes the following representations:

- 60.7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
- 60.7.2 CONTRACTOR has studied carefully all reports of explorations and tests of subsurface and latent physical conditions at the site that may otherwise affect cost, progress, performance or furnishing of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.
- 60.7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 607.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions, and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.
- 60.7.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions.

## **SECTION 60 AGREEMENT**

- 60.7.5 CONTRACTOR has correlated the results of all such observations, examinations, investigations, expirations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 60.7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

### **8 CONTRACT DOCUMENTS:**

The Contract Documents which comprise the entire agreement between TOWN and CONTRACTOR are attached to this Agreement, made a part hereof and consists of the following:

- 60.8.1 This Agreement (pages 60-1 to 60-5, inclusive).
- 60.8.2 Notice of Award.
- 60.8.3 General Conditions (pages 30-1 to 30-42, inclusive).
- 60.8.4 CONTRACTOR'S Form of Proposal consisting of 2 pages, as contained herein.
- 60.8.5 CONTRACTOR'S Form of Summary of Qualifications consisting of 1 page, as contained herein.
- 60.8.6 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

There are no Contract Documents other than those listed above in this Article 60.8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

### **9 LIQUIDATED AND SPECIAL DAMAGES:**

- 60.9.1 Liquidated Damages:  
TOWN and CONTRACTOR recognize that time is of the essence as to Substantial Completion and that TOWN will suffer financial loss, apart from the cost described in Paragraph 609.2, if the Work is not substantially completed within the time specified in Article 603 above, plus any extensions thereof allowed in accordance with Article 30.12 of the General Conditions. TOWN and CONTRACTOR also recognize the delays, expenses and difficulties involved in providing in a legal or arbitration proceeding the actual loss suffered by TOWN if the Work is not substantially completed on time. Accordingly, instead of requiring any such proof, TOWN and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay TOWN \$ 200.00 (Two Hundred Dollars) for each day that expires after the time specified in Article 60.3 above for Substantial Completion (adjusted for any extensions thereof made in accordance with Article 30.12 of the General Conditions) until the Work is substantially complete.
- 60.9.2 Special Damages:  
If CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time, CONTRACTOR shall pay TOWN the actual cost reasonably incurred by TOWN for engineering and inspection forces employed on the Work for each day that expires after the time specified in Article 603 for the Work to be completed and ready for final payment (adjusted for any extensions thereof made in accordance with Article 30.12 of the General Conditions) until the Work is completed and ready for final payment.
- 60.9.3 TOWN may deduct the amount of liquidated damages and special damages from monies due to CONTRACTOR under this Agreement.

**SECTION 60  
AGREEMENT**

**60.9.4 No Damages for Delay:**

No claim for damages or any claim, other than for an extension of time, shall be made or asserted against the TOWN by reason of any delays. CONTRACTOR shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from TOWN for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the TOWN or its agents. Otherwise, CONTRACTOR shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

**10 MISCELLANEOUS:**

60.10.1 Terms used in this Agreement which are defined in the General Conditions shall have the meanings indicated in the General Conditions.

60.10.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding in another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the TOWN and CONTRACTOR from any duty or responsibility under the Contract Documents.

60.10.3 TOWN and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

**11 OTHER PROVISIONS:**

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement in triplicate on the respective dates under each signature: The TOWN signing by and through its CHAIRMAN, authorized to execute same by Public Board Action on to \_\_ day of \_\_\_\_\_, 2005, and the CONTRACTOR, through \_\_\_\_\_, authorized to execute same. One counterpart each has been delivered to TOWN, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by TOWN and CONTRACTOR.

<b>TOWN:</b>	THE TOWN OF SOUTHWEST RANCHES
<b>Attest:</b>	
_____	By: _____ Town Mayor
_____	
TOWN Clerk (Seal)	Dated this ____ of _____, 2005
	Address for giving Notices:
	6589 SW 160 <sup>th</sup> Avenue
	Southwest Ranches, Florida 33331

TOWN:	THE TOWN OF SOUTHWEST RANCHES
CONTRACTOR:	CONTRACTOR, INC.
_____	By: _____
Witness	_____, President
_____	Dated this _____ of _____, 2005
Witness	
	Address for giving Notices:
	License No.:

SECTION 80  
STANDARD FORMS

# NOTICE TO PROCEED

\_\_\_\_\_, 2005

PROJECT: **EAST PALOMINO DRIVE RESURFACING**

You are hereby notified that you may proceed with the work on the subject Project as of the date \_\_\_\_\_

Enclosed is one (1) set of Contract Documents containing:

SECTION 10 - INVITATION TO BID  
SECTION 30 - GENERAL CONDITIONS  
SECTION 40 - PROPOSAL  
SECTION 41 - SUMMARY OF QUALIFICATIONS  
SECTION 50 - COMPENSATION  
SECTION 60 - AGREEMENT  
SECTION 80 - STANDARD FORMS

Addenda Numbers \_\_\_\_\_ through

Sincerely,  
R.J. BEHAR & COMPANY, INC.

Javier Rodriguez, P.E.  
TOWN ENGINEER



CHANGE ORDER

NO. \_\_\_\_\_ DATE OF ISSUANCE: \_\_\_\_\_  
PROJECT: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
CONTRACTOR: \_\_\_\_\_  
ENGINEER: \_\_\_\_\_ ENGINEER'S Project No. \_\_\_\_\_  
CONTRACT FOR: \_\_\_\_\_

You are directed to make the following changes in the Contract Documents.

Description: \_\_\_\_\_  
\_\_\_\_\_

Purpose of Change Order: \_\_\_\_\_  
\_\_\_\_\_

Attachments: (List documents supporting change) \_\_\_\_\_

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIME:

Original Contract Price:

Original Contract Time

\$ \_\_\_\_\_ days or date

Previous Change Orders No. \_\_\_\_\_ to No. \_\_\_\_\_

Net Change from previous Change Orders

\$ \_\_\_\_\_ days

Contract Price Prior to this Change Order

Contract Time prior to this Change Order

\$ \_\_\_\_\_ days or date

Net Increase (decrease) of this Change Order Net Increase (decrease) of this Change Order

\$ \_\_\_\_\_ days

Contract Price with all approved Change Orders

Contract Time with all approved Change Orders

\$ \_\_\_\_\_ days or date

RECOMMENDED: APPROVED:

APPROVED:

by \_\_\_\_\_ by \_\_\_\_\_ by \_\_\_\_\_

Engineer

Owner

Contractor

SECTION 80  
STANDARD FORMS

RECOMMENDATION OF PAYMENT NO:

Project: EAST PALOMINO DRIVE RESURFACING

CONTRACTOR: \_\_\_\_\_

Contract for: Construction of Drainage Improvements Contract Date: \_\_\_\_\_

Application Date : \_\_\_\_\_ Application Amount:\$  
For Period Ending: \_\_\_\_\_

To: THE TOWN OF SOUTHWEST RANCHES (OWNER)

Attached hereto is the CONTRACTOR'S Application for Payment for Work accomplished under the Contract through the date indicated above. The Application meets the requirements of the Contract Documents and includes the CONTRACTOR'S Certificate stating that all previous payments to him under the Contract have been applied by him to discharge in full all of his obligations in connection with the Work covered by all Applications for Payment.

In accordance with the Contract the undersigned recommends payment to the CONTRACTOR of the amount due as shown below.

Dated: \_\_\_\_\_

By:  
Registered Engineer No.  
State of Florida

STATEMENT OF WORK

Original Contract Price:	\$	Work to Date:	\$
Net Change Orders:	\$	Amount Retained: (10%)	\$
Current Contract Price:	\$	Subtotal:	\$
Work to be Done:	\$	Prev. Payments Recommended:	\$
		Amount Due this Payment:	\$

# FINAL AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, first being duly sworn on oath, deposes and says of his personal knowledge that:

- [illegible]

By:

CONTRACTOR

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My commission expires:

NOTARY PUBLIC

**SECTION 130**  
**STORM DRAINAGE SYSTEM SPECIFICATIONS**

**130.1 SCOPE**

It is the intention of these specifications to provide for the installations of a storm water drainage system. The contractor shall furnish all labor, equipment, and material, and perform all operations necessary to construct the storm drainage system, complete as shown on the Plans and in accordance with these specifications.

**130.2 SPECIFICATIONS**

The specifications shall be the current edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction.

It is the Contractor's responsibility to obtain a copy of those specifications.

**SECTION 140  
PAVING SPECIFICATIONS**

**140.1 SCOPE**

It is the intention of this section of the specifications to provide for the furnishing of all labor, equipment and materials and in performing all operations in connection with paving, base course, sub-grade, shoulders and other related work, as shown on the Plans and in accordance with these specifications.

**140.2 SPECIFICATIONS**

The specifications shall be the current edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction.

It is the Contractor's responsibility to obtain a copy of those specifications.