

GENERAL CONDITIONS

101. DEFINITIONS

Wherever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

a. The term "Contract" or "Contract Documents" mean that group of documents which embody the agreement between the City and the Contractor for the construction and installation of improvements specified herein, and shall include the following: Executed Agreement Addenda (if any), Invitation for Bids, General Conditions, Special Conditions, Technical Specifications, and Drawings (as listed in the Schedule of Drawings).

b. The terms "City" and "City of New Haven" refer to the particular contracting authority entering into, carrying out, and administering the Contract with the Contractor. The contracting authority for this Contract and the terms "City" and "City of New Haven" shall mean the department or agency specified in Section 302 of the Special Conditions except in the few instances where the term "City" or "City of New Haven" is used in connection with laws, ordinances, regulation codes, rules and other governmental action of the City.

c. The term "Local Public Agency" shall mean the department or agency specified in Section 302.

d. The term "Contractor" means the person, firm or corporation entering into the Contract with the City to construct and install the improvements embodied in the Contract.

e. The term "Project Area" means the physical area (Contract limits) in which the improvements contemplated by the Contract are to be installed or constructed.

f. The term "Engineer" means the City Engineer of the City of New Haven or Engineer in charge serving the City with architectural or engineering services, its successor, or any other person or persons, employed by the City for the purpose of directing or having charge of the improvements embodied in this Contract, and said Engineer acting directly or indirectly through an Assistant Engineer having general charge of the work or through any assistant having immediate charge of a portion thereof limited by the particular duties entrusted in him.

g. The term "Technical Specifications" means that part of the Contract Documents which describes, outlines and specifies the qualities, quantities, technical characteristics, data and standards of the materials to be furnished, the workmanship required, and methods to be used in carrying out the construction and installation of the improvements contemplated by this Contract.

h. The term "Addendum" or "Addenda" means any changes, revisions or clarifications of the Contract Documents which have been duly issued to prospective Bidders prior to the time of receiving bids.

102. COMMUNICATIONS

All notices, demands, requests, instructions, approvals, proposals, changes and claims must be in writing.

Any notice or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Agreement or at such other office as the Contractor may from time to time designate in writing to the City Engineer, or if deposited in the United States mail in a sealed, postage prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.

All papers required to be delivered to the City shall, unless otherwise specified in writing, be delivered to the City Engineer, 200 Orange Street. Any notice to or demand upon the City shall be sufficiently given if so delivered, or if received in the United States mail in a sealed, postage prepaid envelope, or if transmitted to said City at such address with charges prepaid by any telegraph company, or if delivered by any of the foregoing means to such other representative of the City or to such other address as the City may subsequently specify in writing to the Contractor for such purpose. Any such notice shall be deemed to have been given as of the time of actual delivery or in the case of mailing when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt as the case may be.

The use of e-mail correspondence is considered a form of communication. Any communication affecting the scope of work or changes must be issued by appropriate authorized personnel to issue such communication. Any approvals for contact changes shall be on forms provided to the City and fully executed by appropriate approval agencies.

103. RESPONSIBILITIES OF CONTRACTOR

Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the Contractor shall provide and pay for all materials, labor, tools, transportation, superintendence, equipment, water, light, heat, power, temporary construction of every nature, charges, levies, fees or other expenses and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to deliver all Improvements embraced in this Contract complete in every respect within the specified time.

Where the work is located in a public street or highway, the Contractor must apply for and obtain such permit or permits as may be necessary, in accordance with these Specifications. The Contractor must provide such security or insurance as may reasonably be required incidental to and as a prerequisite to such permit or permits. It shall bear all expenses for and incidental to securing the permit or permits and complying with the terms and requirements thereof.

The Contractor shall arrange its operations and the spaces occupied by him so as to provide access to properties along the street, particularly driveways, access to fire hydrants, manholes, gate boxes and other utilities. If for any reason it is not expedient to backfield an excavation, the Contractor shall construct and maintain suitable bridges to carry pedestrians and traffic in or to the street, driveway or property in question as directed by the Engineer. The Contractor shall confine its occupancy of public or traveled ways to the smallest spaces compatible with the efficient performance or construction of the work contemplated by this Contract, and more particularly to such limits as are set by the Contract Documents.

104. OTHER CONTRACTS

The City may award, or may have awarded other contracts for additional work, and the Contractor shall cooperate fully with such other contractors, by scheduling its' own work with that to be performed under other contracts as may be directed by the Engineer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor as scheduled, but shall act as necessary to insure the orderly, proper and economical construction of the whole project or group of projects.

In case of conflict between contractors, the Engineer will determine the location where work shall commence. Such determination shall have no effect on the Contract costs and will not be considered as the basis for a claim for additional compensation.

The work under this Contract shall be coordinated with any other work which may be under construction or contemplated in the same general area. In order that the work under this Contract may conform to the conditions under which it has been undertaken, the City Engineer will determine the location where the work will commence. Such determination shall have no effect on the Contract cost and will not be considered as the basis for a claim for additional compensation.

105. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the Contractor, any other contractor or any subcontractor, shall suffer loss or damage on the work, the Contractor shall settle with such other contractor or subcontractor by agreement or arbitration, if such other contractor or subcontractor will so settle. If such other contractor or subcontractor shall assert any claim against the City on account of any damage alleged to have been so sustained, the City will notify the this Contractor, who shall defend at its own expense any suit based upon such claim, and if any judgment or claims against the City shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection herewith.

106. SUPERINTENDENCE BY CONTRACTOR

a. Except where the Contractor is an individual and gives its personal superintendence to the work, the Contractor shall provide a competent superintendent, satisfactory to the City and the City Engineer, on the work at all times during

working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of its work.

b. The Contractor shall lay out its own work unless otherwise provided, and it shall be responsible for all work executed by him under the Contract. It shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from its failure to do so.

107. SUBCONTRACTS

a. The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this Contract until it has submitted a non collusive affidavit from the subcontractor in substantially the form shown below and has received written approval of such subcontractor from the City. It shall submit a written statement containing such information as the City may require concerning the experience, ability and responsibility of the proposed subcontractor and the scope of the subcontract.

108. FITTING AND COORDINATION OF THE WORK

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all subcontractors, trades, or material men engaged upon this Contract. It shall be prepared to guarantee to each of its subcontractors the locations and measurements which they may require for the fitting of their work to all surrounding work.

109. PERMITS AND CODES

a. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of the City. All construction work and/or utility installations shall comply with all applicable ordinances and codes, including all written waivers. Before installing any work, the Contractor shall examine the Drawings and Technical Specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the City. Where the requirements of the Drawings and technical Specifications fail to comply with such applicable ordinances or codes, the City will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract price or stipulated unit prices.

Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the Drawings and Technical Specifications), the Contractor shall remove such work without cost to the City, but a change order will be issued to cover only the excess cost the Contractor would have been entitled to receive if the change had been before the Contractor commenced work on the items involved.

c. The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with improvements embraced in this Contract.

b. The Contractor shall, at its own expense, secure and pay to the appropriate department of the City or State of Connecticut the fees or charges for all permits for street pavements, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavement cuts, building, electrical, plumbing, water, gas and sewer permits required by the regulatory body of any of its agencies. The Contractor's attention is called to the fact that the City Engineer's office has a list of all State maintained streets which is readily available to the Contractor for inspection.

110. WAGES

a. State of Connecticut Requirement

1. The wages paid on an hourly basis to any mechanic, laborer, or workman employed upon the work herein contracted to be done, and the amount of payment or contribution paid or payable on behalf of each such employee to an employee's welfare fund, as defined in section 31-78 of the General Statutes of Connecticut shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any Contractor who is not obligated by agreement to make payment or contribution

on behalf of such employee to any such employee's welfare fund shall pay to each employee as part of its wages the amount of payment or contribution for its classification on each pay day.

b. City of New Haven Requirement (Section 82 of City Charter)

1. "In all contracts for the construction, repairing, or remodeling of public buildings or public works of any kind by the City or any of its divisions, there shall be incorporated a provision that the wages paid any mechanic, laborer, or workman employed under the Contract shall be at the rate of wages for the same type of work in the same trade or occupation prevailing in the City, based upon the wage schedule and rate therein set by the United States Department of Labor for the New Haven area".

c. Federal and State Wage Standards

1. The wage determinations governing the work to be performed under this Contract are set forth elsewhere in the Contract Documents. The higher of the Federal and State wage standards shall be the prevailing standard in every case. However, nothing herein contained shall be construed to permit the payment of wages or salaries below the rates required by any other provision for this Contract.

111. INSURANCE

The City requires all contractual work to be insured as identified in the following sections.

The term "Contractor" and/or "subcontractor" as used in this section, shall mean and include Contractors and subcontractors of every tier.

a. Workers' Compensation Insurance and Employer's Liability

The Contractor shall provide Workers' Compensation and Occupational Disease insurance in accordance with the applicable law or laws for all his employees. The contractor will also require that any subcontractors engaged in work at the site will provide Workers' Compensation and Occupational Disease insurance, and shall certify that the Contractor and their subcontractors are not in arrears to the State of Connecticut Second Injury Fund.

Coverage A: Statutory benefits imposed by the and/or Occupational Disease statute of the State of Connecticut and any other governmental authority having jurisdiction for the work performed.

Coverage B: Employer's Liability-Limits of \$1 million bodily injury per accident/employee; \$1 million bodily injury per disease/employee; \$1 million policy by disease.

Extensions of Coverage: Other States Endorsement, Voluntary Compensation, US Longshoreman's and Harborworkers' Act, Jones Act, Thirty (30) Day Notice of Cancellation, non-renewal or material change.

b. Commercial General Liability

The Contractor shall carry or require that there be carried Commercial General Liability Insurance on an occurrence form including:

- Coverage a: Bodily Injury and Property Damage
- Coverage b: Personal and Advertising Injury
- Coverage c: Medical Payments

1. Minimum Limits of Liability

General Aggregate (Other than Products/Completed Operations):	\$2 million
Products and Completed Operations:	\$2 million
Personal and Advertising injury:	\$1 million
Each Occurrence Limit:	\$1 million
Fire Damage legal Liability	\$300,000
Medical Payments, any one person:	\$10,000
Property Damage	\$1 million

2. This insurance should provide: a) contractual liability, b) premises operation, c) products and completed operations, d) explosion, collapse and underground coverage, e) Severability of interests provision, f) waiver of subrogation, g) independent contractors, h) this coverage is to be endorsed to reflect that the insurance provided is to be primary for the contractor, City and all other indemnities named in this contract, i) coverage is to be provided with insurers licensed and admitted to do business in the State of Connecticut, j) the Additional Insured Endorsement must be furnished reflecting the inclusion of the interests of all indemnities named in the contract and such entities as may be designated by the City as Additional Insureds.

This insurance shall cover the use of all equipment, including but not limited to excavation machinery, trenching machines, cranes, hoists, rollers, concrete mixers, motor vehicles, etc. in the construction of the improvements embraced in this Contract.

c. Commercial Automobile Insurance

The Contractor shall carry and require that his subcontractors carry, Insurance covering the use of all Owned, Non-Owned and Hired motor vehicles used with a combined Bodily Injury and Property Damage Limit of at least \$ one million (\$1,000,000). The limit may be provided through a combination of primary and Umbrella/Excess Liability policies acceptable to the owner.

d. Contractor Construction Equipment Insurance

Any policies maintained by the contractor and its owned and/or rented equipment and materials shall contain a provision requiring insurance companies to waive their rights of subrogation against the City of New Haven (Owner) and all other Indemnities named in the contract.

e. Certificates of Insurance

The successful bidder shall provide certificates of insurance showing coverage by an insurance carrier authorized by the State of Connecticut to write insurance in the State. The certificates shall show the City as an additional name insured. Said certificate should contain the following endorsements.

PLEASE NOTE THAT ALL CERTIFICATES OF INSURANCE MUST INCLUDE:

1. The City of New Haven shall be named as an additional insured.
2. Endorsement shall include the work description, Contract name, number and location;
3. An endorsement that the insurance company will give at least thirty (30) days written notice to the City prior to any modification or cancellation of any such insurance coverage; and

f. Policy review and Approval

At the discretion of the City, the Contractor may be asked to submit to the City copies of insurance policies for review and approval. The City may, in writing, notify the Contractor of any disapproval of any such policies, and satisfactory policies shall be provided in place of those disapproved.

The Contractor shall submit an insurance certificate in addition to a copy of each policy. The Contractor shall require its subcontractors to obtain policies of similar insurance before each commences work. All such insurance shall be carried with financially responsible insurance companies, licensed in the State and approved by the City and shall be kept in force until the Contractor's work is accepted by the City, which expire before the Contractor's work is accepted by the City shall be renewed and submitted to the City for its approval.

112. PATENTS

The Contractor shall pay all royalties and license fees. It shall hold and save the City, its officers and employees, harmless from liability of any nature or kind, including, but not limited to costs and expenses arising out of the use of

any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Technical Specifications.

113. WARRANTY OF TITLE

Materials, supplies, or equipment purchased for the work shall not be subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller, supplier or any other person excepting only the Contractor. The Contractor shall warrant good title to all materials, supplies and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the City free from any claims, liens, or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any work covered by Contract shall have any right to a lien upon any improvement or appurtenances thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection nor any right under any law permitting such persons to look to funds due the Contractor in the hands of the City. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for the work when no formal Contract is entered into for such materials.

114. ASSIGNMENT OF NOVATION

a. The Contractor shall assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities under this Contract without the written consent of the City, provided, however, that assignments to banks, trust companies or other financial institutions may be made without the consent of the City. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to prior lien for services rendered and materials, tools, and equipment, supplied for the performance of the work under this Contract in favor of all persons, firms or corporations rendering any such services or supplying such materials, tools or equipment.

b. Any change made by the contractor as to name, structure of the business entity or responsible officers or supervisors shall be immediately provided to the City and shall be accompanied by the appropriate corresponding documentation demonstrating receipt of all necessary approvals required from interested private, public parties and governmental agencies.

115. PROGRESS SCHEDULE/PROGRESS SUMMARY INFORMATION

Prior to commencing work, the contractor shall provide information relative to the project including project name, number, scope of work, designer (if applicable), contractor contacts including after hours for emergency, contract start date, number of days allowed, contract completion date and liquidated damages.

The Contractor shall submit for approval immediately after execution of the Agreement, a carefully prepared progress schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due the Contractor, and the accumulated percent of progress each month. This shall be in the form of a gant chart identifying various work tasks and critical tasks of work. All work shall be relationship driven and such schedule shall be posted or provided to the City Engineer and updated to ensure accuracy of work effort as progress is made.

116. PROGRESS OF WORK

The Contractor shall submit progress reports as determined by the City Engineer. Said report(s) shall identify contract amounts, payments made and/or completed by payment schedule, work completed, work scheduled, hours of operations, meeting schedule as amended.

In general, work shall be continued and prosecuted throughout the term of the Contract, including the winter season. The Contractor will be expected to keep work going whenever possible. The Engineer will determine when conditions are unfavorable for work, or for any portion thereof, and may order that the work be suspended on any part or all portions of the Contract whenever, in its opinion, the conditions are not such as will insure first class work.

117. CONSTRUCTION EQUIPMENT

Prior to the start of the work, the Contractor shall submit to the Engineer, for its approval, a "schedule of Equipment" stating the type and number of pieces of equipment to be used on the job. All equipment to be used in the City streets shall be equipped with rubber tires. The use of equipment without rubber tires shall be by written approval and under direction of the Engineer.

118. ACCESS TO PROJECT AREA

The requirements specified in section PERMITS & CODES of the General Specifications apply to work outside the public streets and highways, insofar as those requirements can reasonably be expected to apply.

The terms "land", "private land", "property", "private road", "driveway", etc., as used in these Specifications, shall be interpreted to include not only the property or properties of any private individual, or corporation, but also the property of a public utility or of any public body not used as, and legally established as, a public street or highway. The provisions of this section shall apply to operations within the sites of any public building, institution, or similar location.

The Contractor shall make inquiry and ascertain the limits, conditions, etc. of right-of-way, access, etc., possessed by the City and available for use by the Contractor. Certain essential facts as to such rights may be indicated on plans or elsewhere in the Contract Documents. In some cases, the indications in the Contract Documents may restrict the Contractor more closely than the full extent of the rights possessed by the City, in which case such indicated restrictions shall govern the operations of and occupancies by the Contractor. The Contractor, and those operating under him, must know and conform to the limits of the spaces which it may occupy at the site of the work, the means of access thereto, and the conditions under which it may occupy or use such rights.

If the Contractor, by direct negotiation and bargain with any land owner, lessee or tenant, has secured for itself any right to use more space or greater privileges than the space provided by the City, for purposes incidental to the performance of the Contract, it shall upon request of the Engineer, furnish to the Engineer proper evidence that such additional rights have been properly secured and assurance that no damage to or claim upon the City will arise therefrom. The City shall not be liable in any way for any expense incurred by the Contractor in securing any such right to use additional property.

The Contractor shall be responsible for and reimburse the City for any and all losses, damage or expense which the City or others may suffer, either directly or indirectly or through any claims of any person or party, for any trespass outside the spaces and rights-of-way provided by the City to the Contractor or any violation or disregard of the terms and conditions established for the use of occupancy of those rights, or for negligence in the exercise of those rights. The City may retain or deduct from any sum or sums due or to become due to the Contractor such amount or amounts as may be proper to insure the City against loss or expense by reason of the failure of the Contractor to observe the limits and conditions of the rights-of-way, rights-of-access, etc., provided by the City.

The Contractor shall request the Engineer to give proper notice to the owners and tenants of land traversed by the rights-of-way or access ways to be used or occupied by the Contractor prior to any entry or reentry into such rights-of-way, etc., or shall cause proper notice to be given to said owners and/or tenants. The Contractor shall thereafter wait a sufficient time to permit the delivery of such notice or notices, and also to allow time in which owners or tenants may make necessary adjustments to avoid undo loss or inconvenience by the interference with their ordinary use of occupancy caused by the acts of the Contractor.

The Contractor shall take proper means to identify its employees, etc., when operating within private or restricted lands. The Contractor shall not permit its employees, subcontractors, suppliers, etc., to trespass outside the limits of the spaces provided for him, to unnecessarily interfere with or annoy or to commit any nuisance or scatter rubbish thereon, or to loiter therein when their presence is not essential to the work then underway. The Contractor shall not permit others attracted to the site of its work by its operations to loiter in the vicinity of its work or to enter or damage private property, within or without and near the rights-of-way provided by the City, or to annoy the regular owners or occupants of such property.

If access is provided by means of any private road or driveway or through private roads, the Contractor shall permit the regular owners or users thereof to use the same so far as it consistent with the construction of the work. If any existing driveway or road is damaged by thereof, the Contractor shall at once restore to as good condition as it would have been had the Contractor had not used it. The Contractor and those under him using any private road or

driveway must assume to use that road or driveway on an "as is " basis and use it at their own risk. Neither the City nor the land owner shall be liable for damage to persons or property of the Contractor's forces arising from any defect in such road or driveway, except as such defect may be the consequence of negligence of the City or of the land owner before the award of the Contract or after completion of work called for by the Contract. The liability of any party may be limited by the terms of the right-of-way or right-of-access Document. The land owner and the City make no representation that the road or driveway surface, culverts, etc. are adequate to carry any specific load or weight. The Contractor may be held liable to the owner or regular users of the road and driveway for injury, damage or loss by reason of negligence of the Contractor in the operation of vehicles thereon, or with respect to damage done to the road or driveway by its workforce or by reason of failure to provide and maintain suitable warning of dangers created by the operations of the Contractor.

Should it be necessary to open or remove portions of any hedge, gate, fence, or similar structure, such opening shall not be kept open at any time when it is not essential to the conduct of the work. Temporary gates shall be provided and such openings shall be closed except when opened for the passage of persons or vehicles. The openings shall be permanently restored and repaired when no longer needed for the performance of the Contract. Precautions shall be taken by the Contractor to prevent unauthorized persons from passing through such temporary openings or, having passed through such openings into otherwise enclosed lands, from causing lesser damage therein.

119. USE OF PREMISES

a. The Contractor shall confine its equipment, storage of materials, and construction operations to the Contract Limits, as shown on the Drawings and as prescribed by ordinances or permits, or as may be directed by the City, and shall not unreasonably encumber the site or public rights-of-way with its materials and construction equipment.

b. The Contractor shall comply with all reasonable instructions of the Engineer and the ordinances and codes of the City regarding signs, advertising, traffic, fires, explosives, danger signals and barricades.

120. PUBLIC UTILITIES

The actual location of utilities shall be determined by the Contractor. The information shown on the Contract Plans is only for information and convenience of the Contractor and is in no way warranted to indicate the true conditions.

The Contractor shall inquire of the utility companies as to their mains, conduits, services and service laterals in and adjacent to the area under construction. The costs for such locations, and any costs for connections or disconnections, shall be paid by the Contractor unless otherwise specified.

The Contractor, shall, without expense to the City and to the satisfaction of the Engineer, do everything necessary to support, protect and maintain all pipes, wires, poles or fixtures of all kinds in the line of work or adjacent thereto, and all fences, buildings, or other structures which might be damaged by the work herein contemplated. The Contractor shall give at least twenty four (24) hours notice, before breaking ground, to owners of the structures, pipes or wire conduits that may be affected by its operations and shall not cause any hindrance to or interference with any such owners or their agents in protecting or repairing their property should they wish to do so, but will suffer them to take all such measures as they may deem necessary for said purposes. The Contractor shall protect water pipes from freezing during cold weather.

The Engineer may require the Contractor to take proper steps to protect the main lines of public utilities in the immediate vicinity of the work when endangered by the Contractor's operations, and, if the Contractor fails to take adequate provisions to protect such lines or structures, the Engineer may employ others to perform protective work, as may be reasonably needed, at the Contractor's expense.

121. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the City, without whose decision said discrepancy shall not be adjusted by the Contractor, save only at its own risk and expense.

Except the Contractor's executed set, all Working Drawings and the Technical Specifications are and remain the property of the City. Such Working Drawings and Technical Specifications are not to be used on other work, and those sets in useable condition shall be returned to the City, upon request, at the completion, cessation of the work or termination of the Contract.

122. CONTRACT DOCUMENTS AND DRAWINGS

The City provides all contract documents including technical specifications and drawings as 'PDF' files through the City's Purchasing Department's Website. The contractor is responsible to produce appropriate copies to perform the work specified. In addition, the Contractor shall, at all times, keep at the site of the work two (2) complete sets of the Contact Drawings and Specifications, as well as, all further Drawings or instructions issued covering the work under the Contract for its own use and that of the Engineer or the Engineer's authorized representatives. All changes as they may occur are to be recorded immediately thereon. As a part of its general supervision, the Contractor shall carefully study and compare all instructions, specifications and other drawings given to him and shall report to the Engineer to clarify any errors, omissions or discrepancies in or between such documents.

123. SHOP DRAWINGS

a. All required shop drawings, machinery details, layout drawings, etc., shall be submitted to the Engineer in triplicate for its approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking, if necessary. The Contractor may proceed, only at its own risk, with manufacture or installation of any equipment or work covered by said shop drawings, etc., until they are approved and no claim, by the Contractor for extension of the Contract time will be granted by reason of its failure in this respect.

b. Any drawings submitted without the Contractor's stamp of approval will not be considered and will be returned to the Contractor for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in its letter of transmittal in order that, acceptable suitable action may be taken for proper adjustment of Contract price and/or time otherwise the Contractor will not be relieved of the responsibility to execute the work in accordance with the Contract even though the drawings have been approved.

c. If a shop drawing is in accordance with the Contract or involves only a minor adjustment in the interest of the City, not involving a change in Contract price or time, the Engineer may approve the drawing. The approval shall be general, shall not relieve the Contractor from its responsibility for adherence to the Contract or for any error in the drawing and shall contain in substance the following;

"The modification shown on the attached drawing is approved in the interest of the City to effect an improvement for the project and is ordered with the understanding that it does not involve any change in the Contract Price or time; that it is subject generally to all Contract Stipulations and covenants; and that it is without prejudice to any and all rights of the City under the Contract and surety bond or bonds."

d. The Contractor shall furnish as many copies of approved shop drawings as are necessary for proper coordination of the work, and it shall maintain a complete set of approved shop drawings at the site at all times.

124. REQUESTS FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the City for any additional information not already in its possession, which should be furnished by the City under the terms of this Contract, and which the Contractor will require in the planning and execution of the work. Such request may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit propitiate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at the time. The Contractor, shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in the work or to others arising from its failure to comply fully with the provisions of this section.

125. INSPECTION

a. All materials and workmanship will be subject to examination, inspection, or test by the City and the Engineer at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The Engineer shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge therefor. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the City may by Contract or otherwise, have rejected materials removed from the Project Area or the defects remedied or and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the City.

b. The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. (see section - SAMPLES, CERTIFICATES AND TESTS, under GENERAL CONDITIONS). All tests by the City will be performed in such a manner as not to unnecessarily delay work and shall be made as described in the Technical Specifications.

c. The Contractor shall notify the Engineer sufficiently in advance on backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Engineer, the Contractor shall uncover for inspection and recover such facilities all at its own expense, when so ordered by the Engineer. Should it be considered necessary or advisable by the Engineer at any time before final acceptance of the entire work to make any examination of work already completed, by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor and materials. If such work is found to be defective in any important or essential respect due to fault of the Contractor or its subcontractor, it shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus fifteen percent of such costs to cover superintendence, general expenses bond adjustments, and profit, shall be allowed the Contractor and, in addition the Contractor shall be granted a suitable extension of time on account of the additional work involved, if completion of the work of the entire Contract has been delayed thereby.

d. Inspection of materials and appurtenances to be incorporated in the Improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity is justified, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the project site.

e. Neither inspection, testing, approval nor acceptance of the work in whole or in part by the City or its agents shall relieve Contractor or its sureties of full responsibility for furnished materials or work performed not in strict accordance with the Contract.

126. REVIEW BY THE CITY OF NEW HAVEN

The City, its authorized representatives and agents shall, at all times, have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided, however, that all instructions and approval with respect to the work will be given to the Contractor only by the City through its authorized representatives or agents.

127. MATERIALS AND WORKMANSHIP

a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles to be incorporated in the work shall be new and the best grade of the respective kinds for the purpose. The Engineer shall decide whether such workmanship, equipment, materials and articles to be incorporated in the work are new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in these Specifications as "equal to" any particular standard, the Engineer shall decide the question of equality.

b. The Contractor shall furnish to the City for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which it contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required and shall likewise submit for approval as required full information concerning all other materials or articles which it proposes to incorporate in the work. (See Section - SAMPLES, CERTIFICATES AND TESTS under GENERAL CONDITIONS). Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.

c. Materials specified by reference to the number or symbol of a specific standard, such as the A.S.T.M. Standard, Federal Specifications or other similar standards, shall comply with requirements with the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as such specific standards are limited or modified in such reference in regard to type, class or grade. The standards referred to, except as modified in the Technical Specifications, shall have full force and effect as though printed therein.

d. In addition to the requirements of the General Specifications, prior to the start of work, the Contractor shall notify the Engineer in writing of its anticipated sources of all materials proposed to be incorporated into the work. The Contractor shall further notify the Engineer in writing of any changes in its source or anticipated source of materials.

e. The City may require the Contractor to dismiss from the work such employee or employees as the Engineer may deem incompetent, careless, or insubordinate.

128. SAMPLES, CERTIFICATES AND TESTS

a. The Contractor shall submit all materials or equipment samples, certificates, affidavits, etc., as called for in the Contract Documents or required by the Engineer, promptly after award of the Contract and acceptance of the Contractor's bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples or certificates have been approved in writing by the Engineer. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the Contract time.

Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with the Contract requirements, shall give the name and brand of the product, its place of origin, the name of address of the producer and all specifications or other detailed information which will assist the Engineer in passing upon the acceptability of the sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.

b. Approval of any materials shall be general and shall not constitute a waiver of the City's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as it deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable. If the aforementioned materials, equipment or accessories are caused to be removed or replaced by the Engineer, the cost of such removal or replacement shall not be considered cause for a change in the Contract price or for extension of the Contract time.

c. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:

1. The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the Engineer;

2. The Contractor shall assume all costs of re-testing materials which fail to meet Contract requirements;

3. The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and

4. The City will pay all other expenses except as specifically excepted by these General Conditions.

129. CARE OF WORK

a. The Contractor shall be responsible for the continuous and proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the City. All damaged work and materials shall be immediately removed from the Project Area and replaced at the Contractor's expense.

b. The Contractor shall provide sufficient competent watchmen, both day and night, including Saturdays, Sundays and holidays, from the time the work is commenced until final completion and acceptance. The judgment of the City as to the sufficiency and competency of the watchmen shall be final.

c. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorization from the City, is authorized to act at its discretion to prevent such threatened loss or injury, and it shall so act. The Contractor shall likewise act if instructed to do so by the City. Any compensation claims by the Contractor on account of such emergency work will be determined by the City as provided in the Section "CHANGES IN THE WORK under GENERAL CONDITIONS".

d. The Contractor shall avoid damage as a result of its operations to existing curbs, utilities, (except those which are to be replaced or removed), sidewalks, streets, pavements, adjoining property, etc., and it shall, at its own expense completely repair any damage thereto caused by its operation.

e. The Contractor shall shore up, brace, underpin, secure, and protect as many as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with construction of the Improvements, embraced in the Contract. The Contractor shall be responsible for the giving of any all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the City from any damages or account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the City may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

130. PARTIAL USE OF SITE IMPROVEMENTS

The City Engineer, upon its election, may give notice to the Contractor and place in use those sections of the improvement's which it have been completed, inspected and can be accepted as complying with the Technical Specifications and if, in the engineer's opinion, each such section is reasonably safe, fit and convenient, for the use and accommodation for which it was intended, provided:

a. The use of such sections of Improvements shall in no way impede the completion of the remainder of the work by the Contractor.

b. The Contractor shall not be responsible for any damages or maintenance cost due directly to the use of such sections.

c. The use of such sections shall in no way relieve the Contractor of liability due to having used defective materials or to poor workmanship.

d. The period of guarantee stipulated in the Section - "GENERAL GUARANTEE under GENERAL CONDITIONS, shall not begin to run until the date of the final acceptance of all work which the Contractor is required to construct under the Contract.

131. FIRES

Burning shall not be permitted.

132. BLASTING AND EXPLOSIVES

When the use of explosives is necessary for the prosecution of the work all requirements of local and State laws and regulations shall be complied with and all necessary permits and licenses obtained by the Contractor at its expense. Permits and licenses shall be shown to the Engineer.

The Contractor will keep on the job only such quantities of explosives as may be needed for the work underway and only during such time or times as they are being used. Explosives shall be stored in a secure manner in locked containers and separate from all tools. Caps and detonators shall be stored separately from explosives.

The Contractor shall notify each public utility company, owners of adjacent buildings having structures in proximity to the site of the work and all others who may be affected, of its intention to use explosives and such notice shall be given sufficiently in advance to enable the companies, the Contractor and others to take such steps as they may deem necessary to protect utilities and property from injury. Such notice shall not relieve the Contractor of responsibility for any damage resulting from its blasting operation.

Explosives shall be of such power, placed and used in such quantities and positions as will not make the excavation unduly large, nor shatter unnecessarily the rock mass structure, upon or against which the sewer or structure to be built.

The rock obstacle or mass structure must be covered sufficiently when blasts are fired to prevent damage or injury to persons or property or the scattering of broken fragments on the adjacent ground. Adequate warning shall be given all persons in the vicinity before any blast is discharged.

No separate payment shall be made for blasting.

133. DEWATERING

The Contractor shall provide all necessary pumps, dams, drains, ditches, flumes, well points and other means of excluding and removing water from trenches, tunnels and other parts of the work, and for preventing the slopes from sliding or caving. The discharge of all water being dewatered shall follow all sedimentation control requirements as per city standards. Such discharge shall also be approved by the City Engineer upon discharge to a city storm system. The Contractor shall satisfactorily remove all water which interferes with the work. The flow of all sewers, drains, house connections and water courses encountered shall be maintained and provided for by the Contractor without damage or nuisance to other parties. All connections shall be restored as ordered. Before any masonry is placed or sewer pipes are laid, suitable drains shall be provided as needed and maintained in order that the bottom may be free from water and sufficiently dry at all times. No masonry of any kind laid in cement mortar shall be placed in water. No water shall be allowed to flow over or rise up on fresh concrete and no drainage shall be allowed to enter the sewer until such time under such conditions as the Engineer may direct. The Contractor shall provide and operate additional pumps or drains at any place where the Engineer shall deem them necessary.

Where in the opinion of the Engineer, some form of under-drainage is necessary but conditions do not warrant the installation of tile or pipe underdrain, the Engineer may order a layer of broken stone of suitable size placed in the bottom of the trench below the sewer, to serve as a drain.

No direct payment shall be made for the work specified herein, but compensation for such work and all expenses incidental thereto shall be considered as having been included in the Contract bid prices for the various items of work.

134. CONTROL POINTS AND BENCH MARKS

The Contractor is responsible for establishing control points and bench elevations consistently with the City's Benchmark System and State coordinate points. All layout of work is the sole responsibility of the Contractor in accordance with the General Specifications.

The Contractor shall be held responsible for the protecting and safe guarding of all control points and Bench Marks set by the Engineer or its own forces. Any replacement or re-establishment of control points or Bench Marks, by the Engineer, shall be at the Expense of the Contractor.

135. ACCIDENT PREVENTION

a. The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of its undertaking of or its failure to undertake the work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the City determines to be reasonably necessary. Any costs arising out of the taking of such health or safety measures shall be borne by the Contractor. Machinery, equipment and all hazards shall be guarded in accordance with safety provisions of the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

b. When working within the City ROW the Contractor shall obtain a valid obstruction or excavation permit. Said permit shall be available on site for inspection to ensure that safe operating protocols and traffic controls are properly implemented.

c. The Contractor shall indemnify and hold harmless the City from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conduct under this Contract, and the Contractor shall defend at its own expense any action, suit, proceeding, or other claim brought against the City by any such person.

136. ACCIDENT RECORDS AND REPORTS

The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work under the Contract. The Contractor shall promptly furnish the City Engineer with reports concerning these matters.

137. SANITARY FACILITIES

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and the City. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains.

All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

138. REMOVAL OF DEBRIS, CLEANING, ETC.

The Contractor shall, as directed during the progress of the work, or periodically remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, the Contractor shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will not be allowed.

No separate payment will be made for this removal and clean up, and all costs shall be included in the applicable Contract unit prices.

139. CHANGES IN THE WORK

a. The City may make changes and alterations in the scope of the work required to be performed by the Contractor by making additions thereto, or by omitting work therefrom, or by giving extensions of time for the performance of this Contract or by giving any other forbearance, without invalidating the Contract, and without relieving or releasing the Contractor from any of its obligations under the Contract or any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guarantee bonds, and without relieving or releasing the surety or sureties of said bonds. Notice of any such change, alteration, extension or forbearance to the surety or sureties of said bonds shall not be required. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.

b. Except for the purpose of affording protection against any emergency endangering life or property, the Contractor shall make no change in the materials used or in the specified manner to construct and/or install the improvements or supply additional labor, services or materials beyond that actually required for the execution of Contract, unless

pursuing a written Change Order from the City authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract price will be valid unless undertaken as aforesaid.

c. If applicable unit prices are contained in the Agreement the City may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract.

d. If applicable unit prices are not contained in the Agreement, the City shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from the Contractor covering the work involved in the change after which the procedure shall be as follows:

1. If the proposal is acceptable to the City, the City will prepare the Change Order in accordance therewith for acceptance by the Contractor; or

2. If the proposal is not acceptable to the City and prompt agreement between the two parties cannot be reached, the City, at its sole option, may order the Contractor to proceed with the work on a "Cost-plus" basis. A "Cost-plus" basis is defined as the net cost of the work to the Contractor plus an allowance to cover overhead and profit, as stipulated below. The following shall apply:

a. For all labor the Contractor shall receive the rate of wage actually paid as shown by its certified payroll, which shall be at least the minimum rate established by the Contract Documents. For all foremen in direct charge of the work the Contractor shall receive the actual wage paid the foremen, as shown on its certified payroll. No part of the salary or expense of anyone above the grade of foreman and having general supervision of the work, will be included in the labor item.

b. For the cost of all insurance and taxes imposed by law on labor employed on the work, the Contractor shall receive the actual amount paid.

c. For all materials used by the Contractor, it shall receive the actual cost of such materials, less any allowable cash discounts, delivered on the work, including delivery charges as shown by original receipted bills, to which shall be added fifteen percent (15%) of the sum thereof.

d. The Contractor shall receive the actual cost of such labor, to which shall be added fifteen percent (15%) of the sum thereof.

e. For any power operated machinery, trucks or equipment, which it may be necessary to use, the City shall allow the Contractor the rental price as set forth in the standard schedule of equipment rental prices established by the Rental Rate Blue Book For Construction Equipment, using the current edition as published by Dataquest (weekly rate pro-rated), and which is hereby made a part of this Contract and is hereby accepted as such by both parties.

f. Should the proper completion of the work require equipment of a type not covered by the above mentioned schedule, the City shall allow the Contractor a reasonable rental price to be agreed upon in writing before the work is begun.

g. No percentage shall be added to the amounts of any of the above-stated equipment rental prices, but the price as set forth in the schedule or agreed upon shall be total compensation allowed for the use of such equipment.

h. The compensation as herein provided shall be received by the Contractor as payment in full for the extra work done on a "Cost Plus" basis, and shall include superintendence, use of tools machinery and equipment for which no rental is allowed, overhead and profit.

i. All extra work performed by a subcontractor will be according to the above requirements as if the work were performed directly by the Contractor. Extra work performed by a subcontractor will be paid as actual cost plus fifteen percent (15%) to subcontractor and five percent (5%) to the General Contractor. If there are second and third-tier subcontractors, the aggregate mark-up for all subcontractors involved shall be fifteen percent (15%). The maximum mark-up for all subcontractors plus General Contractor is twenty percent (20%).

j. All extra work shall identify time extension if applicable. Time extension shall consist of whole days added to the contract time permitted for the project.

k. Should the Contractor refuse or fail to prosecute the work as directed, the Engineer may withhold the payment of all current estimates until the Contractor's refusal or failure is eliminated.

140. CLAIMS FOR EXTRA COST

a. If the Contractor claims that any instruction by Drawings or otherwise involve extra cost or extension of time, it shall, within ten (10) days after the receipt of such instruction, and in any event before proceeding to execute the work, submit its protest thereto in writing to the City, stating clearly and in detail the basis of any objections. No such claims will be considered unless so made.

b. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.

c. Any discrepancies which may be discovered between the actual conditions and those represented by the Drawings and map shall at once be reported to the City and work shall not proceed except at the Contractor's risk, until written instructions have been received by the Contractor from the City.

d. If, on the basis of the available evidence, the City determines that an adjustment of the Contract Price and/or time is justifiable, the procedure shall then be as provided in Section **CHANGES IN THE WORK** under **GENERAL CONDITIONS**.

e. During the progress of the work, if the Contractor encounters at the site (1) subsurface or latent physical conditions differing materially from those inherent in the work of the character provided for in this Contract, the Contractor shall promptly and before such conditions are disturbed, notify the Engineer in writing. The Engineer shall thereupon investigate such conditions and if the Engineer finds that they do materially differ, it shall cause such changes to be made in the Specifications and Drawings as may be deemed necessary, and shall make such equitable adjustment in the Contract Price or time as justified, if any, by written order, as provided in the section **CHANGES IN THE WORK**. No claim of the Contractor for adjustment hereunder shall be allowed unless it has given notice as above required.

141. DISPUTES

a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of Contract shall within ten (10) days of commencement of the dispute be presented by the Contractor to the City for decision. All papers pertaining to claims shall be filled in quadruplicate. Such notice need not detail the amount of the claim, but shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. In the meantime the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified within this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt by the City of Notice thereof.

b. The Contractor shall submit in detail its claim and its proof thereof. Each decision by the governing body of the City will be in writing and will be mailed to the Contractor by registered mail, return receipt requested.

c. If the Contractor does not agree with any decision of the City it shall in no case allow the dispute to delay the work but shall notify the City promptly that it is proceeding with the work under protest and it may then except the matter in question from the final release.

142. UNFORESEEN WORK

Work necessary to complete the project which is to be done in accordance with any section of the specifications for which no unit price is established in the Contract shall be done in accordance with section 139 of the General

Specifications. It shall be the responsibility of the Contractor to bring this work in writing to the attention of the Engineer and no such work shall proceed until a written order is issued to the Contractor.

143. PAYMENT TO CONTRACTOR

1. Partial Payment

a. The Contractor shall prepare its requisition for partial payment as of the last day of the month and submit it, with the required number of copies, to the Engineer for the Engineer's approval. The amount of the payment due the Contractor shall be determined by the total value of the work completed to date, and deducting (1) five percent (5%) of the total amount, to be retained until final payment and (2) the amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed and on the unit prices contained in the agreement. Upon substantial completion the retainage can be reduced to 2-1/2 % at the sole discretion of the City.

b. Monthly or partial payments made by the City to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. All completed work covered by such monthly or partial payments shall remain the property of the Contractor and the Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made. Such payments shall not constitute a waiver of the rights of the City to require the fulfillment of all terms of the Contract and delivery of all improvements embraced in the Contract complete and satisfactory to the City in all details.

c. Monthly or partial payments made by the City to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. All completed work covered by such monthly or partial payment shall remain the property of the Contractor and the Contractor shall be responsible for the care and protection of all material and work which payment have been made. Such payments shall not constitute a waiver of the rights of the City to require the fulfillments of all terms of the Contract and the delivery of all improvements embraced in the Contract complete and satisfactory to the City of New Haven in all details.

d. Where subcontracted work is performed the contractor shall provide partial Lien Waivers certifying that payments have been made for work performed by any subcontractors where the City has paid the Contractor for such work.

e. The City may reinstate up to five percent (5%) withholding if the City determines, at its discretion, that the Contractor is not making satisfactory progress or there is other specific cause for such withholding.

2. Final Payment

a. After final inspection and acceptance by the City of all work under the Contract, the Contractor shall prepare a requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices stipulated in the agreement. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments. Final payment to the Contractor shall be made subject to the Contractor furnishing the City with the release in satisfactory form of all claims against the City arising under and by virtue of this contract, other than such claims, if any, as may be specifically accepted by the Contractor from the operation of the release as provided under the section entitled DISPUTES under GENERAL CONDITIONS.

b. The City, before paying the final estimate, may require the Contractor to furnish releases of receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the project) and services to the Contractor, if the City deems the same necessary in order to protect its interest. The City, however, may if it deems such action advisable, make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payment so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

Further, the City may, if it deems such action advisable, make payment in part or in full to the Contractor, although the City has notice or knowledge of the existence of claims, causes of action, or disputes by subcontractors, laborers, material men, suppliers of equipment and services and others, against the Contractor, and any payments so made shall in no ways impair the obligations of any surety or sureties furnished under this Contract.

3. Withholding Payment

The City may withhold from any payment otherwise due the Contractor as much as may be necessary to protect the City and if it so elects may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the City and will not require the City to determine or adjust any claims or disputes between the Contractor and its subcontractors or material dealers, or to withhold any money for their protection unless the City elects to do so. The failure or refusal of the City to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

4. Payments Subject to Submission to Certificates

Each payment to the Contractor by the City shall be made subject to submission by the Contractor of all written certifications required of it and its subcontractors by the Section entitled CONTRACTOR'S CERTIFICATES under GENERAL CONDITIONS.

144. FINAL INSPECTION

When the improvements embraced in this Contract are substantially completed, the Contractor shall notify the Engineer in writing that the work will be ready for final inspection on a definite date, which shall be stated in the notice. The notice will be given at least ten (10) days prior to the date stated for final inspection, and bear the signed concurrence of the representative of the City having charge of inspection. If the Engineer determines the status of the Improvements is as represented, the Engineer will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon as practicable. The inspection party may include representatives of each department of the City having charge of Improvements of like character.

145. DEDUCTION FOR UNCORRECTED WORK

If the City deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, as equitable deduction from the Contract price will be made by agreement between the Contractor and the City and subject to settlement, in case of dispute, as herein provided.

146. TERMINATION: DELAYS AND LIQUIDATED DAMAGES

a. Termination of Contract. If the Contractor should be adjudged as bankrupt, or if the Contractor should make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of its insolvency, or if it should fail to make prompt payment to subcontractors or for material or labor, or if the Contractor refuses or fails to prosecute the work with such diligence as will insure its completion within the time specified in these Contract Documents, or if the Contractor should otherwise be guilty of a substantial violation of a provision of the Contract, then the City may, without prejudice to any other right or remedy and after giving the Contractor seven (7) days written notice, terminate the Contractor's right to proceed with the work. Upon such termination, the City may take over the work and prosecute the same to completion by Contract or otherwise and the Contractor and its sureties shall be liable to the City for liquidated damages for any delay in the completion of the work, as provided in these Contract Documents. If the Contractor's right to proceed is terminated, the City may take possession of and utilize in completing the work such materials, tools, equipment and plant as may be on the site of the work and necessary therefor.

b. Excusable Delays. The right of the Contractor to proceed shall not be terminated for any delays in the completion of work due:

1. To any acts of Government, including controls or restrictions upon or requisitioning of materials, equipment tools, or labor by reason of war, national defense, or any other national emergency;

2. To any acts of the City except as such acts are specifically permitted by the Contract Document;

3. To cause not reasonably foreseeable by the parties to this Contract which are beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God or of the public enemy, acts of another contractor in the performance of some other Contract with the City, fires, flood, epidemics, quarantine restrictions,

strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and

4. To any delay of any subcontractor occasioned by any of the causes specified in sub-paragraph 1, 2, or 3 of this paragraph "B", provided, however, that the Contractor promptly notify the City in ten (10) days, in writing, of the cause of the delay. Upon receipt of such notification, the City shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this Contract the delay is properly excusable, the City shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

147. GENERAL GUARANTY

Neither the final certificates of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the City or the public shall constitute an acceptance of work not done in accordance with the Contract, or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay any damage to other work resulting therefrom which shall appear within a period of one (1) year from the date of final acceptance of the work, unless otherwise specified. The Contractor will give notice of defective materials and work with reasonable promptness.

GENERAL CONDITIONS Part II

201. EMPLOYMENT OF APPRENTICES

Apprentices (to mechanics) will be permitted to perform work covered by this Contract only under a bona fide apprenticeship program approved by the City.

202. UNDERPAYMENTS OF WAGES OR SALARIES

In case of underpayment of wages or salaries by the Contractor or by any subcontractor to laborers, mechanics, or technical employees employed by the Contractor or subcontractor upon the work covered by this Contract, the City, in addition to such other rights as may be afforded it under this Contract, may withhold from the Contractor, so much thereof as the City may consider necessary to pay such laborers, mechanics or technical employees the full amount of wages or salaries required by the Contract.

203. CONTRACTOR'S CERTIFICATES

Before any payment by the City to the Contractor, under this Contract, the Contractor shall furnish the City with its certificate, in duplicate, substantially to the effect that the Contractor and each subcontractor has complied with the age and other labor-standards provisions of this Contract which pertain to laborers and mechanics employed upon the work covered by this Contract or that there is an honest dispute with respect to such provisions. The form of certificate to be used will be furnished by the City.

204. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

No person, who at the time is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.

205. COMPLAINTS, ETC., BY EMPLOYEES

No labor, mechanic or technical employee to whom the wage, salary or other labor-standards provision of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding relating to the labor standards applicable under this Contract to its employer.

206. CLAIMS AND DISPUTES PERTAINING TO SALARY AND WAGE RATES

Claims and disputes pertaining to classifications or salary rates of technical employees, wage rates or classifications of laborers and mechanics employed upon the work covered by this Contract shall be promptly reported by the Contractor in writing to the City for decision by the latter, whose decision shall be final with respect thereto.

207. EQUAL EMPLOYMENT OPPORTUNITY

"During the performance of this Contract, the Contractor agrees:

- a. To comply with all provisions of Executive Order 11246 and Executive order 11375, Connecticut Fair Employment Practices Act and the Contractor compliance ordinance of the City, including all standards and regulations which are promulgated by the government authorities who established such requirements and acts, and all standards and regulations are incorporated herein by reference;
- b. Not to discriminate against any employee or applicant for employment because of race color, religion, age, sex, physical disability or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to race, color, religion, sex, age, or national origin and physical handicap. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship;
- c. To post, in conspicuous places available to employees and applicants for employment, notice to be provided by the contracting officers setting forth the provisions of this non-discrimination clause;
- d. To state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, physical disability or national origin;
- e. To send to each labor union or representative of workers or another Contractor with whom it has a collective bargaining agreement, or understanding, a notice advising the labor union or workers representative of the Contractors commitments under the equal opportunity clause of the City, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skill trades, or below the journeymen, with the Apprentice Training Division of the Connecticut State Labor Department;
- f. To utilize labor department and City sponsored manpower programs as a source of recruitment and to notify the Contract compliance unit and such programs of all job vacancies;
- g. To make affirmative action to negotiate with qualified minority contractors for any work which may be proposed for subletting, or for any additional services, supplies, or work which may be required as a result of this Contract;
- h. To cooperate with City Departments in implementing required Contract obligations for increasing the utilization of minority and women business enterprises;

i. To furnish all information and reports required by the Contract compliance director pursuant to section 12 1/2-19 through section 12 1/2-32 and to permit access to its books, records and accounts by the contracting agency, the Contract compliance officer, the Secretary of Labor for purposes of investigation to ascertain compliance with the program.

j. To take such action, with respect to any subcontractor, the City may direct as a means of enforcing the provisions of subparagraphs (a) through (m) herein, including penalties and sanctions for non-compliance, provided however, that, in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the City, the City will intervene in such litigation to the extent necessary to protect the interest of the City and to effectuate the City's equal employment opportunity program. In the case of contracts funded directly or indirectly, in whole or in part, the Contractor of the City may ask the United States to enter into such litigation to protect the interest of the United States.

k. To file, along with its subcontractors, if any, compliance reports with the City in the form and to the extent described in the contracts by the compliance director of the City of New Haven. Compliance reports filed at such time as directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its subcontractors, if any.

l. To include the provisions of subparagraphs (a) through (m) of the equal opportunity clause and every subcontract or purchase order so that said provisions will be binding on each subcontractor or vendor;

m. That a finding, as hereinafter provided, the refusal by the Contractor, or subcontractor, to comply with any portion of this program, as reinstated and described, may subject the offending party to any or all of the following penalties:

i. Withholding of all future payments under the involved public Contract to the Contractor in violation until it is determined that the Contractor, or subcontractor, is in compliance with the provisions of the Contract.

ii. Refusal of all future bids for any public Contract with the City or any of its departments or divisions, until such time as the Contractor or subcontractor, is in compliance with the provisions of the Contract.

iii. Cancellation of the public Contract.

iv. Recovery of specified monetary penalties.

v. In case of substantial or material violation, or the threat of substantial or material violation of the compliance procedure or as may be provided for by the Contract, appropriate equitable or legal proceedings may be brought to enforce these provisions against Contractors, subcontractors, or other organizations, individuals or groups who directly or indirectly are not in compliance with the policy as herein outlined.

208. UTILIZATION OF MINORITY, HANDICAP AND WOMEN BUSINESS ENTERPRISES

Contractors will be required to provide for statistical purposes only certification as to what percentage of the Contract amount will be expended on Minority Business Enterprises (MBE), Handicap Business Enterprises (HBE) and Women Business Enterprises (WBE).

Each bid must include the following information as part of the required certifications:

1. The nature of the work to be undertaken by the Minority, Handicap and Women Business Enterprises.
2. Dollar amount of the work to be undertaken by the Minority, Handicap and Women Business Enterprises.
3. Total percentage of the Contract the bidder will expend and aggregate for all such Minority, Handicap and Women Business Enterprises.

Prior to award of this Contract and in a period not more than thirty (30) days after bid opening the Contractor must furnish the name, address and contact person for each Minority, Handicap and Women Business Enterprises the bidder will use.

The following definitions shall be used for the purpose of this Agreement:

1. African American means all persons having origins in any of the black African racial groups.
2. Hispanic American shall mean all persons of Mexican, Puerto Rican, Cuban, Central or South American culture or origin, regardless of race.
3. Minority business enterprise means an enterprise which is owned by one or more African American or Hispanic American individuals and which is controlled by one or more African American or Hispanic American individuals.
4. Owned for the purpose of determining whether a business is a minority business enterprise or a women business enterprise, shall mean that the minority individuals or women, as the context requires, shall possess an ownership interest of over fifty (50) percent of the enterprises and shall:
 - (1) Possess incidents of ownership, such as an interest in profit and loss, equal to at least the required ownership percentage; and
 - (2) Contributed capital, equipment and expertise to the enterprise equal to at least the required ownership percentage; and
5. Person includes one or more individuals, partnerships, associations, organizations, trade or professional associates, corporations, cooperatives, legal representative, trustees, trustees in bankrupt, receives or any group of persons including any official, agent, or employee of the City of New Haven.
6. Women business enterprise means an enterprise which is:
 - (1) Owned by one or more women;
 - (2) Controlled by one or more women who own it; and
 - (3) Located in the State of Connecticut.

209. SUBSTITUTION OF SECURITIES FOR RETAINAGES

The Contractor is advised of the provisions of Section 3-112a of the General Statutes of the State of Connecticut, Revision of 1966 which is quoted as follows:

Section 3-112a. Substitution of securities for retainages on State contracts and subcontractors. (a) Under any Contract made or awarded by the State, or by any public department or official thereof, the Contractor may, from time to time withdraw the whole or any portion of the amount retained for payments to the Contractor pursuant to the terms of the Contract, upon depositing with the comptroller (1) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness or United States treasury bills, or (2) bonds or notes of the State of Connecticut or (3) bonds of any political subdivision in the State of Connecticut. No amount shall be withdrawn in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower. (b) The comptroller shall, on a regular basis, collect all interest or income on the obligations so deposited and shall pay the same, when and as collected, to the Contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the comptroller shall deliver each coupon as it matures to the Contractor. (c) Any amount deducted by the State, or by any public department or official thereof pursuant to the terms of the Contract, from the retainages due the Contractor, shall be deducted, first from that portion of the retainages for which no security has been substituted, then from proceeds of any deposited security. In the latter case, the Contractor shall be entitled to receive interest, coupons or income only from those securities which remain after such amount has been deducted.

210. NONDISCRIMINATION

The Contractor agrees and warrants that in the performance of this Contract it will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved in any manner prohibited by the laws of the United States or of the State of Connecticut, and further agrees to provide the commission on human

rights and opportunities with such information requested by the commission concerning the employment practices and procedures of the Contractor as relate to the provisions of Public Act 78-148.

This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and as such, this Contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any State or Federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this Contract. The parties of this Contract as part of the consideration hereof, agree that Executive Order No Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to Contract performance in regard to nondiscrimination, until the Contract is completed or terminated prior to completion.

The (Contractor), (subcontractors), (bidder), (vendor), agrees as part consideration hereof, that this (order), (Contract) is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that they will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

The Governor's Executive Order No. Three and the Guidelines and Rules implementing the Governor's Executive Order No. Three are included elsewhere herein.

211. RESIDENTS PREFERENCE TO WORK ON OTHER PUBLIC FACILITIES

The Contractor shall comply with the provisions of Section 31-52a of the General Statutes of the State of Connecticut, Revision of 1967, a part of which is quoted as follows:

Section 2 (b) Each Contract for any such project covered by this section under the supervision of the State or any of its agents shall contain the following provision: "In employment of mechanics, laborers or workmen to perform the work specified herein, preference shall be given to residents of the State who are, and continuously for at least six (6) months prior to the date hereof, have been residents of this State, and if no such person is available then to residents of other states".

212. LISTING ALL EMPLOYMENT OPENINGS WITH THE OFFICE OF THE CONNECTICUT STATE EMPLOYMENT SERVICE

This Contract is executed subject to the Governor's Executive Order No. 17, a copy of which is attached hereto and is hereby made a part of this Agreement. Governor's Executive Order No. 17 requires, inter alia, that all contractors and subcontractors shall list all employment openings with the office of Connecticut State Employment Service in the area where the work is to be performed to where the services are to be rendered. Failure of Contractor to conform with the requirements of the Governor's Executive Order No. 17 and any orders, regulations or rules issued pursuant thereto, shall be a basis to termination of this Agreement by the State.

213. SERVICE OF PROCESS

The successful bidder, if not a resident of the State of Connecticut, or, in the case of partnership, the partners, if not residents, hereby appoints the Secretary of the State of Connecticut, and its successors in office as agent for service of process for any action arising out of or as a result of this Contract; such appointment to be in effect throughout the life of this Contract, and six (6) years thereafter.

214. "OR EQUAL" CLAUSE

a. Whenever a material or article required is specified or shown on the drawings by using the name of the proprietary product or of a particular manufacturer or vendor, any material or article which will perform adequately the duties imposed by the general design may be considered equal and satisfactory providing the material or article so proposed is of equal substance and function in the owner's opinion. It shall not be purchased or installed without its written approval. In all cases, new material shall be used in the project.

b. If two (2) or more brands, makes of material, devices or equipment are shown or specified, each should be regarded as equal of the other. Any other brand, make of material, device or equipment, which in the opinion of the

Engineer or the Engineer's authorized agent, is the recognized equal of that specified, considering quality, workmanship and economy of operation and is suitable for the purpose intended, may be accepted.

215. STATE OF CONNECTICUT WAGE SCHEDULE

The wages paid on this project shall be as shown on the State of Connecticut Labor Department "Prevailing Wage Rates".

216. CONTRACTOR/SUBCONTRACTOR PAYMENT PROCEDURES

This section is a supplement to and an addition to the terms, conditions and requirements of General Condition Section 143. PAYMENT TO CONTRACTOR.

1. Before any payment is made by the City of the Contractor, said Contractor shall submit to the City lien waivers for the month signed by all subcontractors showing that they have received payment. If any subcontractor has not been paid, a written statement explaining the reason why shall be submitted to the City. The lien waiver form shall contain a notice to the subcontractor stating that the Contractor can not withhold payment for the reason that the Contractor has not been paid.

2. To ensure prompt payment of subcontractor, the Contractor shall make payment to any subcontractor within thirty (30) days of the payment by the City to the Contractor for any work performed or for materials furnished by such subcontractor, provided the Contractor has a bona fide reason for such withholding and if the Contractor notifies the affected subcontractor in writing of its reasons for withholding such payment and provides the City with a copy of the notice within such thirty day period.

3. The Contractor shall include in each subcontract entered into by the Contractor the following:

a). A payment clause which obligates the Contractor to pay the Subcontractor for satisfactory performance under its subcontract within thirty (30) day out of such amounts are paid to the Contractor by the City under such Contract; and

b). An interest penalty clause which obligates the Contractor to pay the subcontractor an interest penalty of one and a half one percent per month, or any higher amount allowed by law, on amounts due in the case of each payment not paid in accordance with the payment clause included in the subcontract pursuant to provision (3) (a) above.

c). A clause which states that the Contractor may not withhold retainage from the subcontractor in any percentage greater than the percentage being withheld from the Contractor's requisition. The Contractor shall reference section 143 of these Contract General Conditions.