

REQUEST FOR PROPOSALS

INVITATION TO BID FOR RENOVATION OF THE SWEET AUBURN CURB MARKET/ MUNICIPAL MARKET COMPANY



209 Edgewood Avenue
Atlanta, Georgia

www.sweetauburncurbmarket.com

March 7, 2011

ATTENTION INTERESTED BIDDERS:

Your firm is hereby invited to submit to the Municipal Market Company (Market), an invitation to bid for Renovation of the Market. The Market is seeking bids from qualified general contracting companies to perform the renovation of the 50,000 sq. ft. structure. The 85-year-old Municipal Market Company needs critical capital improvements in order to increase the energy efficiency of the building, as well as cosmetic upgrades to the building in order to allow existing and new vendors to attract new customers.

The proposed renovation includes, but is not limited to: architect for design, renovation of public restrooms, repair/replace doors and gates, electrical and mechanical upgrades, lighting retrofit, elevator upgrades, addition of HVAC units, signage (both internal and external), painting and repairs of interior and exterior, plumbing upgrades, fencing, redesign interior seating areas, replace damaged glass in windows, exterior lighting, and other necessary improvements to the building.

A Pre-bid Conference will be held **Monday, March 21, 2011, at 11:00 a.m.**, at the **Board Room of Central Atlanta Progress, located at 50 Hurt Plaza SE, Suite 110, Atlanta, Georgia 30303**. The purpose of the Pre-bid Conference is to provide qualification with detailed information regarding the project and to address questions and concerns. There will be representatives from the Market and its Board of Directors, as well as the City of Atlanta available at the conference to discuss this project and to answer any questions. Bidders are urged to attend the Pre-bid Conference. An optional site visit will be held immediately following the Pre-bid conference.

Your response to this RFP will be received by the Market Manager of the Municipal Market Company at 209 Edgewood Avenue, Atlanta, Georgia 30303, **no later than 2:00 p.m., Monday, March 28, 2011.**

****ABSOLUTELY NO BIDS WILL BE ACCEPTED AFTER 2:00 P.M. ****

Bid's will be opened and read at 2:01 p.m. on the respective due date at the Management Office of Municipal Market Company, 209 Edgewood Avenue, Atlanta, Georgia, 30303.

The bid document may be obtained from the Municipal Market Company, 209 Edgewood Avenue, Atlanta, Georgia, 30303.

Bidders are advised that the goods/services on which they are bidding/ proposing will be purchased with funds issued to the City from the federal government pursuant to the American

Recovery and Reinvestment Act ("ARRA") of 2009. As such, the successful bidder will be obligated to comply with various federal requirements which are known and those which may be imposed after execution of the contract, including, but not limited to, preparation and submission of employment reports and project accounting audits. It is the duty of any bidder submitting a bid/proposal to the Market to make itself aware of all such requirements imposed or to be imposed upon it under the ARRA. Compliance with the federal requirements will be strictly enforced and will not be subject to additional cost to the Market or the City of Atlanta.

Please be advised that the General Contractor selected in this bid process will be responsible for all project management and reports required per Stimulus and HUD guidelines.

Once a general contractor is selected this will be a fixed price contract.

The Market reserves the right to cancel any and all solicitations and to accept or reject, in whole or in part, any and all statements when it is for good cause and in its best interest.

Thank you for your interest in doing business with the Market and the City of Atlanta.

Sincerely,

Pamela Joiner

Pamela Joiner
Market Manager

TABLE OF CONTENTS

PART I INSTRUCTIONS TO BIDDERS - 6 -

1. SOLICIATION/NOT OFFER	- 6 -
2. PREPARATION OF BIDS	- 7 -
3. HOW TO SUBMIT BIDS	- 7 -
4. EXECUTION OF BIDDING DOCUMENTS	- 8 -
5. ERRORS IN BIDS	- 8 -
6. DISQUALIFICATION OF BIDDERS	- 9 -
7. REJECTION OF BIDS	- 9 -
8. FAILURE TO PERFORM	- 10 -
9. BID SCHEDULE (REQUIRED SUBMITTAL)	- 10 -
10. BID GUARANTEE (REQUIRED SUBMITTAL)	- 10 -
11. STATEMENT OF BIDDER'S QUALIFICATIONS (REQUIRED SUBMITTAL)	- 11 -
12. AFFIDAVITS (REQUIRED SUBMITTAL)	- 11 -
13. EQUAL BUSINESS OPPORTUNITY PROGRAM (REQUIRED SUBMITTAL)	- 11 -
14. AUTHORIZATION TO TRANSACT BUSINESS (REQUIRED SUBMITTAL)	- 12 -
15. BUSINESS NON-DISCRIMINATION POLICY	- 12 -
16. EQUAL EMPLOYMENT OPPORTUNITY ("EEO") IN PURCHASING AND CONTRACTING	- 12 -
17. CONTRACT EMPLOYMENT REPORT	- 12 -
18. FIRST SOURCE JOBS POLICY EMPLOYMENT AGREEMENT	- 12 -
19. BID SCHEDULE; CHECKLIST (REQUIRED SUBMITTAL)	- 12 -
20. WAGE RATES OF CITY OF ATLANTA FUNDED CONSTRUCTION PROJECTS	- 12 -
21. PRE-BID INSPECTION	- 13 -
22. BID EVALUATION	- 13 -
23. AWARD CRITERIA	- 14 -
24. SURETY BONDS	- 15 -
25. POWER OF ATTORNEY	- 16 -
26. INSURANCE REQUIREMENTS	- 16 -
27. LAWS AND REGULATIONS	- 16 -
28. AGREEMENT TERMS	- 16 -
29. LIQUIDATED DAMAGES	- 17 -
30. EXECUTION OF AGREEMENT	- 17 -
31. SUBSTITUTIONS	- 17 -
32. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT FORMS	- 19 -

PART II GENERAL CONDITIONS - 20 -

GC-1	AGREEMENT AND AGREEMENT DOCUMENTS	- 20 -
GC-2	ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS	- 21 -
GC-3	DEFINITIONS	- 21 -
GC-4	APPLICABLE CODES, SPECIFICATIONS, AND STANDARDS	- 26 -
GC-5	ADEQUACY OF DESIGN	- 27 -
GC-6	CITY OF ATLANTA ORDINANCES	- 27 -
GC-7	PERMITS AND REGULATIONS	- 28 -
GC-8	TAXES	- 28 -
GC-9	ARREARS TO OFFSET DEBT AGAINST CITY	- 28 -
GC-10	LIENS	- 29 -
GC-11	ASSIGNMENTS	- 29 -
GC-12	PATENTS AND ROYALTIES	- 29 -

GC-13	OUT-OF-STATE CONTRACTORS	- 30 -
GC-14	CONTRACTOR'S OBLIGATIONS	- 30 -
GC-15	RIGHT OF ENTRY	- 31 -
GC-16	NOTICES	- 31 -
GC-17	SAFETY PRECAUTIONS AND PROGRAMS	- 32 -
GC-18	SAFETY OF PERSONS AND PROPERTY	- 32 -
GC-19	USE OF PREMISES AND CLEAN UP	- 35 -
GC-20	PROTECTION OF AGREEMENT WORK	- 37 -
GC-21	DEFECTS IN THE WORK AND UNAUTHORIZED WORK	- 37 -
GC-22	GUARANTEE OF WORK AND MATERIALS	- 38 -
GC-23	TERMINATION OF AGREEMENT	- 39 -
GC-24	SUSPENSION OF WORK	- 45 -
GC-25	COMMENCEMENT AND PROSECUTION OF THE WORK	- 45 -
GC-26	TIME	- 46 -
GC-27	RESPONSIBILITY FOR COMPLETION	- 49 -
GC-28	WORKING DRAWINGS, SHOP DRAWINGS, DATA ON MATERIAL AND EQUIPMENT	- 50 -
GC-29	CONTRACTOR'S TITLE TO MATERIALS	- 56 -
GC-30	INSPECTION AND TESTING OF MATERIALS	- 56 -
GC-31	MATERIALS AND EQUIPMENT	- 56 -
GC-32	STORAGE OF MATERIALS AND EQUIPMENT	- 57 -
GC-33	REPORTS, RECORDS, AND DATA	- 57 -
GC-34	CONTRACTOR'S SUPERVISION OF THE WORK	- 58 -
GC-35	SUBCONTRACTORS AND SUPPLIERS	- 59 -
GC-36	INSPECTION OF WORK	- 59 -
GC-37	MARKET'S AUTHORITY	- 61 -
GC-38	PROGRESS PAYMENTS	- 62 -
GC-39	SUBSTANTIAL COMPLETION ("SUBSTANTIAL COMPLETION")	- 65 -
GC-40	FINAL PAYMENT ("FINAL PAYMENT")	- 66 -
GC-41	CHANGES AND EXTRA WORK	- 68 -
GC-42	CHANGE ORDERS	- 69 -
GC-43	DISAGREEMENT WITH ORDERS FOR CHANGE	- 74 -
GC-44	CHANGED CONDITIONS	- 74 -
GC-45	INVESTIGATION OF SUBSURFACE SITE CONDITIONS	- 75 -
GC-46	NOTICE OF CLAIM	- 76 -
GC-47	STATEMENT OF CLAIM	- 76 -
GC-48	DECISION OF CLAIMS	- 76 -
GC-49	MEASUREMENT AND PAYMENT	- 77 -
GC-50	HISTORICAL, SCIENTIFIC, AND ARCHEOLOGICAL DISCOVERIES	- 78 -
GC-51	SEPARATE AGREEMENTS	- 78 -
GC-52	OFFICIAL NOT TO BENEFIT	- 79 -
GC-53	BRIBES	- 79 -
GC-54	PRECONSTRUCTION CONFERENCE	- 79 -
GC-55	TIME OF COMPLETION AND LIQUIDATED DAMAGES	- 80 -
GC-56	RIGHT TO AUDIT	- 81 -
GC-57	MEDIATION OF DISPUTES	- 81 -
GC-58	AGREEMENT ADMINISTRATION DOCUMENTS	- 81 -
GC-59	MISCELLANEOUS PROVISIONS	- 82 -
GC-60	STATEMENT OF NON-DISCRIMINATION	- 84 -
GC-61	EQUAL BUSINESS OPPORTUNITY (EBO)	- 85 -
GC-62	WAGE RATES AND REPORTING PROCEDURES	- 87 -
GC-63	TECHNICAL MANUALS	- 87 -
GC-64	TESTING LABORATORY SERVICES	- 88 -

PART III SCOPE OF WORK

- 93 -

1. SERVICES BEING PROCURED	- 93 -
2. BUDGET	- 93 -
3. SCOPE OF WORK	- 93 -
I. STIMULUS PROGRAM - \$534,820	- 93 -
II. CDBG PROGRAM - \$1,054,778.97	- 94 -
1. GENERAL ITEMS	- 94 -
2. EXTERIOR BUILDING RENOVATIONS	- 94 -
3. INTERIOR BUILDING RENOVATIONS	- 95 -

PART I INSTRUCTIONS TO BIDDERS

1. SOLICIATION/NOT OFFER

This solicitation does not constitute an offer by the Municipal Market Company (the "Market") to enter into an agreement and is not an offer that can be accepted by the Bidder to form an agreement. No language contained anywhere in this solicitation should be construed or interpreted to convey an offer to enter into agreement with the Market. The terms of this solicitation are to be considered as a whole. However, no terms may be considered in whole or in part to constitute an offer to enter into an agreement with the Market.

THIS SOLICITATION IS ONLY AN INVITATION FOR OFFERS FROM INTERESTED BIDDERS AND NO OFFER SHALL BIND THE MARKET.

This solicitation is an invitation for the Bidder to make an offer to the Market in the form of a Bid. No offer made in response to the terms and conditions of this solicitation may include any terms and conditions which can bind the Market to any contractual Agreement until such time as the Agreement has first been awarded by the Market to the most responsible and responsive bidder whose bid meets the material requirements and criteria set forth in the solicitation and is accepted and fully executed and sealed by agents of the Market designated on the signature page of the Agreement included in the solicitation. The term of your offer must conform to all applicable federal and local laws, including all ordinances of the City and all requirements of the solicitation.

YOUR OFFER IS A FIRM OFFER AND MAY NOT BE WITHDRAWN EXCEPT AS AUTHORIZED IN THE CODE OF ORDINANCES OF THE CITY OF ATLANTA.

Your response to this solicitation is a firm offer, which the Market may accept or reject in whole or in part without any further action on your part. The acceptance of your offer by the Market will form an Agreement, which is enforceable against you. Your offer may not be withdrawn except under the terms and conditions specified in the Procurement and Real Estate Code of the City of Atlanta as codified in Part 5, Chapter 5 of the Code of Ordinances of the City of Atlanta or OCGA 36-91-52.

THE CITY'S LOCAL BIDDER PREFERENCE PROGRAM (Code Section 2-1181.1) IS APPLICABLE TO THIS PROJECT.

2. PREPARATION OF BIDS

All Bids must be submitted on bid document forms supplied by the Market and shall be subject to all requirements of the Agreement Documents. All Bids must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the Bid by the Bidder.

Lump sum, unit price, and extensions of unit prices must be entered in the appropriate spaces provided on the Bid Schedule. Unit prices shall include an appropriate allocation of overhead and other indirect costs so that the summation of unit price extensions and lump sum items represents the total bid amount. In the case of any Bid item for which a fixed amount predetermined by the Market has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the Market directs a change in the Scope of Work affecting the item to which such amount relates.

The Market may consider as irregular any conditional bid or any Bid on which there is an alteration of, or departure from, the Bid Schedule hereto attached and at its option may reject the same.

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder. Failure to do so shall render the Bidder as non-responsive and cause rejection of the Bid.

Failure to execute the Bid Schedule documents may render the Bidder as nonresponsive and cause rejection of the Bid.

3. HOW TO SUBMIT BIDS

The Bid and required submittals, including the Bid Schedule, the Bid Documentation, the acknowledgment of each Addendum, the Bid Bond Guarantee, the Power of Attorney for the attorney-in-fact signing the Bid Guarantee, the Affidavit, forms/certificates, and other documents as required in these Agreement documents may be photocopied for submission of Bids.

Submit (1) original and five (5) copies of the Bid and required attachments no later than 2:00 PM on Monday March 28, 2011.

The complete package of Bid documents shall be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the project name and numbers, name of Bidder and date and time of bid opening in order to guard against premature opening of the Bid.

Bids must be addressed and delivered to, in person, by postal mail or electronically:

Pamela Joiner
Market Manager
Municipal Market Company
209 Edgewood Avenue
Atlanta, GA 30303
pjoiner@sweetauburncurbmarket.com

4. EXECUTION OF BIDDING DOCUMENTS

A complete set of Bidding Documents have been bound separately from the agreement forms and Specifications for the use of Bidders. Bidders shall submit their Bids, together with the bid guarantee and all forms which the Bidder is required to sign, executed in the appropriate manner as set forth below:

- a) If the Bidder is a corporation, all documents requiring execution by the Bidder shall be signed by the president or vice-president of the corporation, whose signature shall be attested by the secretary or assistant secretary of the corporation and the corporate seal affixed.
- b) If the Bidder is an individual, he or she shall sign the documents and his or her signature shall be notarized by a notary public.
- c) If the Bidder is an individual doing business under a trade name, all documents shall be signed by the Bidder whose signature shall be followed by either, "doing business as," or "trading as," followed by the trade name of the Bidder's business, and notarized by a notary public.
- d) If the Bidder is a partnership, all forms shall be executed by placing the name of the partnership followed by "By: (the name of the partner executing)" followed by the word "Partner," and notarized by a notary public.
- e) If the Bidder is a joint venture, each party to the joint venture shall execute the Bidding Documents in the manner set forth in items a, b, c, or d of this article of the Instructions to Bidders as appropriate for this type of organization.

If the Bidder is a Joint Venture, all other documents in the Bidding Documents shall be executed by one of the parties to the joint venture, as provided by Article 4 of the Joint Venture Statement, in the same manner as the executed said Joint Venture Statement.

5. ERRORS IN BIDS

Bidders and their authorized representatives are expected to fully familiarize themselves with the conditions, requirements, and Specifications before submitting Bid. Failure to do so will be at the Bidder's own risk. In case of error in extension or prices in the Bid, the unit prices(s) shall govern.

6. DISQUALIFICATION OF BIDDERS

Any of the following may be considered as sufficient for disqualification of a Bidder and the rejection of the Bid:

- a) Submission of more than one Bid for the same work by an individual, firm, partnership or Corporation under the same or different name(s);
- b) Evidence of collusion among Bidders;
- c) Previous participation in collusive bidding on Work for the City of Atlanta or the Municipal Market Company;
- d) Submission of an unbalanced Bid, in which the prices quoted for same items are out of proportion to the prices for other items;
- e) Lack of competency of Bidder (the Agreement will be awarded only to a Bidder(s) rated as capable of performing the Work; the Market may declare any Bidder ineligible at any time during the process of receiving Bids or awarding the Agreement where developments arise which, in the opinion of the Market adversely affect the Bidder's responsibility; however, the Bidder will be given an opportunity by the Market to present additional evidence before final action is taken;
- f) Lack of responsibility as shown by past Work judged from the standpoint of workmanship and progress; financial irresponsibility, including but not limited to, leaving retainage in Market account;
- g) Uncompleted Work for which the Bidder is committed by Agreement, which in the judgment of the Market, might hinder or prevent the prompt completion of Work under this Agreement if awarded to such Bidder; and
- h) Being in arrears on any of his existing or prior contracts with the Market or in litigation which the Market thereon or having defaulted on a previous contract with the Market.
- i) If the bidder has been debarred or suspended from doing business using federal funds or otherwise excluded from or ineligible for participation in Federal assistance programs.

7. REJECTION OF BIDS

Bids may be considered irregular and may be rejected if they show omissions, alterations of forms, addition not called for, conditions limitations, unauthorized alternate Bids or other irregularities of any kind. The Market reserves the right to waive any informalities or irregularities of Bids.

8. FAILURE TO PERFORM

If for any reason the Contractor fails to perform any of the Work required by the Specifications, or if the Work performed is not as specified, the Market reserves the absolute right to have such Work performed by other persons and deduct the cost thereof from the Bid price of the company under Agreement.

9. BID SCHEDULE (REQUIRED SUBMITTAL)

Unit prices shall include an appropriate allocation of overhead, other indirect costs and profits so that the summation of unit price extensions and lump sum items represents the total Bid amount. In the case of any Bid item for which a fixed amount predetermined by the Market has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the Market directs a change in the Scope of the Work affecting the item to which such amounts relates. Award will be based on the total fixed unit cost for all items aggregated.

10. BID GUARANTEE (REQUIRED SUBMITTAL)

Bidders are required to furnish a Bid Guarantee in the amount of five percent (5%) of the total Bid amount. Bidders offering alternative Bids shall provide a guaranty for the largest total Bid amount. At the option of the Bidder, the guaranty may be a certified check payable to the order of the Market or a bid bond in the form attached. The bid bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such bid bond shall be within the maximum amount specified for such company in Circular 570. No Bid shall be considered unless it is accompanied by the required guaranty. Bid Guarantee shall insure the execution of the Agreement and the furnishing of the performance and payment bonds and insurance by the successful Bidder as required by the Agreement Documents. The Bid Guarantee of the Bidders submitting the five (5) lowest total Bid amounts for the Agreement will be retained either until the successful Bidder has signed the Agreement and furnished performance and payment bonds and certificates of insurance, or until the ninetieth (90th) calendar day after the Bid opening date, whichever is sooner. Other Bid Guarantees will be returned within ten (10) calendar days after the Bid opening date. Bid Guarantees being held pending the signing of the Agreement and furnishing other documents will be returned within three (3) calendar days.

Each Bidder agrees that if it is awarded the Agreement and fails within the time stipulated to execute the Agreement and to furnish the other documents required, the Market will retain the Bid Guarantee as liquidated damages and not as a penalty.

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

11. STATEMENT OF BIDDER'S QUALIFICATIONS (REQUIRED SUBMITTAL)

The statement of Bidder's Qualifications must be filled out completely, signed by the Bidder, and notarized. The Market shall have the right to require such additional information, as it deems necessary to evaluate the ability of the Bidder to successfully perform the Work.

The Market reserves the right to reject any Bidder who does not satisfy the Market as to his ability to successfully perform the Work, previous pre-qualification notwithstanding.

The cause for rejection shall include:

- a) Non-compliance of the Bidder with the requirements of an equal employment opportunity in contracting program as may be prescribed by ordinance;
- b) Non-compliance by the Bidder with the requirements of a minority and female business enterprise participation program as may be prescribed;
- c) Inadequate quality, availability and adaptability of the supplies or services to the particular use required; or
- d) Unacceptable number and scope of conditions attached to the Bid by the Bidder, if any.

12. AFFIDAVITS (REQUIRED SUBMITTAL)

The affidavits must be filled in completely, signed by the Bidder, and notarized. Violation of the statements set forth in the affidavits may be grounds for rejection of Bid, or termination of Agreement by the Market, as appropriate, as well as other appropriate remedies as provided by local, state, and federal statutes.

13. EQUAL BUSINESS OPPORTUNITY PROGRAM (REQUIRED SUBMITTAL)

The Bidder shall complete the Equal Business Opportunity ("EBO") Program documents in accordance with the instructions included in APPENDIX A, REQUIREMENTS OF THE OFFICE OF CONTRACT COMPLIANCE, and shall properly execute the documents.

A determination by the Market that misstatements have been made by the Bidder in this document shall cause rejection of Bid or termination of Agreement, as appropriate.

14. AUTHORIZATION TO TRANSACT BUSINESS (REQUIRED SUBMITTAL)

If the Contractor is a corporation or corporations combined to form a joint venture, the corporation or members of the joint venture team, prior to Agreement execution, must submit documentary evidence from the Secretary of State that the corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia.

15. BUSINESS NON-DISCRIMINATION POLICY

The Market prefers to do business with firms or institutions that include representation of minorities and women at all levels.

16. EQUAL EMPLOYMENT OPPORTUNITY ("EEO") IN PURCHASING AND CONTRACTING

To be eligible for award of this Agreement, the Bidder must certify and fully comply with the requirements, terms, and conditions of the section on EEO.

17. CONTRACT EMPLOYMENT REPORT

Upon award of an Agreement with the Market, the successful Bidder must submit a Contract Employment Report ("CER") and supplemental information as required to comply with the paragraph, "Monitoring of EEO Policy, Requirements of the Office of Contract Compliance," page EBO-2.

18. FIRST SOURCE JOBS POLICY EMPLOYMENT AGREEMENT (REQUIRED SUBMITTAL LOCATED IN APPENDIX A)

The Bidder shall acknowledge and implement the First Source Jobs Policy.

19. BID SCHEDULE; CHECKLIST (REQUIRED SUBMITTAL)

The Bidder must complete and execute these sections of the Bidding documents.

20. WAGE RATES OF CITY OF ATLANTA FUNDED CONSTRUCTION PROJECTS

The Bidder shall acknowledge and implement the First Source Jobs Policy.

All wage rates paid on this Agreement shall not be less than the minimum wage rates included in Exhibit C.

21. PRE-BID INSPECTION

A SITE VISIT IS SCHEDULED ON MARCH 21, 2011 AT 12:30 PM. THE SITE VISIT WILL TAKE PLACE IMMEDIATELY FOLLOWING THE PRE-BID MEETING ON MARCH 21, BETWEEN THE HOURS OF 11:00 A.M. AND 12:00 P.M. EACH COMPANY WILL SECURE THEIR OWN TRANSPORTATION TO THE SITE LOCATED AT 209 EDGEWOOD AVENUE, ATLANTA, GA 30303.

Prior to submission of a Bid, the Bidder shall have made a thorough examination of the Work Site. The Bidder shall become informed as to the nature of the proposed construction, the kind of facilities required to carry out the construction, labor conditions, and all other matters that may affect the cost and time of completion of the Work upon which it bids.

The Bidder shall make itself familiar with all of the Agreement documents and other instructions before submitting its Bid, in order that no misunderstanding shall exist in regard to the nature and character of the Work to be done. No allowance shall be made for any claims that the Bid is based on incomplete information as to the nature and character of the site or the Work involved.

The Contractor, by execution of the Agreement, shall in no way be relieved of any obligation under it due to its failure to receive or examine any form or legal instrument or to visit the site and acquaint itself with the conditions there existing, and the Market shall be justified in rejecting any claims based on facts regarding that which the Contractor should have known as a result thereof.

22. BID EVALUATION

Each Bid timely received and in the Market's hands at the time set forth for the Bid opening shall constitute an offer to perform the Agreement on the terms and conditions thereof, in strict accordance with the Agreement documents, and all other requirements, all for the Bid total. For good cause and valuable consideration, the sufficiency of which is acknowledged by submittal of a Bid, each Bidder promises and agrees that its Bid shall be irrevocable for a period of sixty (60) calendar days after the Bid opening and will not be withdrawn or modified during that time. The Market may accept any Bid by giving the Bidder Written Notice of acceptance during that time. If necessary, the period of time specified may be extended by written agreement between the Market and the Bidder or Bidders concerned.

After the Bids have been opened and before any award is made, the Market will evaluate the Bid process, the Bid total, the supplements to the Bid Schedule, Bidder's experience, financial data, Local Preference Program (if applicable), proposed Subcontractors and equipment manufacturers and other data relating to Bidders' responsibility and qualifications to perform the Agreement satisfactorily.

All extension of the unit prices shown and the subsequent addition of extended amounts may be verified by the Market. In the event of a discrepancy between the unit price bid and the extension, the unit price will be deemed intended by the Bidder and the extension shall be adjusted. In the event of a discrepancy between the sum of the extended amounts and the bid total, the sum of the extended amounts shall govern.

Bidder may be required to submit, in writing, the addresses of any proposed Subcontractors or Equipment manufacturers listed on the Bid, and to submit other material information relative to proposed Subcontractors or Equipment manufacturers. The Market reserves the right to disapprove any proposed Subcontractor or Equipment manufacturers whose technical or financial ability or resources or whose experience are deemed inadequate.

The Market reserves the right to reject any Bid the prices of which appear to be unbalanced, and to reject any or all Bids, or parts thereof, if it determines, in its sole discretion, that such rejection is in the best interest of the Market. Where only a single responsible and responsive Bid is received, the Market may in its sole discretion, elect to conduct a price or cost analysis of the Bid. Such Bidder shall cooperate with such analysis and provide such supplemental information as may be required. The determination whether to enter into an Agreement with such sole Bidder shall be solely within the Market's discretion and not dependent upon performance of a price or cost analysis.

Bids will be evaluated on the basis of determining the lowest Bid Total of a Bidder, not including alternates, whose Bid is responsive to the Invitation to Bid and who is determined to be technically, financially and otherwise responsible to perform the Agreement satisfactorily, and to meet all other requirements of the Bidding Documents relating thereto. Any Bid may be rejected if it is determined by the Market to be non-responsive, provided, however, that the Market reserves the right to waive any irregularities or technicalities which it determines, within its sole discretion, to be minor in nature and in the interest of the public. Furthermore, any Bid may be rejected if it is determined by the Market, in its sole discretion, that the bidder is not capable of performing the Agreement satisfactorily based upon review of its experience and technical and financial capabilities, or the failure of such bidder to provide information requested relating to such determination. Additionally, the Market reserves the right to disqualify Bids, before and after the bid opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of any Bidder(s).

The Market intends to award the Agreement at the earliest practicable date to the lowest responsive, responsible Bidder(s), provided that the Bid is within the funds available for the project. The Market reserves the right to award the Agreement to multiple Bidders. In addition, the Market reserves the right to reject any and/or all Bids if it determines, in its sole discretion that the public interest will be best served by doing so.

23. AWARD CRITERIA

Award will be made after evaluating the prices, responsiveness and responsibility of each Bidder.

- A. The **responsiveness** of a Bidder is determined by the following:
- 1) A timely and effective delivery of all services, materials, documents, and/or other information required by the Market;
 - 2) The completeness of all material, documents and/or information required by the Market; and
 - 3) The notification of the Market of methods, services, supplies and/or equipment that could reduce cost or increase quality.
- B. The **responsibility** of a Bidder is determined by the following:
- 1) The ability, capacity and skill of the Bidder to perform the Agreement or provide the Work required;
 - 2) The capability of the Bidder to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
 - 3) The character, integrity, reputation, judgment, experience and efficiency of the Bidders;
 - 4) The quality of performance of previous contracts or work;
 - 5) The previous existing compliance by the Bidder with laws and ordinances relating to the Agreement or Work;
 - 6) The sufficiency of the financial resources and ability of the Bidder to perform Agreement or provide the Work;
 - 7) The compliance of the Bidder with the requirements of Division 11 Equal Employment Opportunity (EEO) and Division 12 Minority and Female Business Enterprises of the City's Department of Procurement;
 - 8) The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
 - 9) The successful Bidder shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.

24. SURETY BONDS

Regarding submission of surety bonds prior to or subsequent to the Bid submission, the following requirements pertain:

- a) Any surety bond submitted in accordance with the Bid or Agreement requirements must be issued by a corporate surety company satisfactory to the Market and authorized to act as such in the State of Georgia;
- b) Such bonds shall conform to the forms provided with the Bid Documents and be completed in accordance with the instructions thereon; and
- c) In accordance with Georgia law, and upon award of the Agreement, separate performance and payment bonds shall be required of the successful Bidder, each in an amount not less than the total amount payable under the Agreement. The performance bond shall remain in effect for one (1) year after final acceptance of the Work or the guaranty period under the Agreement, whichever is the larger.

The payment bond shall remain in effect for the period required under Georgia law for the payment bonds on public construction agreements. Reference is made to the bond forms and the Agreement Documents for additional particulars of the terms required in the bonds. In the case of any inconsistency between the Bond Forms and Georgia law, the law shall control. Finally, alterations, extension of the time allowed for performance, extra and additional Work, and other changes authorized under the Agreement may be made without notice to or consent of the surety or sureties.

25. POWER OF ATTORNEY

Attorneys-in-fact who sign agreement bonds must file with each bond a certified copy of their power of attorney with the appropriate effective date.

26. INSURANCE REQUIREMENTS

The Contractor shall procure and maintain during the life of this Agreement, Workmen's Compensation, Public Liability, Property Damage, Automobile Liability insurance and any other insurance necessary to satisfy the requirements of the Agreement Documents.

27. LAWS AND REGULATIONS

The Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Agreement throughout, to the extent that such requirements do not conflict with federal laws or regulations, and they will be deemed to be included in the Agreement the same as though therein written out in full.

Bidder's attention is directed to the following laws and regulations:

- a) Wages under this Agreement must not be less than the minimum wage rates specified for Atlanta-funded projects as set forth in these documents;
- b) Applicable provisions of the Occupational Safety and Health Act ("OSHA") must be observed during Work under this Agreement; and
- c) Appendix A -Requirements of the Office of Contract Compliance.

28. AGREEMENT TERMS

The terms of the Agreement shall be for one (1) year; with an option to extend on a month to month basis not to exceed eight (8) additional months at the sole discretion of the Market.

29. LIQUIDATED DAMAGES

The performance of the Work under Agreement within the specified time is essential to the Market's economic interests. The attention of potential Bidders is directed to the provisions of the Agreement Documents, which establish the basis for liquidated damages to be paid to the Market in the event that the Work is not completed on schedule.

30. EXECUTION OF AGREEMENT

Subsequent to the award and within fifteen (15) days after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the Market six (6) copies of the Market-Contractor Agreement as included in the Agreement Documents and provide performance and payment bonds and insurance certificates. The failure of the successful Bidder to execute the Market-Contractor Agreement and to supply the required bonds within fifteen (15) days after the prescribed forms are presented for signature, or within such extended period as the Market may grant, based upon reasons determined sufficient by the Market, shall constitute a default, and the Bidder shall forfeit the Bid Guarantee and the Market may either award the Agreement to the next lowest responsive Bidder or re-advertise for Bids, and may proceed against the bid bond of the defaulted Bidder. If a more favorable Bid is received by re-advertising, the defaulting Bidder shall have no claim against the Market for a refund.

31. SUBSTITUTIONS

Whenever a Material, article, or piece of Equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended to establish a standard, and any Material, article, or Equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable, provided the Material, or Equipment so proposed is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

Whenever the design is based on a specific product of a particular manufacturer or manufacturers, the manufacturer(s) will be shown on the Drawings and/or listed in the Specifications. Any item other than those so designated shall be considered a substitution.

If the manufacturer is named in the Drawings and/or detailed Specifications as an approved manufacturer, products of that manufacturer meeting all Specification requirements are acceptable.

Approval of any substitution will be made under the following provisions:

- A. If the term "OR EQUAL" follows the names of approved manufacturers, then other manufacturers desiring approval may submit the product to the Engineer for approval during the bidding phase. The manufacturer should include the following items in this pre-submittal:
- 1) Descriptive literature, including information on Materials used, minimum design standards features, manufacturing processes and facilities, and similar information, which will indicate experience and expertise in the manufacture of the product being evaluated;
 - 2) Performance Specifications applicable to the manufacturer's standard design, which indicate the level of performance to be expected from the product;
 - 3) A complete set of submittal Drawings of similar Equipment that has been completed and placed into operation;
 - 4) A list of existing installations of equipment similar in type and size;
 - 5) Evidence of technical ability of the manufacturer to design and manufacture Equipment and systems meeting project requirements. Evidence submitted shall include, at a minimum, descriptions of engineering and manufacturing staff capabilities;
 - 6) Information required to satisfy specified experience requirements or a copy of the bond to be submitted in lieu of experience;
 - 7) A complete description of field service capabilities, including the location of field service facilities which would serve the proposed facility and the number and qualifications of personnel working from that location;
 - 8) A complete list of all requirements of the Drawings and Specifications with which the manufacturer cannot conform, including reasons why alternate features are considered equivalent; and
 - 9) All other information necessary to fully evaluate the product for consideration.
- B. This pre-submittal shall reach the Engineer no later than three (3) weeks prior to the Bid date. Manufacturers will be advised of approval or rejection in writing no later than fourteen (14) days prior to the Bid date. Rejected submittals may be supplemented with additional information and resubmitted no later than one (1) week prior to the bid date. Manufacturers making supplementary submittals will be advised of approval or rejection in writing no later than three (3) days prior to the bid date.

NOTE: Bids based on Equipment, which has not received the approval of the Engineer, will render the Bidder as non-responsive and cause rejection of the Bid.

If the term "EQUAL TO" precedes the names of approved manufacturers in the Specifications, the Contractor may, after receiving the Notice to Proceed, submit Shop Drawings on the substitute product for the approval of the Engineer in accordance with General Condition 28.

Any Bidder intending to furnish substitute products is cautioned to verify that the item being furnished will perform the same functions and have the same capabilities as the item specified. The Bidder shall include in his bid the cost of accessory items, which may be required by the substitute product and any architectural, structural, mechanical, piping, electrical or other

modifications required to accommodate the substitution.

Approval of the Engineer is dependent on his determination that the product *offered* is essentially equal in function, performance, quality of manufacture, ease of maintenance, reliability, service life and other criteria to that on which the design is based, and will require no major modifications to structures, electrical systems, control systems, or piping systems.

32. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT FORMS (REQUIRED SUBMITTAL)

This Invitation to Bid is subject to the Georgia Security & Immigration Compliance Act. Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009, bidders and proponents are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of Homeland Security.

A completed affidavit [<http://www.atlantaga.gov/business/doingbusiness.aspx>] must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening bids/proposals. Under state law, the Market or the City cannot consider any bid/proposal which does not include a completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009. All bidders/proponents intending to do business with the Market and the City are responsible for independently apprising themselves and complying with the requirements of that law and its effect on City procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to: <https://everify.uscis.gov/enroll>

PART II GENERAL CONDITIONS

GC-1 *AGREEMENT AND AGREEMENT DOCUMENTS*

The General Conditions, Special Conditions, Technical Provisions, Drawings, Changes, and all other parts of the Agreement Documents are complementary, and a requirement occurring in one shall be as binding as though occurring in all. The parts of the Agreement are complementary and describe and provide for completion of the Work. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Agreement Documents and in no way affect, and shall not be considered in the interpretation of the provisions to which they refer.

The physical conditions indicated in the Agreement Documents are the result of site investigations by borings and testing at the locations shown.

Execution of the Agreement by the Contractor is a representation that the Contractor has visited the Site, become familiar with the local conditions under which the Work is to be performed, and has correlated personal observations with the requirements of the Agreement Documents.

The intent of the Agreement Documents is to include all items necessary for the proper execution and completion of the Work. Work not specifically covered in the Agreement Documents shall be required if it is consistent therewith and reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Agreement Documents in accordance with such recognized meanings.

Without limiting the duty of the Contractor regarding review of the Agreement Documents, in the event of a conflict, error or discrepancy within the Agreement Documents, the Documents shall be given precedence in the following order:

Change Orders;
Addenda;
Bid Schedule;
Market-Contractor Agreement;
Special Conditions;
General Conditions;
Specifications; and
Plans.

Detail Drawings shall govern over general drawings. Figures or dimensions written on drawings shall govern over scaled distances. The details are not to scale.

In case of discrepancy between small-scale detail and large-scale detail, the large-scale detail shall govern. On any of the Plans where a portion of the Work is drawn out and the remainder is shown in outline, the parts drawn out shall apply also to all other like portions of the Work.

Where the word "similar" occurs on the Plans, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the Work.

The dimensions and descriptions given on the Plans for adjacent work by others are based on the design Drawings. The Contractor shall verify all as-built conditions and information.

GC-2 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

During the progress of the Work, the Engineer may issue additional instructions and Drawings supplemental to those listed in the Special Conditions, showing additional details required for the performance of the Work, and may issue revised Drawings pursuant to Change Orders or for correction of errors in the Plans. The additional instructions and Drawings thus supplied will become a part of the Agreement Documents. Contractor shall carry out the Work in accordance with the additional instructions and Drawings.

GC-3 DEFINITIONS

The following terms as used in this Agreement are respectively defined, as follows:

Abandonment - Shall mean the permanent termination of the use of, or of service from in or on a facility.

Approved, Directed, Ordered, Or Their Derivatives – Approved, as directed, or ordered by the Engineer or the Market, unless otherwise clearly indicated.

Acceptance - The formal written acceptance by the Market of the completed Work.

Addenda - Revisions to the Proposal Documents issued by the Market prior to opening of the Bid.

Agreement - Refers to the executed contract between Market and Contracting Entity.

Agreement Documents - The Agreement Documents include the following:

Market-Contractor Agreement;
Performance Bond;
Payment Bond;

Bid Guarantee;
Affidavit;
Appendix A -Requirements of the Office of Contract Compliance;
Appendix B -Insurance Requirements;
Bid;
Bid Schedule;
General Conditions;
Technical Specifications for the Project;
Plans for the Project;
Exhibit C: Required Submittals (Georgia Security and Immigration Act Forms); and
Any Addenda thereto or Modification thereof (as defined in the General Conditions).

Agreement Price - The price or prices for the Work or items of Work set forth in the Bid.

Agreement Time - The number of calendar days stated in the Agreement Documents for the Substantial Completion of the Work or Final Completion of the Work, or the achievement of a specific interim milestone, as the context may require.

Amendment - Revision to Contract issued by the Market after execution of the formal Contract Agreement.

Application for Payment - The form accepted by the Market which is to be used by Contractor in requesting progress payments or final payment and which is to include such supporting documentation as is required in the Agreement Documents.

Bid - The offer or bid of the Bidder submitted in the prescribed manner on the prescribed form setting forth the prices for the Work to be performed together with supplemental information as required by the Agreement Documents.

Bidder - Any person, firm, partnership, corporation or any combination thereof submitting a Bid for the Work.

Bonds - Bid, Performance Bonds, Payment Bonds, and other instruments of security furnished by the Bidder or Contractor and his surety in accordance with the Agreement Documents.

Change - Any change in the Work authorized by the Engineer.

Change Order - A written order to the Contractor, prepared by the Engineer and issued by the Market for changes in the Work within the general scope of the Agreement Documents, adjustment of Agreement Prices, extension of Agreement Time, or reservation of determination of a time extension.

City - Shall mean the City of Atlanta, Georgia, and shall include all agencies, establishments or officials of the government of the City.

Market-Contractor Agreement - The written agreement for the performance of and payment for the Work, which includes by reference and is a part of the Agreement Documents, executed on behalf of the Market and the Contractor.

City's Contractor - Shall mean the legally authorized representative of the City, a private contractor, or other concerned agency performing Work under a direct Agreement with the City.

Construction - Shall mean the actual site preparation, building and all related Work, including facility relocation and adjustments.

Construction Easement/Temporary Easement - Any space or area dedicated to the City or other entity for the purpose of utilities or location of utilities for a specific period of time.

Construction Equipment - Equipment used in the performance of the Work but not incorporated therein.

Contractor - Any firm, partnership, corporation, joint venture, LLC or any combination thereof who enters into a contractual Agreement with the Market. This excludes Subcontractors/Sub consultants. Contractor shall include the union of both the architectural firm and the construction company.

Day - A calendar day of twenty-four (24) hours lasting from midnight one (1) day to midnight the next day.

Department - Shall mean the Office of Enterprise and Assets Management.

Drawings - That part of the Agreement Documents which show the outlines, characteristics and Scope of the Work to be performed. The term is used interchangeably with the word "Plans" and includes Standard Details and Drawings.

Engineer - City of Atlanta or duly authorized representative.

Equipment - Equipment incorporated or to be incorporated in the Work.

Force Account - A method of payment, other than lump sum or unit price, for Work ordered by Change Order and paid for in accordance with force account procedures indicated in "Force Account" Section of the General Conditions.

General Conditions - Requirements pertaining to this Agreement which will be required of the successful Contractors.

General Requirements - Conditions pertaining to this Agreement which will be required of the successful Contractors.

Inspector - The authorized representative of the Engineer assigned to make detailed inspection of any or all portions of the Work or Materials thereof.

Materials - Materials incorporated or to be incorporated in the Work unless otherwise clearly indicated.

Notice of Award - The written notice of the acceptance of the Bid from the Market to a Bidder.

Notice to Proceed ("NTP") - Written communication issued by the Market to the Contractor authorizing it to proceed with the Work and establishing the date of commencement of the Agreement time and on which the Contractor shall start to perform his obligations in accordance with the Agreement Documents.

Owner - The City of Atlanta.

Permanent Easement - Any space or area to the City or other entity for the purpose of constructing and/or maintain existing or future utilities.

Plans - That portion of the Agreement Documents describing in drawings, the shape, dimensions and other similar requirements governing the completion of the various portions of the Work, prepared by the Designers and including revisions thereto. The term is used interchangeably with the word "Drawings."

Project - The Project is identified in the Market-Contractor Agreement, and is the total construction of which the Work performed under the Agreement Documents may be the whole or a part.

Public Space/Public Right-of-Way - Shall mean the area between private property lines under the jurisdiction of the City, county, state or federal government, including, but not limited to, an alley, roadway, median, sidewalk, public way, or any combination thereof.

Replacement Facility - Shall mean that facility, meeting the Department's current standards, which will be constructed or provided, as a consequence of the rean'angement of an existing facility or portion thereof.

Resident Engineer - The City's Engineer who is assigned to the Project Site or any part thereof.

Responsible Bidder- Means any person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good faith performance.

Responsive Bidder - Means a person who has submitted a bid or offer which conforms in all material respect to the invitation for bids or request for proposals. A Bid which is accurate and complete, with respect to Bid Schedules and information submitted relative to the technical qualifications, financial responsibility and is able to comply with Equal Opportunity and other requirements of the Agreement Documents.

Non-Responsive Bidder - Would be the opposite of above-referenced definition.

Scope of Work - See "Work."

Sidewalk Area - Shall mean that portion of a street between the curb lines and the adjacent property lines intended primarily for the use of pedestrians whether paved or in use.

Site of the Work- The areas required for the performance of the Work.

Special Conditions - General Requirements which are unique to a particular Agreement and which supplement, modify or delete items covered in General Conditions.

Specifications - That portion of the Agreement Documents describing in words the technical requirements governing the completion of the various portions of the Work.

Standards - Shall mean those current Standards of Engineering analysis and design, including installation and Material Specifications, which the City utilizes in the design and construction of its own projects.

State - The State of Georgia.

Subcontractor - An individual, firm, corporation or any combination thereof having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site. Subcontractor shall not mean Supplier.

Substantial Completion -The date certified by the Engineer when all or a part of the Work, identified in the Engineer's certification, is sufficiently completed in accordance with the requirements of the Agreement Documents so that the identified portion of the Work can be utilized for the purposes for which it is intended.

Supplier - Any individual, firm, or corporation who supplies material or equipment for the Work (including that fabricated to a special design) but who does not perform labor at the Site.

Temporary Facility - Shall mean a facility constructed for whatever purpose, and not intended to be permanent.

Utility - Shall mean and include all public, private, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, heat, gas,

oil, crude products, water, steam, waste, storm water, and other similar commodities, such as public owned fire and police signal systems, which directly or indirectly serve the public or any part thereof.

Work - All the services specified, indicated, shown, or contemplated by the Agreement Documents, and furnishing by the Contractor of all Materials, Equipment, labor, methods, processes, construction and manufacturing materials and equipment, tools, plants, supplies, power, water, transportation and other things necessary to complete such services in accordance with the Agreement Documents.

Written Notice - A written statement transmitted from one party to an authorized representative of another party in accordance with Section GC-16.

GC-4 APPLICABLE CODES, SPECIFICATIONS, AND STANDARDS

1. General

All codes, Specifications, and standards referred to in the Agreement Documents shall mean, and are intended to be, the latest editions, amendment, and revisions of such reference standard in effect as of the date of the Invitation to Bid for this Agreement.

2. Standards

Reference to a technical society, institution, association, or governmental authority, or pronoun in place of them, is made in the Agreement Documents in accordance with the following abbreviations:

ANSI	American National Standards Institute;
ASTM	American Society for Testing and Materials;
AWS	American Welding Society State;
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute;
AFBMA	Anti-Friction Bearing Manufacturer's Association;
AI	Asphalt Institute;
AISI	American Iron and Steel Institute;
AISC	American Institute of Steel Construction;
AMCA	Air Moving and Conditioning Association;
API	American Petroleum Institute;
ASME	American Society of Mechanical Engineers;
ASTM	American Society for Testing and Materials;
AWG	American (Brown and Sharpe) Wire Gauge;

AWS	American Welding Society;
AWWA	American Water Works Association;
CRSI	Concrete Reinforcing Steel Institute;
DOT	Georgia Department of Transportation (" GDOT ");
EPA	Environmental Protection Agency (Federal);
EPD	Environmental Protection Division (Georgia State);
MARTA	Metropolitan Atlanta Rapid Transit Authority;
NACE	National Association of Civil Engineers;
NFPA	National Fire Protection Association;
NSF	National Sanitary Foundation;
OSHA	Occupational Safety and Health Administration; and
UL	Underwriter's Laboratories Incorporated.

GC-5 *ADEQUACY OF DESIGN*

Before placing its Bid to the Market, and continuously after the execution of the Agreement, the Contractor shall carefully study and compare the Agreement Documents and shall at once report to the Engineer, any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, regulation, or order of any public authority bearing on the performance of the Work. By submitting its Bid for the Agreement and the Work under it, the Contractor agrees that the Agreement Documents, along with any supplementary written instructions issued by or through the Engineer that have become a part of the Agreement Documents, appear accurate, consistent, and complete insofar as can be reasonably determined. If the Contractor has reported in writing any error, inconsistency or omission, and has promptly stopped the affected Work until instructed, and has otherwise followed the instructions of the Engineer, the Contractor shall not be liable to the Market, for any damage resulting from any such errors, inconsistencies or omissions in the Agreement Documents. The Contractor shall perform no portion of the Work at any time without Agreement Documents or, where required, approved shop Drawings, product data, or samples for such portion of the Work.

No claims shall be made by the Contractor based on claims of defects, errors, omissions, ambiguities or inconsistencies in the Agreement Documents which were reasonably discoverable by a review of the Agreement Documents and correlation thereof with the actual conditions at the Project site. No observation of the Engineer or Market, and no inspections, tests or approval shall relieve the Contractor from his obligation to perform the Work in strict conformity with the Agreement Documents.

GC-6 *CITY OF ATLANTA ORDINANCES*

The Contractor will be bound by the provisions of all City of Atlanta Ordinances. It is the Contractor's responsibility to be aware of and adhere to all existing or future ordinances which

are in effect during the performance of the Agreement.

GC-7 PERMITS AND REGULATIONS

All applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Agreement throughout, to the extent that such requirements do not conflict with federal laws or regulations. All Work performed within the right of way of the GDOT shall be in accordance with GDOT regulations, policies, and procedures.

Contractor shall be solely responsible for securing all permits for the Work.

The Contractor must still apply for and secure said permits and schedule inspections. The Contractor shall give all notices and comply with all permits, laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. The Contractor agrees to protect and indemnify and hold harmless the Market, the City, its offices, agents and employees, and the Engineer against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order, or decree affecting the conduct of the Work whether by himself or by his agents or employees.

If any permit, license or certificate expires or is revoked, terminated or suspended as a result of any action on the part of the Contractor; it shall neither be entitled to any additional compensation, nor to an extension of Agreement Time.

GC-8 TAXES

The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes as well as any other taxes or duties on the Material, Equipment and labor for the Work or portions thereof provided by the Contractor which are legally enacted by any municipal, county, federal or state authority or department or agency thereof at the time Bids are received, whether or not yet effective.

All records maintained by the Contractor pertaining to such taxes and levies and payment thereof shall be made available to the Market at reasonable times for inspection, audit and copying.

GC-9 ARREARS TO OFFSET DEBT AGAINST CITY

No money shall be paid by the Market of the City upon any claim, debt, demand or account whatsoever, to any person, firm, or corporation who is in arrears to the City for taxes; and the Market and City shall be entitled to counterclaim and offset any such debt, claim, demand or

account in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

GC-10 LIENS

The Contractor will furnish the Market with evidence, satisfactory to the Market that all persons who have done Work or furnished materials in performance of this Agreement have been fully paid, before he shall demand final payment due or unpaid under this Agreement. In case such evidence is not furnished an amount necessary to meet the lawful claims of the persons, aforesaid may be retained from any monies due or that may become due the said Contractor under this Agreement until the lawful claims aforesaid shall be fully discharged or satisfactorily secured, and it is understood and agreed that the Market assumes no obligation nor in any way undertakes to pay such lawful claim out of any funds due or that may become due the said Contractor, out of its own funds.

GC-11 ASSIGNMENTS

The Contractor shall retain personal control and shall give personal attention to the fulfillment of this Agreement. The Contractor shall not assign the whole or any part of this Agreement or any monies due or to become due hereunder without written consent of the Market. In case the Contractor assigns all or any part of any monies due or to become due under this Agreement, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement.

GC-12 PATENTS AND ROYALTIES

The Contractor shall indemnify and hold harmless the Market and its officers, agents, servants, and employees, as well as the City from liability or all claims of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Agreement, including its use by the Market and the City, unless otherwise specifically stipulated in the Agreement Documents.

If the Contractor uses any design, device or Materials covered by letters, trademarks, patent or copyright, he shall provide for such use by suitable agreement between the Market and the holder of such design, device or Material. It is mutually agreed and understood that, without exception, the Agreement Price shall include all royalties or costs arising from the use of such design, device, or Materials in any way involved in the Work. The Contractor or his sureties or

both shall indemnify and hold harmless the Market, its officers and employees as well as the City from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or Materials or any trademark or copyright in connection with Work agreed to be performed under this Agreement and the Contractor shall indemnify the Market and the City for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work.

GC-13 *OUT-OF-STATE CONTRACTORS*

If the lowest responsive Bidder is a foreign corporation, partnership, or sole proprietorship, the Bidder hereby irrevocably appoints the Secretary of State of Georgia as its agent for services of all legal process for the purpose of this Agreement only, and shall obtain all required certificates and licenses required by the Georgia Law.

GC-14 *CONTRACTOR'S OBLIGATIONS*

A. Supervision and Construction Procedures

1. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures; and shall coordinate all portions of the Work under the Agreement, subject to overall coordination of the Engineer. All Work under the Agreement shall be performed in a skillful and workmanlike manner.
2. The Contractor shall be responsible to the Market for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and any other persons performing any of the Work under a contract with the Contractor.
3. The Contractor shall not be relieved from the Contractor's obligations to perform the Work in accordance with the Agreement Documents by the activities or duties of the Engineer in the administration of the Agreement, or by inspections, tests or approvals required or performed under Paragraphs GC-30 or GC-36 by persons other than the Contractor.

B. Labor and Materials

1. Unless otherwise provided in the Agreement Documents, the Contractor shall provide and pay for all labor, Materials, Equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.
2. The Contractor shall, at all times, enforce strict discipline and good order among the Contractor's employees and Subcontractors and shall not employ on the Work any

Subcontractor, unfit person or anyone not skilled in the task assigned them. The Market may, by Written Notice, require the Contractor to remove from the Work any Subcontractor or employee the Market deems incompetent, careless, or otherwise objectionable.

3. All Work at the site shall be performed during regular working hours, except upon the Market's written consent given after prior Written Notice.

C. Contractor's Construction Schedule

Contractor shall comply with all scheduling requirements set forth the Bidding Document.

D. Conditions Affecting the Work

The Contractor shall be responsible for having taken all steps necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including but not limited to conditions relating to transportation, handling, storage of Materials, availability of labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the Market relating to this Project which may affect the Work of the Contractor, applicable provisions of law; and the character and availability of equipment and facilities needed prior to and during the prosecution of the Work, shall not relieve the Contractor of his responsibilities under the Agreement Documents and shall not constitute a basis for an equitable adjustment under any circumstances. The Market assumes no responsibility for any understanding or representations concerning conditions made by any of his officers, agents, or employees prior to the execution of the Agreement, unless such understanding or representations are expressly stated in the Agreement Documents.

GC-15 *RIGHT OF ENTRY*

The Market reserves the right to enter the Site of the Work herein contracted for, by such agent or agents as they may elect, for the purpose of inspecting the Work, or for the purpose of installing such collateral Work as the Market may desire. The Contractor shall cooperate and coordinate with other contractors prosecuting other phases of the construction. Furthermore, if deemed necessary by the Engineer, the Contractor will incorporate critical access issues of other Market contractors directly into the daily Work schedule, such that no phase of the Project(s) is delayed or impacted.

GC-16 *NOTICES*

Except as otherwise expressly provided in the Specifications, any notice, order, instruction, claim, or other written communication required or permitted to be given under this Agreement shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, or to the Market, as the case may be, which delivery may be accomplished by in person hand delivery, or via bona fide overnight express service. Service by facsimile transmission does not constitute notice in accordance with this Agreement.
2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, addressed to the Contractor, Market at the official address, for use under this Agreement, as the case may be.

For purposes hereof, the address of Contractor shall be the business address given in his Bid, and the address of the Market shall be as designated in the notice to begin the Work. Either party may change his address at any time by Written Notice to the other of the change.

GC-17 SAFETY PRECAUTIONS AND PROGRAMS

The Market, the Engineer, or their agents, employees or representatives are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for the safety precautions and programs in connection with the Work. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

GC-18 SAFETY OF PERSONS AND PROPERTY

- A. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
 1. All employees on the Work and all other persons who may be affected thereby;
 2. All the Work and all Materials and Equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of the Contractor's Subcontractors;
 3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
 4. The Work of the Market or other separate contractors.
- B. The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

- C. The Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.
- D. When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carryon such activities under the supervision of properly qualified personnel.
- E. The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses GC-18 A.2 and 18 A.3 caused in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and for which the Contractor is responsible under Clauses GC-18 A.2 and 18 AJ, except damage or loss attributable to the acts or omissions of the Market, the Engineer or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Insurance Section of the General Conditions.
- F. The Contractor shall employ a project safety coordinator who shall devote full time toward accident prevention during construction. The qualifications of the project safety coordinator shall be submitted to the Market for approval prior to assignment to the Work and shall include:
 - 1. Five (5) years of construction loss control/safety experience in heavy construction;
 - 2. Registered Professional Engineer in the State of Georgia;
 - 3. Certified safety professional;Also advisable:
 - 1. Professional Member of the American Society of Safety Engineers (ASSE);
 - 2. Associate in Risk Management (ARM); and
 - 3. Associate in Loss Control Management (ALCM).
- G. The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

Emergencies

In any emergency affecting the safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency Work, shall be determined as provided in Changes Orders in the General Conditions.

Miscellaneous

- A. The Contractor acknowledges that he is fully aware of the contents and requirements of Official Code of Georgia Annotated § 25-9-1 through § 25-9-12, Blasting or Excavating Near Underground Gas Pipes and Facilities, any amendments thereto and rules and regulations issued pursuant thereto, and the Contractor shall fully comply therewith. The Contractor agrees and acknowledges that any failure on his part to adhere to said laws, rules and regulations shall not only be a violation of law but shall also be a breach of Agreement and specific violation of the provisions of this Section GC-17 which pertains to safety precautions.
- B. The Contractor acknowledges that he is fully aware of the contents and requirements of Official Code of Georgia Annotated § 46-3-30 through § 46-3-39, Safeguards Against Contact with High Voltage Lines, any amendments thereto and rules and regulations issued pursuant thereto, and the Contractor shall fully comply therewith. The Contractor also confirms that representatives of the Contractor have visited the site of the Work and have taken into consideration the location of all electric power lines on and adjacent to all areas onto which the Agreement Documents require or permit the Contractor to Work, to store materials or to stage operations, and that the Contractor has obtained from the owner or owners of the aforesaid electric power lines advice in writing as to the amount of voltage carried by the aforesaid lines. The Contractor agrees that any failure on its part to adhere to said laws, rules and regulations shall not only be a violation of the law but shall also be a breach of Agreement and specific violation of the provisions under Section GC-17 above, which pertains to safety precautions.
- C. The Contractor acknowledges and agrees that he is the person responsible under the law and that he is the person employing or directing others to perform labor within the meaning of Official Code of Georgia Annotated § 34-1-1, Labor and Industrial Relations. He acknowledges and agrees likewise that he will comply with said law.
- D. The Contractor shall protect all Work, including but not limited to, excavations and trenches, from rain water, surface water, and backup of drains and sewers. The Contractor shall furnish all labor, pumps, shoring, enclosures, and Equipment necessary to protect and keep the Work free of water.
- E. The provisions, terms and conditions of this Section GC-18.2, although very specific, are in no way intended to limit the general requirements hereof or the applicability of laws relating to Work conditions, safety or accident prevention and no specific provision or combination of specific provisions in any of said subsections or in any other parts or sections of the Agreement Documents shall be deemed to limit the obligations or responsibility of the Contractor contained in general provisions with respect thereto or in laws, statutes, acts, rules or regulations which are applicable thereto but which are not specifically referred to in any part of the Agreement Documents.

GC-19 *USE OF PREMISES AND CLEAN UP*

A. Contractor expressly undertakes at no additional cost to the Market:

1. To store his Materials, Supplies and Equipment at the Site of the Work in such orderly fashion and in such locations as approved by the Engineer that will not unduly interfere with the progress of the Work or the Work of any other contractors, or the activities of Market personnel.
2. To clean up all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that all times the Site of the Work shall present a neat orderly and workmanlike appearance. No items shall be left or discarded elsewhere on the Site, or any other City sites. Items that are to be discarded shall be removed to approved dump areas.
3. To remove all surplus material, false Work, temporary structures, including foundations thereof, plants any description and debris of every nature resulting from his operations, and to put the Site in a neat, orderly condition before final payment. Such final cleanup Work shall be performed within the time specified for completion of Work, with such exceptions as may be approved in writing by the Market. Unless otherwise provided in the Specifications, Contractor shall clean any portion of Work for which a separate time for completion is specified and the Site thereof to the above standards within the specified time, with such exceptions as may be approved in writing by the Market.
4. To affect all cutting, fitting or patching of his Work required to make the same to conform to the plans and specifications and except with the consent of the Market, not to cut or otherwise alter the Work of any other contractor.

B. Contractor shall, at no additional cost to the Market:

1. Coordinate all of the Contractor's operations with, and secure approval from, the Market before using any portion of the Site. Contractor shall assume full responsibility for any damage to any such land or area, or to the Market or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work.
2. Cause its agents and employees to park their vehicles only at locations directed by the Market. Contractor's agents and employees shall clean vehicles leaving the Site so as not to muddy roads in the vicinity of the Site. Vehicles shall be brought to the Site only in connection with necessary Work on the Project. In no event shall vehicles be brought to the Site outside normal working hours unless the Market gives specific written permission in advance.
3. In connection with Contractor's operations, provide for the free flow of traffic over roads or streets in or adjacent to the Site. The Contractor shall keep roads and streets free from obstructions of any character that might present a hazard or interference with traffic and in such condition that traffic can be adequately

accommodated. When operations in connection with the Work necessitates the closing of traffic lanes, Contractor shall arrange in advance with the Market, any adjacent property owners affected, and appropriate local authorities for such closing and shall provide as necessary appropriate barricades, signs, markers, flares and other devices as may be required by the Engineer or the local authorities for traffic guides and public safety.

4. Provide facilities for its use and only at locations approved or directed by the Market. Unless otherwise specified in the Agreement Documents, Contractor shall provide all power and lighting necessary for its Work, complying in all cases with local and national electrical codes, OSHA regulations, and any other applicable laws. The Market shall direct the point or points to be used for service connection. Contractor shall provide telephone facilities for his own use and only at locations approved or directed by the Market.
5. Unless otherwise specifically provided in the Agreement Documents, Contractor shall provide his own temporary facilities, including an office and a watertight, closed area for storage and protection of Materials and Equipment to be used for, or incorporated in, the Work, except as specifically agreed in the Agreement Documents. Contractor's shanties, material storage rooms, field offices and the like will be approved by the Market and placed in locations designated by the Market. If it becomes necessary during the course of the Work for Contractor to relocate his field operations, it will do so in an expeditious manner and at no additional cost.
6. Contractor shall take measures to control the blowing or spreading of dust, smoke, dirt, mud and refuse from its Work to avoid nuisance and inconvenience to others whether on or off the Site. These measures shall be in compliance with, without being limited to, all applicable laws, and shall be subject to the Market's approval. Contractor shall furnish all necessary labor and Materials such as water, approved chemicals, and Equipment.
7. Contractor shall be responsible for the removal or drainage of all water interfering with the proper prosecution of his Work. It shall, at all times, assure such drainage and shall not be a nuisance or inconvenience to the Market, other contractors or their Work, or the occupants or users of any other public or private area on or off the Site. This paragraph supplements, and does not supersede, any drainage or dewatering called for elsewhere in the Agreement Documents.
8. Contractor shall not use permanent installed systems without permission of the Market. If such permission is granted prior to completion of the Work, Contractor shall restore all parts of the system used by replacing materials, traps, valves, filters, motors, lamps, and the like to the extent that the Market considers them to have been damaged or if their usefulness has been impaired or diminished by their temporary use by Contractor.
9. No part of any surface shall be loaded during construction with more weight than it can safely bear at the time. Should damage occur through violation of this requirement by Contractor, it shall be solely liable for such damage and any

consequence.

10. It shall be Contractor's responsibility to receive and unload his Materials and pay all charges therefore, including, without limitation, demurrage or charges for delays in loading. Contractor shall instruct vendors or Suppliers making such deliveries exactly where they shall go. Contractor shall constantly keep the Market advised of his Material delivery schedule and shall update it as required by the Market so that Materials will be available to complete the Work on time. The Contractor shall schedule Material deliveries so as to interfere as little as possible with anyone else's Work on the Project but within the normal Work hours. Contractor shall require that Materials and Equipment delivered shall be identified with Contractor's name, purchase order, and identification numbers, as required by the Engineer. Contractor shall sign for all Materials delivered and shall be responsible for their safekeeping.

GC-20 PROTECTION OF AGREEMENT WORK

Contractor shall be responsible for:

1. Maintenance and protection of Work until final completion and acceptance, including, but not limited to, the storage of Materials and Equipment, erection of temporary structures and provisions for drainage as necessary to protect Work from injury, damage or loss.
2. Any injury, damage, or loss to Work resulting from the action of the elements or any other cause, irrespective of fault or negligence, excepting only such injury, damage, or loss as is caused solely by the negligence of willful misconduct of the Market.
3. Protection of its Work and materials and the Work and materials of his Subcontractors from damage or injury from the weather.
4. Exercising due care to avoid injury or damage to the Work of other contractors on site.

Any portion of Work suffering injury, damage, or loss for which Contractor is responsible under 1, 2, 3 or 4, above, will be considered defective and shall be corrected or replaced without additional cost to Market.

GC-21 DEFECTS IN THE WORK AND UNAUTHORIZED WORK

Contractor shall promptly remove from the premises all Work rejected by the Market for failure to comply with Agreement Documents, whether incorporated in the construction or not, and Contractor shall promptly replace and re-execute the Work in accordance with Agreement Documents and without expense to Market and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal, or replacement. All removal and

replacement Work shall be done at Contractor's expense.

Any Work which may be done or Materials ordered by Contractor prior to receipt of Notice to Proceed, incorporation of previously rejected Work, Work done contrary to or regardless of the instruction of the Market, extra Work performed without written authority from the Market, Work done beyond the limits shown on the Plans, except as herein specified, or any extra Work done without written authority from the Market, will be considered as unauthorized and will not be paid for unless accepted in writing by the Market. Work so done may be ordered removed or replaced at the Contractor's expense.

If the Contractor defaults or neglects to carry out all or any part of the Work in accordance with the Agreement Documents, and fails within three (3) days after receipt of Written Notice from the Market to commence and continue correction of such default or neglect with diligence and promptness, the Market may, after three (3) days following receipt by the Contractor of an additional Written Notice and without prejudice to any other remedy the Market may have, make good such deficiencies and may further elect to perform and to complete all or any part of Work thereafter through such means as the Market may select, including the use of a new contractor. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor, the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Market on demand.

Minor, inconsequential defects may be waived in writing by the Market, but the Market's failure or refusal to exercise such authority shall not be subject to claim by Contractor. If a waiver will result in an appreciable saving of costs to Contractor, including costs of Work in place and potential costs of rejection and replacement under this clause, it will be made only upon an equivalent adjustment in compensation pursuant to Clause GC-42. Other defects may be waived only as expressly authorized by Special Conditions or Technical Provisions which make provision for relief to the Market for such waiver.

GC-22 *GUARANTEE OF WORK AND MATERIALS*

- A. The Contractor warrants to the Market and the Engineer that all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Agreement Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by any other provision of the Agreement Documents. The Warranties set forth in this paragraph and elsewhere in the Agreement Documents shall survive final acceptance of the Work.
- B. Contractor shall warrant to Owner that all goods or equipment which Contractor is

required to purchase under the Agreement and which contain embedded codes, chips, microprocessors, microcontrollers, clock circuits (including integrated circuits), computer operating systems, computer software, custom application programming, or other similar systems/technologies that calculate date or time data shall be Year 2011 Compliant in that they shall correctly and without failure, malfunction, or need for operator intervention, display, calculate, compute, and process date or time data before, during, and beyond December 31, 2009, including leap year.

- C. If within one (1) year after the Date of Final Completion and Final Acceptance of the Work by the Market, or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the Agreement Documents, any of the Work is found to be defective or not in accordance with the Agreement Documents, the Contractor shall correct it promptly after receipt of a Written Notice from the Market to do so, unless the Market has previously given the Contractor written acceptance of such condition. This obligation shall survive both final payment for the Work or designated portion thereof and termination of the Agreement. The Market shall give such notice promptly after discovery of the condition.
- D. Without limiting the responsibility or liability of the Contractor under the Agreement, all warranties given by manufacturers on Materials or Equipment incorporated in the Work are hereby assigned by the Contractor to the Market. If requested, the Contractor shall execute formal assignments of said manufacturer's warranties to the Market. The Contractor shall not obtain any Materials or Equipment under warranties, which do not run directly to the benefit of the Market, and all such warranties shall be directly enforceable by the Market.
- E. The foregoing warranties, and those contained elsewhere in the Agreement Documents or implied by law, shall be deemed cumulative and not alternative or exclusive. No one or more of them shall be deemed to alter or limit any other.

GC-23 *TERMINATION OF AGREEMENT*

1. Bankruptcy or Insolvency

If Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for Contractor or for any of his property, or if he filed a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he refuses or fails to prosecute Work or any separable part thereof, with such diligence as will insure its completion within Agreement Time, or if he fails to complete said Work within said time, or if he disregards laws, ordinances, rules, regulations, directions or orders of any public body having jurisdiction over Work or if he disregards the authority of the Market, or if he otherwise violates any provision of Agreement Documents, then the Market may terminate the Agreement without prejudice to any other right or remedy after

giving Contractor a minimum of fifteen (15) days to either undertake the Work or pay the Market for doing so.

If the surety does not commence performance thereof within fifteen (15) days from the date of the mailing to such surety of notice of termination, Market may take over Work and prosecute the same to completion by contract or by Force Account for the account and the expense of Contractor and Contractor and his surety shall be liable to Market for any excess cost incurred thereby, and in such event Market may take possession of and utilize in completing Work, such materials, appliances, and plant as may be on the Site of Work and necessary therefore.

- 1) Preserve all Materials, Drawings and records and Plans at Site of the Work until notified in writing of those items, which will be used in completing Work.
- 2) Upon receipt of the foregoing notice, remove from Site of the Work all construction materials, equipment and plant not designated for use in such notice.
- 3) Assist the Market in making an inventory of all Materials and Equipment in storage at the Site of Work, in route to the Site of Work, in storage or manufactured at other locations, and on order from Suppliers.

2. Market's Right to Stop the Work

If the Contractor fails to correct defective Work as required by the Agreement Documents, or fails to carry out the Work or supply labor or Materials in accordance with the Agreement Documents, the Market, in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Market and the Engineer to stop the Work shall not give rise to any duty on the part of the Market to exercise this right for the benefit of the Contractor or any other person or entity.

3. Termination by the Market for Contractor Default

- A. If the Contractor is adjudged as bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper Materials, or fails to make prompt payment to Subcontractors or for Materials or labor, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a material violation of a provision of the Contract Documents, and fails within seven (7) days after receipt of written notice to commence and continue correction of such default, neglect or violation with diligence and promptness, the Market, may, after seven (7) days following receipt by the Contractor of an additional Written Notice and without prejudice to any other remedy the Market may have, terminate the employment of the Contractor and take possession of the Site and of all Materials, Equipment, tools, construction Equipment and machinery thereon owned by the Contractor and may finish

the Work by whatever methods the Market may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

- B. If the unpaid balance of the Agreement Price exceeds the costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Market on demand. This obligation for payment shall survive termination of the Agreement.
- C. Termination of this Agreement pursuant to this GC-23 may result in disqualification of Contractor from bidding on future Market contracts.

4. Termination for Convenience of the Market

- A. The Market may, at any time upon thirty (30) days Written Notice to the Contractor, terminate (without prejudice to any right or remedy of the Market) the whole or any portion of the Work for the convenience of the Market.
- B. If, after the Contractor has been terminated for default pursuant to Paragraph GC-23.3, it is determined that none of the circumstances set forth in Paragraph GC-23.3 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph GC-23.4 A.
- C. If the Market terminates the whole or any portion of the Work pursuant to Paragraph GC-23.3 A, then the Market shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Paragraph GC-23.4 D, plus a markup of ten percent (10%) on the actual fully accounted costs recovered under Paragraph GC-23.4 D; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of settlement to reflect the indicated rate of loss.
- D. If the Market terminates the whole or any portion of the Work pursuant to Paragraph GC-23.3 A, the Market shall pay the Contractor the amounts determined by the Engineer as follows:
 - 1) An amount for supplies, services, or property accepted by the Market pursuant to Clause GC-23.4 C.6, (or sold or acquired pursuant to Clause GC-23.5.C.), and not heretofore paid for, and to the extent provided in the Agreement such amount shall be equivalent to the aggregate price for such Supplies or services computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and
 - 2) The total of:
 - a) The cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of

any costs attributable to supplies or services paid or to be paid for under Clauses GC-23.4 D.1 or GC-23.4 D.2(b);

- b) The cost of settling and paying claims arising out of the termination of Work under subcontracts or orders, pursuant to Clause GC-23.4 C.5, which are properly chargeable to the terminated portion of the Agreement (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination, which amounts shall be included in the costs payable under (a) above); and
 - c) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Agreement and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this Agreement.
- E. The total sum to be paid to the Contractor under this Paragraph GC-23.4 shall not exceed the Agreement Price as reduced by the amount of payments otherwise made, by the Agreement Price of Work not terminated and as otherwise permitted by the Agreement. Except for normal spoilage, and except to the extent that the Market shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in this Paragraph GC-23.4, the fair value, as determined by the Market, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Market, or to a buyer pursuant to Clause GC-23.5 C.

5. General Termination Provisions

- A. If the Market terminates the whole of any part of the Work pursuant to Paragraph GC-23.3, then the Market may procure, upon such terms and in such manner as the Market may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Market for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this Agreement to the extent not terminated hereunder.
- B. Should the Contractor default under any of the provisions of the Agreement, the Contractor and its surety will pay to the Market such reasonable attorneys' fees as the Market may expend as a result thereof and all costs, expenses and filing fees incidental thereto.
- C. After receipt of a notice of termination from the Market, pursuant to Paragraph GC-23.3 or GC-23.4, and except as otherwise directed by the Market, the Contractor shall:

- 1) Stop Work under the Agreement on the date and to the extent specified in the notice of termination;
- 2) Place no further orders or subcontracts for Materials, services, or facilities, except as may be necessary for completion of such portion of the Work under the Agreement as is not terminated;
- 3) Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
- 4) Assign to the Market in the manner, at the times and to the extent directed by the Market, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Market shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- 5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Market to the extent the Engineer may require, which approval or ratification shall be final for all the purposes of this Clause;
- 6) Transfer title and deliver to the entity or entities designated by the Market, in the manner, at the times and to the extent, if any, directed by the Market, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated:
 - a) The fabricated or unfabricated parts, Work in progress, partially completed supplies, and Equipment, Materials, parts, tools, dies, jigs, and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of the Work terminated by the notice of termination; and
 - b) The completed or partially completed Plans, Drawings, information, and other property related to the Work;
- 7) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Market, any property of the types referred to in Clause GC-23.5 C.6; provided, however, that the Contractor:
 - a) Shall not be required to extend credit to any buyer; and
 - b) May require any such property under the conditions prescribed by and at a price or prices approved by the Market; and, provided, further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Market to the Contractor under this Agreement or shall otherwise be credited to the price or cost of the Work covered by this Agreement or paid in such other

manner as the Market may direct;

- 8) Complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
 - 9) Take such action as may be necessary, or as the Market may direct, for the protection and preservation of the property related to the Agreement, which is in the possession of the Contractor and in which the Market has or may acquire an interest.
- D. The Contractor shall preserve and make available to the Market, at all reasonable times at the office of the Contractor, but without direct charge to the Market, all its books, records, documents and other evidence bearing on the costs and expenses of the Contractor and any subcontractor under the Agreement and relating to the Work terminated hereunder, all to the extent provided in GC-54 hereof, or, to the extent approved by the Engineer, photographs, microphotographs, or other authentic reproductions thereof.
- E. In arriving at any amount due the Contractor pursuant to Paragraph GC-23.3 or GC-23.4, there shall be deducted:
- 1) All unliquidated advance or other payments on account theretofore made to the Contractor applicable to the termination portion of this Agreement;
 - 2) Any claim which the Market may have against the Contractor;
 - 3) Such claim as the Engineer determines to be necessary to protect the Market against loss because of outstanding or potential liens or claims; and
 - 4) The agreed price for, or the proceeds of sale of, any Materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of Clause GC-23.5 C.7 and not otherwise recovered by or credited to the Market.
- F. If the termination, pursuant to Paragraph GC-23.4, be partial, the Contractor may file with the Market a claim for an equitable adjustment of the price or prices specified in the Agreement relating to the continued portion of the Agreement (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this Clause must be asserted within thirty (30) days from the effective date of the notice of termination.
- G. The Contractor shall refund to the Market any amounts paid by the Market to the Contractor in excess of costs reimbursable under Paragraph GC-23.4.
- H. The Market may, at its option and the Contractor's expense, have costs reimbursable under Paragraph GC-23.4 audited and certified by independent certified public

accountants selected by the Market.

- I. The Contractor shall be entitled to only those damages and that relief from termination by the Market as specifically provided in Article GC-23.

GC-24 *SUSPENSION OF WORK*

- A. The Market may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the Market.
- B. If the performance of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Market or Engineer in the administration of the Agreement, or by failure of anyone of them to act within the time specified in the Agreement (or if no time is specified, within a reasonable time), an equitable adjustment shall be made for any increase in Contractor's costs of performance (excluding profit) and any increase in the time required for performance of the Work necessarily caused by such unreasonable suspension, delay, or interruption and the Agreement modified in writing accordingly. However, no equitable adjustment shall be made under this Paragraph for any suspension, delay, or interruption (pursuant to Paragraph GC-23.2), or for which an equitable adjustment is provided or excluded under any other provision of the Agreement Documents and no adjustment shall be made to the extent that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment under this Paragraph shall be allowed (1) before the Contractor shall have notified the Market in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from an order issued "GC 23 A") and as practicable, the extent of such suspension, delay or interruption; and (2) unless the claims for increased costs or increased time required are asserted in writing to the Market within ten (10) days after the termination of such suspension, delay, or interruption.

GC-25 *COMMENCEMENT AND PROSECUTION OF THE WORK*

Contractor shall, within ten (10) days after receipt from the Market of a written Notice to Proceed, commence Work to be done under this Agreement. Contractor shall diligently prosecute Work and all portions thereof to completion within the times specified therefore. The capacity of Contractor's construction and manufacturing equipment and plans, sequence and methods of operations, and forces employed, including management and supervisory personnel, shall be such as to insure completion of Work within the specified time.

It is expressly understood and agreed by and between Contractor and Market that Agreement Time for the completion of Work described herein is a reasonable time, taking into consideration

the average climate and economic conditions and other factors prevailing in the locality of the Work.

GC-26 *TIME*

1. Progress and Completion

- A. All time limits stated in the Agreement Documents are of the essence of the Agreement.
- B. The Contractor shall begin the Work within ten (10) days after the issuance of the Notice to Proceed. The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion of the Work and Final Completion within the times stated in the Agreement Documents, including the Project Network Schedule.

2. Delays and Extensions of Time

- A. Except as otherwise specifically provided under Paragraph GC-24 (Suspension of Work) or Paragraph GC-42 (Change Orders), the Contractor shall not be entitled to payment or compensation of any kind from the Market for direct, indirect, or impact damages, including, but not limited to, costs of acceleration arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud or bad faith on the part of the Market or its agents. The Contractor shall be entitled only to extensions in the time required for performance of the Work as specifically provided in the Agreement.
- B. The Agreement Time shall be adjusted only for Changes in the Work (pursuant to Paragraph GC-42), Suspension of Work (pursuant to Paragraph GC-24) and excusable delays (pursuant to Subparagraph GC-26.2 C). In the event the Contractor requests an extension of the Agreement Time, he shall furnish such justification and supporting evidence as the Market may deem necessary for a determination as to whether the Contractor is entitled to an extension of time under the provisions of the Agreement. The Market, after receipt of such justification and supporting evidence, shall make its findings of fact and decision thereon shall advise the Contractor in writing thereof. If the Market finds that the Contractor is entitled to any extension of the Agreement Time, the Market's determination as to the total number of days' extension shall be based upon the currently approved Project Network Schedule and on all data relevant to the

extension as described in the Agreement Documents. Such data will be included in the next periodic updating of the schedule. The Contractor acknowledges and agrees that actual delays (due to changes, suspension of Work or excusable delays) in activities which according to the schedule, do not affect the Agreement Time, do not have any effect upon the Agreement Time and therefore will not be the basis for a change therein.

- C. Subject to other provisions of the Agreement Documents, the Contractor may be entitled to an extension of the Agreement Time (but not increase in the Agreement Price) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its Subcontractors as follows:
- 1) Labor strikes including strikes affecting transportation, that do, in fact, directly and critically affect the progress of the Work; however, an extension of Agreement Time on account of an individual labor strike shall not exceed the number of calendar days of said strike;
 - 2) Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed Work or stored materials;
 - 3) Abnormal weather; however, the Agreement Time will not be extended due to normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the Market that there was greater than normal inclement weather considering the full term of the Agreement Time using a ten (10) year average of accumulated record mean values from climate to logical data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for Atlanta, Georgia, and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Agreement Time, the Contractor shall not be entitled to an extension of time;
 - 4) Acts of the public enemy, acts of the state, federal, or local government in its sovereign capacity, and acts of another separate contractor in the performance of a agreement with the Market relating to the Project; and
 - 5) Any act or neglect of the Market, the City or the Engineer or any of their employees.
- D. Other than pursuant to Paragraph GC-24 and Paragraph GC-42, no claims for extension of time for delay, disruption, interference or hindrance of the Work hereunder, or any portion thereof, shall be valid unless a notice of a claim is filed with the Market within ten (10) days of the first instance of such delay, disruption, interference or hindrance and, in addition, unless a written statement of the claim as hereinafter described is filed with the Market within twenty (20) days of such first instance; otherwise, all such claims are waived by the Contractor. In the case of a continuous cause of delay, only one written claim is necessary.

- E. Such notice of claim must clearly identify the instance of delay, disruption, interference or hindrance and an estimate of the probable effect of such delay on the progress of the Work.
- F. Such statement of the claim must provide all information required by the scheduling requirements of the Agreement Documents and further provide the following specific information:
 - 1) Nature of the delay;
 - 2) Date (or anticipated date) of commencement of delay;
 - 3) Activities on the construction schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;
 - 4) Identification of person(s) or organization(s) or event(s) responsible for the delay;
 - 5) Anticipated extent of delay; and;
 - 6) Recommended action to avoid or minimize the delay.
- G. The Market shall receive and process such claims for extensions of time in accordance with the procedures set forth in Paragraphs GC-42 and GC-43, except that any Change Order issued shall only amend the time for completion.
- H. The failure of the Contractor to file any claims for extension of time within the time limits prescribed herein and in the form and manner required hereby shall be deemed a material prejudice to the interests of the Market and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.
- I. If no schedule or agreement is made stating the date upon which written interpretations as set forth in the Agreement Documents shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen (15) days after demand is made for them, and not then unless such claim is reasonable.
- J. To the extent that Contractor is entitled to additional compensation for delay, disruption, interference or hindrance under this Paragraph GC-26.2, an absolute condition precedent to such entitlement shall be strict compliance with all requirements and procedures for entitlement to an extension of time hereunder.

3. Limitation of Damages

Under no circumstances shall Contractor be paid for extended home office overhead, lost use of capital, impairment of bonding capacity, loss of potential profit or any other indirect costs.

GC-27 *RESPONSIBILITY FOR COMPLETION*

1. Duty to Accelerate

Subject to the other provisions of the Agreement Documents, the Contractor shall furnish such manpower, Materials, facilities, and Equipment and shall work such hours, including night shifts, overtime operations and Sunday and holidays, as may be necessary to ensure the prosecution and completion of the Work in accordance with the approved and currently-updated Project Network Schedule. If Work actually in place falls behind the currently updated and approved Project Network Schedule, and it becomes apparent from the current schedule that the Work will not be completed within the Agreement Time, the Contractor agrees that it will, as necessary or as directed by the Market, take some or all of the following actions at no additional cost to the Market to improve their progress:

- A. Increase manpower in such quantities and crafts as will substantially eliminate, in the judgment of the Market, the backlog of Work;
- B. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment or any combination of the foregoing, sufficiently to substantially eliminate in the judgment of the Market, the backlog of Work;
- C. Reschedule activities to achieve maximum practicable concurrency of accomplishment of activities; and
- D. Any other measure required by the schedule requirements of the Special Conditions.

In addition, the Market may require the Contractor to submit a proposed revised Project Network Schedule demonstrating its program and proposed plan to make up lag in scheduled progress and to ensure completion of the Work within the Agreement Time. If the Market finds the proposed plan not acceptable, the Market may require the Contractor to submit a new plan. If the actions taken by the Contractor or the second plan proposed are not satisfactory, the Market may require the Contractor to take any of the actions set forth in this Paragraph GC-27.1 without additional costs to the Market to make up the lag in scheduled progress.

2. Acceleration by Market's Forces

Failure of the Contractor to substantially comply with the requirements of Paragraph GC-27.1 may be considered grounds for a determination by the Market and/or the Engineer that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified. In such case, upon forty-eight (48) hours prior Written Notice to Contractor, Market shall have the right to furnish such additional labor and Materials as may be

required to comply with the schedule and the Contractor shall be liable for such costs incurred by Market.

3. Set-Off of Acceleration Costs

Any monies due to the Market under this Section may be set-off by the Market against monies due from the Market to the Contractor.

4. Acceleration Remedies Cumulative

The remedies of the Market set out in this Section GC-27 are in addition to, and without prejudice to, all other rights and remedies of the Market including those stated elsewhere in the Agreement Documents.

GC-28 WORKING DRAWINGS, SHOP DRAWINGS, DATA ON MATERIAL AND EQUIPMENT, SAMPLES, AND LICENSES

1. General

- A. Contractor shall submit to the Engineer for review and exception, if any, such working Drawings, Shop Drawings, test reports and data on Materials, licenses, and Equipment (hereinafter in this article called data), and material samples (hereinafter in this article called samples) as are required for the proper control of Work, including but not limited to, those working Drawings, Shop Drawings, data and samples specifically required elsewhere in the Specifications and Agreement Documents. Submittals are required for any product that becomes a part of or affects the permanent Work.
- B. Data on Materials and Equipment include, without limitation, Materials and Equipment lists, catalog data sheets, cuts, diagrams and similar descriptive material. Materials and Equipment lists shall give, for each item thereon, the name and location of the Supplier or manufacturer, trade name, catalog reference, size, finish and all other pertinent data.
- C. It is the duty of the Contractor to check all Drawings, data and samples prepared by or for him before submitting them for review. Drawings and schedules shall also be checked and coordinated with the Work of all trades involved. Drawings and other submittals originating from Subcontractors will be reviewed and checked similarly by the Contractor. Pursuant to this required review, Contractor shall indicate his approval, before they are submitted for review by the Market, by affixing his stamp of approval, properly initialed and dated. All submittals shall be referenced to the applicable item, section or division of the Specifications.
- D. The Engineer's review of Drawings, data and samples submitted by Contractor will cover only general conformity to the Specifications, external connections, and dimensions

which affect the installation. The Engineer's review and exception, if any, will not constitute an approval of dimensions, quantities, and details of the Material, Equipment, device, or item shown.

- E. Contractor shall not begin any of the Work covered by a Drawing, data, or a sample returned for correction until a revision or correction thereof has been reviewed and returned to him.
- F. The Construction schedule shall include respective dates for the submission of shop and work Drawings, the beginning of manufacture, testing and installation of Materials, Supplies and Equipment.
- G. Acceptable submittals will be marked "No Exceptions Taken." Submittals requiring minor corrections before the Material or Equipment is acceptable will be marked "Make Corrections Noted." The Contractor may order, fabricate or ship the items included in the submittal, provided the indicated corrections are made. Drawings must be resubmitted for review prior to installation of Equipment or use of Materials.
- H. Submittals marked "Amend and Resubmit" must be revised to reflect required changes and the initial review procedure repeated.
- I. The "Rejected -See Remarks" notation is used to indicate Materials or Equipment that are not acceptable. Upon return of a submittal so marked, the Contractor shall repeat the initial review procedure utilizing acceptable Materials or Equipment.
- J. Drawings on other submittals not bearing the Engineer's "No Exceptions Taken" notation shall not be issued to Subcontractors or utilized for construction purposes. No Work shall be done or equipment installed without a drawing or submittal bearing the "No Exceptions Taken" notation. The Contractor shall maintain at the job site a complete set of Drawings and other submittals bearing the Engineer's stamp.
- K. In the event the Contractor obtains the Market's approval for the use of Equipment other than that which is called for in the Agreement Documents, the Contractor shall, at his own expense and using methods approved by the Market, make any changes to structures, piping and electrical work that may be necessary to accommodate this equipment.
- L. Contractor shall submit all Drawings and schedules sufficiently in advance of construction requirements to provide no less than thirty (30) calendar days for checking and appropriate action.
- M. The review of Drawings and schedules will be general, but approval shall not be construed: (a) as permitting any departure from the Agreement requirements; (b) as relieving Contractor of responsibility for any errors, including details, dimensions, and

Materials; and (c) as approving departures from details furnished by the Market, except as otherwise provided herein.

2. Shop Drawings

- A. When used in the Agreement Documents, the term "Shop Drawings" shall be considered to mean fabrication drawings, wiring and control diagrams, cuts, or entire catalogs, pamphlets, descriptive literature, and performance and test data. The Drawings shall be submitted using standard transmittal forms in accordance with detailed instructions furnished by the Market. A separate transmittal sheet shall be used for reference to each item, section or division of the Specifications.
- B. The Contractor shall submit six (6) sets of each Shop Drawing for review. On electrical and instrumentation and control submittals the Contractor shall submit six (6) copies of each for review.
- C. Each Shop Drawing shall include the following:
 - 1) Number and title of the submittal;
 - 2) Date of Drawing or revision;
 - 3) Name of Project;
 - 4) Name of Contractor and or Subcontractor submitting Drawing and with its seal of approval;
 - 5) Specification title and number; and
 - 6) Clear identification of contents and location of the Work.
- D. Drawings for Work on utility facilities, streets and other facilities, which are constructed for owners other than the Market, shall be coordinated so that information required by these owners is included on the Shop Drawings for their facilities.
- E. If Drawings show variations from Agreement requirements, Contractor shall describe such variations in his letter of transmittal. If acceptable, proper adjustment in Agreement shall be implemented where appropriate. If Contractor fails to describe such variations, he shall not be relieved of the responsibility for executing the Work in accordance with Agreement, even though such Drawings have been reviewed.
- F. If the Drawings or schedules as submitted describe variations per Subparagraph GC-28.2 C.S, and show a departure from the Agreement requirements which the Market finds to be in the interest of the Market and to be so minor as not to involve a change in Agreement Price or time for performance, the Market may return the reviewed Drawings without noting an exception.
- G. If no exceptions are taken by the Market, each of the Shop Drawings will be identified by being so stamped and dated. Shop Drawings stamped "Rejected -See Remarks" and with required corrections shown, will be returned to Contractor for correction and re-

submittal. On re-submittals, Contractor shall direct specific attention, in writing or on resubmitted Drawings, to revisions other than the corrections requested by the Market on previous submissions. Contractor shall make any corrections required by the Market. If Contractor considers any correction indicated on the drawings to constitute a change to the Agreement Drawings or Specifications, Contractor shall give Written Notice thereof to the Market. At least two (2) copies of Drawings or data submittals will be returned to Contractor.

- H. When the Drawings or data submittals have been completed to the satisfaction of the Market, Contractor shall carry out the construction in accordance therewith and shall make no further changes therein except upon written instructions from the Market.
- I. After final review in which there are no exceptions noted or referenced, and before final payment is made, Contractor shall furnish to the Market two (2) sets of record Shop Drawings, all clearly revised and completed and brought up to date, showing the permanent construction as actually made and marked FINAL/AS-BUILTS. One (1) set of such Shop Drawings shall be either drawn in ink on tracing cloth, or reproduced on mylar from which clear prints can be made. The other set could be a complete paper print.
- J. Contractor shall be responsible for and bear all cost of damages which may result from the ordering of any material or from proceeding with any part of Work prior to the review, without exception, by the Market of the necessary Shop Drawings.

3. Working Drawings

- A. When used in the Agreement Documents, the term "Working Drawings" shall be considered to mean Contractor's plans, including a detailed narrative, for temporary structures such as temporary bulkheads, support of open cut excavation, support of utilities, ground water control systems, forming and false work; for underpinning; and for such other work as may be required for construction but does not become an integral part of the Project.
- B. Copies of Working Drawings shall be submitted to the Market where required by the Agreement Documents or requested by the Market in accordance with subparagraph GC-2802 Co2, and shall be submitted at least thirty (30) calendar days in accordance with subparagraph GC-28.1 L (unless otherwise specified by the Engineer) in advance of their being required for Work.
- C. Working Drawings shall be signed by an engineer licensed to practice in the State of Georgia and shall convey, or be accompanied by, calculation of other sufficient information to completely explain the structure, machine, or system described and its intended manner of use. Prior to commencing such Work, Working Drawings must have been reviewed to the satisfaction of the Market, and each Working Drawing identified by the Market with the Engineer's stamp of "No Exception Taken." Review of the Working

Drawings by the Engineer will not relieve Contractor in any way from his responsibility with regard to the fulfillment of the terms of Agreement. All risks of error are assumed by Contractor. The Market and the Engineer shall have no responsibility therefore.

4. Record Agreement Drawings

Contractor shall keep one (1) record copy of all Agreement Documents, reference documents, and all technical submittals at the Site in good order and annotated to show all changes made during the construction process. Record Drawings shall be updated and kept current on a monthly basis by the Contractor. The record Drawings will be reviewed monthly by the Market prior to approval of the Contractor's monthly pay request. At the completion of the Project and before final payment is made, Contractor shall furnish the Market with one (1) set of electronic reproducible documents, reflecting all changes herein described. Changes to the reproducible Drawings shall be drafted in a neat and workmanlike manner similar to the drawings as originally provided to the Contractor. Upon request, the Market will provide one (1) set of sepias of the original Agreement Drawings, at no cost to Contractor.

5. Samples

- A. Contractor shall furnish, for the approval of the Market, samples required by the Agreement Documents or requested by the Market. Samples shall be delivered to the Market as specified or directed. Contractor shall prepay all shipping charges on samples. Materials or Equipment for which samples are required shall not be used in Work until approved by the Market.
- B. Each sample shall have a label indicating:
 - 1) Name of Project;
 - 2) Name of Contractor and Subcontractor;
 - 3) Material or Equipment Represented;
 - 4) Place of Origin;
 - 5) Name of Producer and Brand (if any); and
 - 6) Location in Project.
- C. Contractor shall prepare a transmittal letter in triplicate for each shipment of samples containing the information required in Subparagraph 2 above. He shall enclose a copy of this letter with the shipment and send a copy of this letter to the Market. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be construed to change or modify any Agreement requirement. Substitutions will not be permitted unless they are considered to be to the Market's best interest.
- D. Approved samples not destroyed in testing shall be sent to the Market or stored at the Site of the Work. Approved samples of the hardware in good condition will be marked for identification and may be used in the Work. Materials and Equipment incorporated in the Work shall match the approved samples. Samples which failed testing or were not

approved will be returned to Contractor at its expense, if so requested at time of submission.

- E. The Contractor will provide architectural samples to the Market in a composite color board format for review and color coordination. These samples shall be of the precise Material and color specified and of sufficient size for comparison to other material samples.
- F. Custom colors and coatings may be required to complete the Project within acceptable architectural standards. The Contractor shall comply with the Architect's selection and provide Materials that precisely match the approved samples.

6. Operation and Maintenance Manuals

- A. Operation and maintenance manuals are operator and shop maintenance instructions that enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain and repair the Equipment. The manuals shall include repair parts data that provides positive identification for an item of the complete Equipment without reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.
- B. Preparation Instructions: An operation and maintenance manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the prime Supplier or those purchased by the prime Supplier from other sources and assembled in the finished end item.
- C. Contents of Operation and Maintenance Manuals: The contents of complete set of manuals shall include, at a minimum, the following:
 - a) Table of Contents;
 - b) Operating instructions;
 - c) Preventive maintenance, service, and corrective maintenance or repair instructions;
 - d) Parts list with recommended quantity; and
 - e) Approved Shop Drawing(s).
- D. Binding and Delivery: The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate in bold type the manufacturer's name, contract number, model number, and serial number of the unit or

equipment. Five (5) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.

GC-29 CONTRACTOR'S TITLE TO MATERIALS

No Materials or supplies for the Work shall be purchased by Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales contract or other agreement by which all interest is retained by the seller. Contractor warrants that he has good title to all Materials and supplies used by him in the Work, free from all liens, claims or encumbrances.

GC-30 INSPECTION AND TESTING OF MATERIALS

All Materials and Equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with accepted standards and the requirements of the Agreement Documents. The laboratory of inspection agency shall be provided by the Contractor and approved by the Market for these tests. Additional tests performed after rejection of Materials or Equipment shall be at the Contractor's expense.

Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with Specifications and suitability for uses intended, but failure to inspect Materials will in no way waive the Market's right to reject defective Materials or to condemn Work in which they are used. The Contractor will provide for travel expenses, factory performed testing and set up costs for the factory inspection and testing of all major architectural elements, mechanical, electrical or process equipment. A factory visit for both designers' representative and Market's representative may be required. No funds for stored materials or fabrication items will be released until the factory inspection is completed and a certified pay request is submitted.

All tests performed by Contractor shall be witnessed by the Market unless the requirement therefore is waived in writing. Contractor shall give the Market reasonable advance notice of all such tests. The Market may perform additional tests on materials tested by Contractor, and Contractor shall furnish samples for this purpose as requested.

GC-31 MATERIALS AND EQUIPMENT

Contractor shall furnish all Materials and Equipment to be incorporated into the Work. Only Materials and Equipment conforming to the requirements of the Drawings and Specifications shall be incorporated into the Work. Except as otherwise specified or approved in specific instances, all such Materials and Equipment shall be new and unused and of the highest quality available. Materials and Equipment for which no specific requirements are given in the Drawings

or specifications shall be those best suited for the specified use, considering function, strength, durability and resistance to corrosion. Manufactured Materials and Equipment shall be obtained from sources which are currently manufacturing such Materials or Equipment, except as otherwise approved in specific instance.

If so ordered by the Engineer, sources of Materials shall be approved by him before delivery from those sources is commenced. Approval of a source of Materials may be withdrawn by the Engineer at any time that the Materials delivered from that source are found to be defective, and Contractor shall thereupon cease all deliveries from that source.

Manufacturer's warranties, certifications, guarantees, manuals, instruction sheets and parts lists provided with materials and equipment shall be furnished to the Engineer before final payment is made.

GC-32 STORAGE OF MATERIALS AND EQUIPMENT

Materials and Equipment to be incorporated in the Work shall be stored in such a manner as to preserve their quality and fitness for incorporation in the final project. They shall be stored in a manner acceptable to the Designer and Owner and in an accessible facility that allows inspection. If at any time the Market determines that any Materials or Equipment are not being properly stored, they may issue a directive to correct the storage or reject the Material for incorporation in the Project under GC-23. No additional payment will be made for storage requirements. No payment will be made on Materials stored improperly or replaced due to improper storage.

No Equipment may be stored outside without the express written permission of the Market on that specific piece of equipment stating that unit's unique ID numbers.

For any Equipment or units that have rotating parts or bearing assemblies and must be stored for more than sixty (60) days, the Contractor shall set up a schedule to manually rotate the units every fifteen (15) days and maintain a log certification to preserve the service life and warranties.

GC-33 REPORTS, RECORDS, AND DATA

1. General

Contractor shall submit to the Market schedules of quantities and costs, progress schedules, reports, estimates, records, certificates, and other data as the Market may request concerning Work performed or to be performed under this Agreement.

2. Payroll Reports

Contractor shall be required to furnish weekly payroll reports to the Market, certifying conformance with the wage rates listed in the Specifications. The requirement applies to Contractor and its Subcontractors. These reports shall show completed payroll information, and such certificates and statements of compliance as required in the Federal Labor Standards and by the Market relative to payrolls. The schedule of wage rates shall be posted on a bulletin board available to the workers.

3. Contractor's Daily Reports

As soon as Contractor has started Work on the Project, he shall submit to the Market written daily reports of the Work performed the previous day by its employees, including the employees of Subcontractors.

The reports shall be prepared by Contractor's representative and shall bear his signature. Each report shall contain the following information:

- a) Work items and references to payment items;
- b) Work forces and construction Equipment employed;
- c) Materials and Equipment installed; and
- d) Work performed by Subcontractors.

GC-34 *CONTRACTOR'S SUPERVISION OF THE WORK*

1. General

Contractor shall provide competent, efficient supervision of the Work. All Work shall be performed in a skillful, workmanlike and orderly manner, and Contractor and his supervisory personnel shall enforce this requirement at all times.

2. Contractor's Representative

Before beginning Work, Contractor shall notify the Market in writing of one (1) person within his organization, satisfactory to the Market, who shall have complete authority to supervise Work, to receive orders from the Market, and to represent and act for Contractor in all matters arising under Agreement. Contractor shall not remove his representative without first designating, in writing, a new representative, who meets all of the foregoing requirements.

Contractor's representative shall normally be present at or about the Site of Work while the Work is in progress. Before leaving the Site of Work for any extended period, whether or not the Work is in progress, Contractor's representative shall notify the Market, in writing, of the designation of an assistant, satisfactory to the Market, with full authority to act for the representative in his absence, or shall make substitute arrangements satisfactory to the Market. When neither Contractor, his representative, nor the representative's authorized assistant is

present on a part of Work, the superintendent, foreman, or other employee or Contractor in charge of that part of the Work shall be an authorized representative of the Contractor for the purposes set forth above.

GC-35 *SUBCONTRACTORS AND SUPPLIERS*

Contractor may utilize the services of specialty Subcontractors on those parts of Work that, under normal contracting practices, are performed by specialty Subcontractors, except as otherwise required by the Agreement Documents.

In addition to the designation of Subcontractors in the proposal documents, Contractor shall submit to the Market a listing of the Subcontractor name, full address and telephone number, contact person, class or trade of work, list of similar past projects worked on, including reference names, telephone numbers, and other information as applicable to that contractor and the provisions of the Agreement Documents. Contractor shall make Subcontractor submittals sufficiently in advance of construction requirements to provide the Engineer and Market with no less than sixty (60) days for review and appropriate action.

Neither Contractor nor any Subcontractor shall award Work to any Subcontractor without prior written approval of the Market. Contractor shall be as fully responsible to the Market for the acts and omissions of all Subcontractors and Suppliers, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to Work to bind Subcontractors and Suppliers to Contractor by the terms of the General Conditions and other Agreement Documents, insofar as applicable to the work of Subcontractors and Suppliers, and to give Contractor the same power as regards terminating any subcontract that the Market may exercise over Contractor under any provisions of the Agreement Documents.

Nothing contained in this Agreement shall create any contractual relation between any Subcontractor, Supplier and the Market. The Contractor shall not award more than seventy-five percent (75%) of the Work to Subcontractors.

GC-36 *INSPECTION OF WORK*

1. General

All of Work shall be subject to inspection by the Market for conformity with the Drawings and Specifications. Working Drawings, Shop Drawings, data on Materials and Equipment, and material samples will be reviewed under Clause GC-28. Inspection of the balance of Work will be in accordance with this article, unless otherwise expressly indicated. Material tests conducted pursuant to Clause GC-30 and all other specified tests will be considered part of the

inspection process and shall be subject to all of the provisions of this clause.

2. Engineer's Access to Work

The Engineer shall have access to, and may inspect Work at all times and places. He shall have access to, and may inspect, Materials and Equipment to be incorporated in Work at all times at the place of production or manufacture and at the shipping point, as well as at Site of Work.

The Engineer will designate the Materials and Equipment to be inspected at the place of production or manufacture. Contractor shall give the Engineer fourteen (14) days advance written notice of the start of manufacture or production of Materials and Equipment so designated. The Engineer's failure to so designate Materials and Equipment shall in no way limit his right to inspect them at the place of production of manufacture.

Contractor's Materials and Equipment contacts shall include a notice to the Supplier or Subcontractor of the inspection requirements of this clause.

3. Cooperation And Safety

The Engineer will perform inspections in such manner as not to delay Work unnecessarily, and Contractor shall perform the Work in such manner as not to delay inspection unnecessarily. Contractor shall give the Engineer reasonable advance notice of operations requiring special inspection of a portion of Work at any time by reasonable advance notice to the Engineer.

If requested by the Engineer, the Contractor shall submit written certification, in a form approved by the Engineer, that he has inspected the Work prior to inspection by the Engineer, and that it complies with the Agreement Documents.

Contractor shall bear any additional inspection costs resulting from Contractor's failure to have a portion of Work ready for inspection at the time requested by Contractor for its inspection, or from reinspection of any previously rejected portion of Work where the defects requiring such rejection were due to the Contractor's fault or negligence. Such costs may be deducted, in whole or in part, from any money due or that may become due Contractor under this Agreement.

Contractor shall furnish the Engineer all reasonable facilities for his safety and convenience in inspecting the Work, at all times and at all places where inspection may take place. If the Engineer finds that conditions are unsafe for inspection at a particular location, he may, upon notice to Contractor, refuse to inspect in that location until such conditions are corrected. Contractor shall bear any additional costs incurred to permit subsequent inspection of any portion of Work covered or completed at the location before correction of the conditions, whether or not such portion of Work is found to meet Agreement requirements.

4. Inspection of Covered or Completed Portions of Work

If so ordered in writing by the Engineer, Contractor shall uncover, remove, tear out, or disassemble, in whole or in part, any covered or completed portion of Work to permit its inspection. If that portion of Work is found to be defective or unauthorized, Contractor shall bear all costs of uncovering, removal, tearing out, or disassembly and the provisions of Clause GC-21 shall apply. If such portion of the Work is found to conform with the Agreement Drawings and Specifications, it shall be recovered, replaced, reassembled, or otherwise restored by Contractor to its original condition and, except as stated below, all Work required in connection with the inspection will be considered extra Work under Clause GC-41. If such portion of Work was covered or completed without the approval of the Engineer, where such approval was required by the Specifications or required in advance by the Engineer, Contractor shall bear all costs involved in the inspection, notwithstanding conformance of such portion of Work with the Agreement Drawings and Specifications.

5. Inspection Not a Waiver or Acceptance

Neither the inspection nor lack of inspection of any portion of the Work, nor the presence or absence of the Engineer during performance of any of the Work, nor acceptance of the whole or any part of the Work by the Engineer, nor any possession taken by the Market or its employees shall operate as a waiver of any provision of this Agreement or any power herein reserved to Market or any rights to damages herein provided. Should an error in the estimate, or conclusive proofs of defective Work or materials used by or on the part of Contractor be discovered after the final payment has been made, the Market reserves the right to claim and recover by process of law such sums as may be sufficient to correct the error or to make good the defects in the Work and Materials.

6. Correction of Non-Compliant Work

If the Contractor is found to have Work that fails to meet the intent of the Plans and Specifications, or is in other aspects unsuitable he may be issued a notice of non-compliance on that portion of the Project Work. The Contractor shall remedy the defective or incorrect Work within twenty-four (24) hours unless a different schedule is agreed to in writing. This non-compliance status may be issued on temporary installations that fail to protect the Work or site conditions.

GC-37 *MARKET'S AUTHORITY*

The Market shall have authority to decide all questions as to interpretation and fulfillment of Agreement requirements, including, without limitation, all questions as to the prosecution, progress, quality and acceptability of Work. The Market may implement and enforce its decisions by orders, instructions, notices, and other appropriate means.

Any oral decision, order, instruction, or notice of the Market will be confirmed in writing. Such

confirmation shall state the specific subject of the decision, order, instruction, or notice and its date, time, place, author and recipient. All communications between Market and Contractor or its representative will be through the Market.

Inspectors may be appointed to inspect all Materials used and all Work done. Such inspection may extend to all or any part of the Work and to the preparation or manufacture of the Materials to be used. Inspectors will not be authorized to approve or accept any portion of the completed Work or to issue instructions contrary to the Plans and Specifications. Inspector will have authority to reject defective Material and to suspend Work that is being improperly done, subject to the final decision of the Market. Inspector shall, in no case, act as foreman or perform other duties for Contractor.

GC-38 PROGRESS PAYMENTS

1. Progress Estimates

The Contractor shall submit to the Engineer for approval, in the form directed or acceptable to the Engineer, a complete schedule of values of the various portions of the Work, including quantities and unit prices, aggregating the Agreement Price (except in cases and to the extent that accepted unit prices form the basis of payment). The schedule shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction and to coordinate with the progress schedule required under the Special Conditions, and shall be supported by such data to substantiate its correctness as the Engineer may require. Each item in the schedule of values shall include its proper share of overhead and profit. An unbalanced breakdown providing for overpayment to the Contractor on items of Work which would be performed first will not be approved. The schedule of values, when approved by the Engineer, shall be used only as a basis for the Contractor's monthly request for payment and shall not be used for additions to or deductions from the Agreement Amount.

Subject to the provisions of this clause, Contractor shall prepare a written report for the Engineer's approval, on Market furnished forms, of the total amount of value of Work performed under the proposal items of Agreement to the time of such estimate and in accordance with the progress report based on the approved schedule.

No progress estimate or payment shall be considered an approval or acceptance of any work performed, material, or equipment furnished. All estimates and payment will be subject to correction in subsequent estimates and the final estimate.

Progress payments will be made for all completed activities and for suitably stored materials as herein provided.

2. Progress Payments

Upon completion of each monthly estimate of Work performed and Materials furnished, the Engineer, subject to the provisions of the Agreement Documents, shall recommend payment to the Contractor for the estimated value of such Work, Materials and Equipment, less the amount of all prior payments and all liquidated damages and other amounts to be deducted or retained under the Agreement. Contractor will be paid one hundred (100%) percent, less retainage, of the cost of Materials received and properly stored but not incorporated into the Work. Payments for Materials or Equipment stored on the Site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Engineer to establish the Market's title to such Materials or Equipment or otherwise protect the Market's interest, including applicable insurance. No progress estimate or payment needs to be made when, in the Engineer's judgment, the increment in the estimated value of Work performed and Materials and Equipment furnished since the preceding estimate is less than Ten Thousand Dollars (\$10,000.00). Contractor will be paid on or before the twenty-fifth day following receipt of the approved estimate.

3. Retention from Progress Payments

The amounts retained by the Market from each progress payment shall be as follows:

- A. Withholding ten percent (10%) of the estimated value of the Work performed until the progress payments including retainage total fifty percent (50%) of the Agreement Price.
- B. After progress payments, including retainage, total fifty percent (50%) of the Agreement Price, no more retainage shall be withheld, provided that the Engineer determines that the Contractor is making satisfactory progress to ensure completion of the Work within the times specified therefore, and that the Contractor is performing the Work within the requirements of the Agreement Documents.
- C. Upon receipt of written request from the Contractor, the Market may reduce retainage to the Contractor for payment of retainage to Subcontractors who have completed their Work. If such retainage is released, the Contractor shall furnish the Market with an affidavit certifying that all monies due the Subcontractor have been paid. If the Market determines that the released retainage has not been paid to the Subcontractor, the amount released shall be reinstated.
- D. The Market may reinstate ten percent (10%) withholding if the Engineer determines that the Contractor is not making satisfactory progress to ensure completion of the work and all portion thereof within the times specified therefore, or if there is other specific cause for such withholding.

4. Additional Payment Conditions

- A. The submission and approval of the Project Network Schedule and periodic updates thereof, as required by the Schedule requirements of the Special Conditions, shall be an

integral part and basic element of the application upon which Progress Payments shall be made. The Contractor shall be entitled to Progress Payments only as determined from the currently approved and updated schedule.

- B. The Contractor shall promptly pay each Subcontractor upon receipt of payment from the Market, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to their Subcontractors in similar manner.
- C. The Market may, on request and at its discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Market on account of Work done by such Subcontractor.
- D. Neither the Market nor the Engineer shall have any obligation to pay or to see to the payment of any Subcontractor, except as may otherwise be required by law.
- E. No certification of Progress Payment (any progress payment), or any partial or entire use or occupancy of the Project by the Market, shall constitute an acceptance of any Work not fully in accordance with the Contract Documents.
- F. Any and all funds paid to Contractor pursuant to the Market-Contractor Agreement are hereby declared to constitute trust funds in the hands of Contractor, to be applied first to the payment of claims of Subcontractors, laborers, and Suppliers arising out of the Work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety and other bonds and on insurance, before application to any other purpose. Whenever required by the Engineer, it shall be the duty of Contractor to file with the Engineer a verified statement, in form satisfactory to the Engineer, certifying the amounts then due and owing from Contractor for labor and materials, setting forth therein the names of the person whose charges or claims for labor or materials are unpaid, and the undisputed amount due to each respectively.
- G. No payments made hereunder by the Market to Contractor prior to Final Payment shall be deemed conclusive as to the actual value of the Work performed by Contractor or of Contractor's performance of the Agreement.
- H. Market reserves the right to issue any Progress Payment and Final Payment by check jointly to Contractor and any Subcontractor or Supplier at Market's option.
- I. Should the Market fail to issue any Progress Payment within sixty (60) days of approval of an acceptable monthly estimate of Work performed and Materials furnished, annual interest on the payment amount may accrue at the Prime Rate, plus one percent.

- J. The Prime Rate shall be based on that published in the *Wall Street Journal* on the first business day of January or June, whichever has most recently passed, of the current year. This clause shall supersede the Georgia Prompt Payment Act and any modifications or successors to it. Nothing stated herein shall invalidate any other conditions of Progress Payment approval.

5. Payments Withheld

- A. The Market may decline to approve payment and may withhold any payment, in whole or in part, to the extent necessary to reasonably protect the Market from loss because of:
- 1) Defective Work not remedied;
 - 2) Third party claims filed or reasonable evidence indicating probable filing of such claims;
 - 3) Failure of the Contractor to make payments properly to Subcontractors, or for labor, Materials or Equipment;
 - 4) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Agreement Price;
 - 5) Damage to the Market or another contractor;
 - 6) Reasonable evidence that the Work will not be completed within the Agreement Time;
 - 7) Persistent failure to carry out the Work in accordance with the Agreement Documents;
 - 8) Failure of the Contractor to fully comply with the Schedule requirements of the Special Conditions;
 - 9) Failure to comply with insurance and safety requirements; or
 - 10) Failure to keep current "As-Built" Records.
- B. When the grounds in Paragraph GC-38.5 A., above are removed, payment shall be made for amounts withheld because of them.

GC-39 *SUBSTANTIAL COMPLETION ("Substantial Completion")*

1. Certificate of Substantial Completion

When the Contractor considers that the Work, or a designated portion thereof which is

acceptable to the Market, is Substantially Complete as defined in Paragraph GC-3, the Contractor shall prepare for the Engineer a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Agreement Documents. When the Engineer, on the basis of an inspection, determines that the Work or designated portion thereof is Substantially Complete, they will then prepare a Certificate of Substantial Completion of the Work which shall establish the Date of Substantial Completion of the Work, shall state the responsibilities of the Market and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance and shall fix the time within which the Contractor shall complete the items listed therein. The Certificate of Substantial Completion of the Work shall be submitted to the Market and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

2. Retainage Adjustment

Upon Substantial Completion of the Work or designated portion thereof, and upon application by the Contractor and approval by the Engineer, the Market shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Agreement Documents and in accordance with the Market-Contractor Agreement.

3. Warranty Commencement

Warranties required by the Agreement Documents shall commence on the Date of Final Completion of the Project or designated portion thereof unless otherwise provided in the certificate of Substantial Completion of the Work or designated portion thereof.

4. Waiver of Claims

The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the application for payment for the Substantial Completion payment, and except for the retainage sums due at final acceptance.

GC-40 *FINAL PAYMENT ("Final Payment")*

1. Certificate for Final Payment

Following the Engineer's issuance of the certificate of Substantial Completion of the Work or designated portion thereof, and the Contractor's Completion of the Work, the Contractor shall forward to the Engineer a Written Notice that the Work is ready for final inspection and acceptance, and shall also forward to the Engineer a final Application for Payment. Upon receipt, the Engineer will make the necessary evaluations. When the Engineer finds the Work acceptable under the Agreement Documents and the Agreement fully performed, the Engineer

will issue a certificate for Payment that will approve the Final Payment due the Contractor.

2. Final Payment Conditions

Neither the Final Payment nor the remaining retainage shall become due until the Contractor submits to the Engineer:

- 1) An affidavit that all payrolls, bills for Materials and Equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied;
- 2) Consent of surety, if any, to Final Payment;
- 3) Clear title for all vehicles and/or trailers, if any, to remain as Market property;
- 4) Complete set of as-built record Drawings;
- 5) Documentation for all state sales taxes paid by Contractor including completed State Department of Revenue Refund forms and all necessary back up documentation required by the Department of Revenue;
- 6) If required by the Engineer or Market, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by the Engineer or Market. If any Subcontractor refuses to furnish a release or waiver required by the Engineer or Market, the Contractor may furnish a bond satisfactory to the Market to indemnify the Market against any such loss. If any lien or indebtedness remains unsatisfied after all payments are made, the Contractor shall refund to the Market all monies that the latter may be compelled to pay in discharging such lien, or other indebtedness including all costs and reasonable attorneys' fees; and
- 7) As a condition of Final Payment on the Project, the Contractor shall, prior to final payment, complete and submit to the Market, all of the invoice documentation and the State of Georgia Revenue Department forms required to obtain the sales tax refund on all applicable equipment expenditures. This submittal shall include the certified forms and auditable back-up necessary to substantiate the expenditures for State refund.

3. Waiver of Claims by Market

The making of Final Payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the Market except those arising from:

- 1) Unsettled liens and third party claims against the Market or the Engineer;
- 2) Faulty or defective Work appearing after Substantial Completion of the Work;
- 3) Failure of the Work to comply with the requirements of the Agreement Documents;
- 4) Terms of any special warranties required by the Agreement Documents; or

- 5) Damages incurred by the Market resulting from lawsuits brought against the Market, the Engineer, or their agents, employees, or representatives because of actions or omissions on the part of the Contractor, his Subcontractors, Suppliers, or any of their employees, agents, or representatives.

4. Waiver of Claims by Contractor

The acceptance of Final Payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the Contractor, except those previously made in writing and identified by the Contractor as unsettled at the time of the Final Application for Payment.

GC-41 *CHANGES AND EXTRA WORK*

1. Authority For Changes

The Engineer may make changes in the Drawings or Specifications and in the quantities of Work to be done under the Agreement.

2. Change Orders

Without invalidating the Agreement, the Engineer may at any time, or from time to time, by written order, order additions, deletions, or revisions in the Work. These will be authorized by Change Orders. Upon receipt of the Change Order, Contractor shall promptly proceed with the Work involved. If any price or scope of the Work or an extension or shortening of the Agreement Time is involved, an equitable adjustment will be made within the Change Order. In the event the Agreement Price is increased by Change Order, the penal amount of the Payment and Performance Bonds shall be increased as provided for in Appendix B. All changes in the Work authorized by Change Order shall be performed under the applicable Conditions of the Agreement Documents.

3. Written Notice

The Engineer may, at the request of Contractor, issue interpretations, clarifications and other instructions as to the intent of the Agreement Documents, in the form of Written Notices. The Engineer may also, at any time, make changes in the details of the Work by issuance of a Written Notice. Upon receipt of such a Written Notice containing interpretations clarifications and other instructions, Contractor shall proceed with the Work and comply with the Written Notice unless Contractor believes that such Written Notice entitles him to a Change in Agreement Price or Time or both.

Should Contractor believe that such Written Notice entitles him to change in Agreement Price or Time, or both, he shall give the Engineer notice in writing thereof within seven (7) days after receipt of the Written Notice. Thereafter within thirty (30) days, Contractor shall document the basis for the change in Agreement Price or Time. The Engineer shall render a timely, written

decision on the Contractor's request for a change in Agreement Price or Time. Should the Engineer determine that the Contractor is not entitled to a change in Agreement Time or Price, the Contractor shall proceed as directed upon receipt of the Engineer's decision. Failure to proceed shall constitute a breach of Agreement and shall be a cause for the termination of the Agreement. Request for a Change Order arising out of a Written Notice will not be considered without the attachment thereto of a copy of the referenced Written Notice. No claim by Contractor will be allowed if asserted after Final Payment under this Agreement.

4. Extra Work

Extra Work consists of new and unforeseen Work determined by the Engineer not to be covered by any of the various items for which there is a proposal price or by combination of such items.

5. Variation In Quantities

Wherever the estimated quantities of work to be done and materials to be furnished under this Agreement are shown in any of the documents including the Bid, they are given for use in comparing proposals and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by Market to complete the Work contemplated by this Agreement, and such increase or diminution shall in no way vitiate this Agreement, nor shall any such increase or diminution give cause for claims or liability for damages.

GC-42 *CHANGE ORDERS*

1. General

The Agreement Price may only be changed by a Change Order. Each change will be set forth in a Change Order prepared by the Engineer and approved by the Market. Change Order will specify (a) all additional work to be done and work to be omitted, if any, in connection with the change; (b) the basis of compensation to the Contractor for additional or omitted work; and (c) any adjustment of the time of completion of the Work. If the Engineer determines that a change requiring additional Work will cause delay in completion of Work, the Engineer will grant an equitable time extension for the changed Work, or a subsequent Change Order may be issued at such time as the extent of such delay can be determined.

Upon receipt of a Change Order, Contractor shall comply therewith and perform each item of Work set forth therein, furnishing all labor, Material, and Equipment necessary therefor, in the same manner as if such Work were originally included in the Agreement. In the absence of a Change Order, Contractor shall not be entitled to payment or an extension of the time of completion on account of any changes made.

2. Methods Of Payment

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Agreement Price shall be determined by the following method which is most advantageous to Market, as determined by the Engineer:

- A. Where the Work involved is covered by unit prices contained in Agreement Documents, by application of unit prices to the quantities of the items involved;
- B. By mutual acceptance of a lump sum, based on a detailed breakdown of anticipated costs plus Contractor's fee for overhead, small tools, and profit. The Contractor and all Subcontractors shall be entitled to the same fees as specified in Section GC-42.2 C. and GC-42.3 E; or
- C. On the basis of the actual cost of the Work plus a Contractor's fee for overhead, small tools and profit. This method of payment is herein referred to as Force Account Work, and is further described in GC-42.3. Contractor's fee for Force Account Work performed by his own forces shall be twenty percent (20%) for direct labor and payroll burdens; five percent (5%) for all purchased material; and Contractor's fee for subcontracted work shall be as defined in Section GC-42.3 E.

3. Force Account Work

When authorized by a Change Order, Contractor may perform Work on a Force Account basis and will be paid actual costs and a fee for properly allocated charges which may include labor, bond premium, supplies and Materials, Equipment and subcontract billings, incurred in the performance of such Force Account Work as more particularly described below:

- A. Labor: For all labor and for foremen in direct charge of the specific operations, Contractor shall receive the actual rate of wage in effect at the time the Force Account Work is performed for each and every hour that said laborer and foreman are actually engaged in such Work. Said agreed rate shall be no higher than that regularly paid the employee. A foreman shall not be used where there are fewer than two (2) laborers employed, except with the written consent of the Engineer. Contractor shall receive the actual costs paid to or in behalf of workmen, by reason of fringe benefits, including but not limited to, social security contribution, unemployment, excise and payroll taxes, workmen's' compensation, health and retirement benefits, sick leave, vacation and holiday pay. Expenses of working after hours, on holidays or on Saturdays and Sundays, shall be included to the extent authorized by the Engineer. Subsistence and travel allowance where required by collective bargaining agreements shall be included.

The charges for labor shall include all classifications through foremen when engaged in the actual and direct performance of the Work. They shall not include charges for such overhead personnel as assistant superintendents, superintendents, office personnel, timekeepers, and maintenance mechanics.

- B. Bonds and Insurance: For bonds and insurance premiums or increases thereto necessitated by the Force Account Work, Contractor shall receive the actual cost to which no percent shall be added. Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond and insurance.
- C. Materials: For materials accepted by the Engineer and used as an integral part of the finished Work, Contractor shall receive the actual cost of such Materials delivered on the Work, including transportation charges paid by him, exclusive of machinery rentals as hereinafter set forth.

If Materials are procured by Contractor by a method that is not a direct purchase from and a direct billing by the actual Supplier, the cost of such Material shall be deemed to be the lowest current wholesale price at which such Materials available in the quantities concerned and delivered to the site of the Work.

For other Materials used in the construction that are not an integral part of the finished Work, such as, but not limited to, sheeting, false Work and form lumber, Contractor shall be reimbursed in the amount agreed upon by the Engineer before such Work is begun. The salvage value of such material will be taken into consideration in determining the amount of reimbursement.

- D. Equipment: Contractor will be paid for the use of Contractor owned or rented Equipment at seventy percent (70%) of the suggested monthly rental rates listed for such Equipment in the Rental Rates for Construction Equipment Blue Book (published by Data Quest), except as modified below, which edition shall be the latest edition in effect at the time of commencement of the Force Account Work. Hourly rental rates shall be calculated by dividing the listed monthly rates as modified above by 176 hours.

The rental rate for Equipment used in excess of eight (8) hours per day shall be at the rate of fifty percent (50%) of the hourly rates as calculated above. The rental rates for standby Equipment, when authorized by the Engineer, shall be at the rate of fifty percent (50%) of the hourly rate for Equipment in use eight (8) hours per day. No payment of rentals for standby Equipment will be made for more than eight (8) hours per working day and no payment will be made for weekend days or holidays. If it is deemed necessary by Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, Contractor shall furnish the necessary cost data and paid invoices to the Engineer for his use in establishment of such rental rate(s). Equipment must be in good operating condition. The rental rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals. Equipment operators will be paid for as stipulated in subparagraph (A) of Clause GC-42.3. The rental time to be paid for Equipment on the Work site shall be the time the Equipment is required for the Force Account Work being performed. The time shall

include the time required to move the Equipment to location of the Force Account Work and return it to the original location or to another location, requiring no more time than that required to return it to its original location. Moving time will not be paid for if the Equipment is used at the site of the Force Account Work on other than such Force Account Work. Loading and transporting costs will be allowed, in lieu of moving time, when the Equipment is moved by means other than its own power. No payment for loading and transporting will be made if the Equipment is used at the site of the Force Account Work on other than such Force Account Work. Compensation will not be allowed while Equipment is inoperative due to breakdown.

For the use of Equipment moved in on the Work and used exclusively for Work paid for on a Force Account basis, providing the Engineer has agreed to said move, Contractor will be paid the Equipment use rates provided for in this clause, for the cost of transporting the Equipment to the location of the Work and its return to its original location, and for the cost of loading and unloading the Equipment, all in accordance with the following provisions:

- 1) The cost of transporting Equipment shall not exceed the applicable minimum established rates by the State of Georgia Public Service Commission.
 - 2) The Equipment use period shall begin at the time the Equipment is unloaded at the site of the Force Account Work, shall include each day that the Equipment is at the site of the Force Account Work, excluding Saturdays and Sundays and other legal holidays unless the Force Account Work is performed on such days, and shall terminate at the end of the day on which the Engineer instructs Contractor to discontinue the use of such Equipment. The maximum time to be paid per day will not exceed eight (8) hours unless the Equipment is in operation for a longer time.
- E. Subcontract Work: Where the Change Order applies to Work being performed under a subcontract, reimbursement, including fee for small tools, overhead and profit for the Subcontractor's Work performed on a Force Account basis shall be computed in precisely the same manner as if performed by Contractor as indicated in GC-42.2 C. One additional allowance of five percent (5%) of the Subcontractor's total costs will be granted to Contractor for overhead and profit regardless of the tier of the Subcontractor.

If the Subcontractor elects to contract out Change Order Work to a third (or lower) level contractor or Supplier of purchased Equipment, he shall not be entitled to fees, overhead or profit for such third (or lower) level work or Materials.

The Market reserves the right to direct the Contractor to contract directly with third (or lower) level subcontracts and Suppliers of purchased Equipment in order to avoid paying multiple fees, overhead and profit for such third (and lower level) Subcontractors and Suppliers of purchased Equipment. If similar work is not being performed at the Work

site, and if required by the Market, Contractor shall obtain three (3) competitive proposals for the requirements of the Change Order and the Agreement Documents from Subcontractors acceptable to the Engineer. Selection of the Subcontractor shall be subject to the approval of the Engineer and the Market.

- F. Compensation: The compensation as set forth above shall be received by Contractor as payment in full for Work done on a Force Account basis. At the end of each day, Contractor's Representative and Inspector shall compare records of the Work performed including classification of all laborers, ordered on a Force Account basis.
- G. Statements: No payment will be made for Work performed on a Force Account basis until Contractor furnishes the Engineer itemized statements of the cost of such Force Account Work detailed as to the following:
- 1) Labor -name, classification, date, daily hours, total hours, rate, and extension of each laborer and foreman;
 - 2) Equipment -size, type, identification number, dates, daily hours, total hours, rental rate, and extension of each unit of machinery and Equipment;
 - 3) Materials -quantities of supplies and Materials, prices, including transportation cost and extensions;
 - 4) Bonds and insurance premiums;
 - 5) Subcontract Work -Force Account detail as above, or progress quantities and prices of unit price or lump sum subcontracts; and
 - 6) Payment for items under paragraphs (A) to (F) inclusive, shall be conditioned upon Contractor's presentation of original receipted invoices for Materials used and transportation charges. If, however, the materials used in the Force Account Work are not specially purchased for such Work but are taken from Contractor's stock, then in lieu of the original invoices, the statements shall contain or be accompanied by an affidavit of Contractor which shall certify that such Materials were taken from his stock, that the price and transportation of the Material as claimed represent actual cost.
- H. If, in the Market's opinion, Contractor or any of his Subcontractors, in performing Force Account Work, are not making efficient use of labor, Material, or Equipment and/or are proceeding in a manner which is expensive to Market, the Engineer may request the Contractor to make more efficient use of labor, Material and Equipment. Contractor shall in good faith comply with such requests as are reasonable. If the Contractor fails to comply with such requests, the Engineer may independently determine the reasonable cost of the Work and the Contractor will be entitled only to the reasonable cost so

estimated by the Engineer.

4. Lump Sum Change Order Work

Contractor shall prepare an estimate of all extra and deleted Work as described by Written Notice, using established unit prices where they are stated in the Bidding Document. Estimates for Labor, Bonds and Insurance, Materials, and Equipment required shall otherwise be based on the provisions set forth in GC-42.3 A, B, C, and D, above.

GC-42.

5. Change Orders Limited

Except as provided in GC-41 and GC-42, no order, statement or conduct of the Engineer shall be treated as a "Change Order" or entitle the Contractor to any adjustment hereunder of the Agreement Price or Agreement Time.

6. No Work Stoppage

Nothing in this Article shall excuse the Contractor from proceeding with the Agreement as changed.

7. Agreement Amendment

The amount payable to the Contractor under the Agreement, the Agreement Time, and the date required for performance of any part of the Work may be changed only by a Change Order to the Agreement.

GC-43 *DISAGREEMENT WITH ORDERS FOR CHANGE*

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he may submit a notice of potential claim to the Engineer in accordance with Clause GC-46 at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligations under Clause GC-42, Change Orders.

GC-44 *CHANGED CONDITIONS*

Contractor shall notify the Engineer in writing of the following conditions, hereinafter called "changed conditions," promptly upon their discovery and before they are disturbed, in any event no later than five (5) calendar days:

- A. Subsurface or latent physical conditions at the site of Work differing materially from those indicated in this Agreement; or
- B. Unknown physical conditions at the site of the Work of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in this Agreement.

The Engineer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work under this Agreement, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Agreement modified in writing in accordance with the provisions of Clause GC-41. If the Engineer determines that conditions of which he has been notified by Contractor do not justify an adjustment in compensation, he will so advise Contractor in writing. Should Contractor disagree with such determination, he may submit a notice of potential claim to the Engineer as provided in Clause GC-46.

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required above; provided, however, the time prescribed therefore may be extended by the Engineer.

No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

GC-45 INVESTIGATION OF SUBSURFACE SITE CONDITIONS

Investigations of the subsurface conditions at the Project site were prepared in anticipation of this Project. These include logs of test holes, results of field and laboratory tests and similar materials. Data obtained in such investigations is available at the Market Manager's office for review during the bid preparation period. These reports are offered without guarantee or representation of such. The data obtained from these borings and investigations represent the character of the information gathered only on the day on which the borings were made and at the exact location at which they were made. They shall not, in and of themselves, be considered representations within the meaning of the clause GC-46. Similar conditions may or may not exist on or throughout the Project site, or any part of it. Other conditions may or may not be encountered; no guarantees are made or implied.

Opinions, conclusions, interpretations or deductions concerning subsurface conditions which may be expressed or implied in any of the Materials and data which are made available to the Contractor, or any matters contained therein of which the Contractor has, or reasonably should have, independent knowledge of, shall not be considered representations of subsurface conditions within the meaning of Clause GC-46. Under no circumstances will an Agreement

adjustment in cost and/or time be made solely on the comparisons made or drawn from this data. The logs and data on test holes are not guaranteed to be indicative of any soil type, rock strata or water table levels in part or in whole. The Contractor is advised to exercise all care in performing their own investigation to develop information or confirm the available data.

GC-46 *NOTICE OF CLAIM*

1. Time Limit

No claim by the Contractor against the Market for additional compensation or other injury or damage shall be valid unless a notice of claim is filed with the Engineer and the Market within ten (10) days after occurrence of the event upon which the claim is based, and, in addition, unless a detailed written statement of claim, as required by GC-46, accompanied by vouchers and other supporting data, shall have been filed with the Market and the Engineer by the Contractor within thirty (30) days after the occurrence of said event.

2. Identification

Any notice of claim must clearly identify the event that is relied upon, contain a clear statement of why it constitutes a basis for additional compensation and must contain a clear statement that the document constitutes a "Notice of Claim."

GC-47 *STATEMENT OF CLAIM*

The statement of claim shall include a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provision or provisions in the Agreement Documents on which the claim is based and the amount of the claim. All costs, expenses and damages claimed shall be included in detail with complete supporting documentation and shall be accompanied by a sworn statement indicating that: (a) the individual executing said statement is personally familiar with the matters stated in the claim; (b) that the matters stated therein are based upon the terms of the Agreement Documents; (c) that the costs, expenses and damages claimed therein flow directly from the matters stated therein; and (d) that the costs, expenses and damages listed therein have not been otherwise included in the cost of the Work and are true, accurate and correct.

GC-48 *DECISION OF CLAIMS*

1. Claim Review

Upon receiving a statement of claim, complying with the requirements of GC-46 and GC-47 and

with the advice and assistance of the Engineer as appropriate, the Market shall review the statement of claim submitted by the Contractor. In conducting this review, the Engineer shall have the right to require the Contractor to submit such additional or supporting documents, data and other information as the Market and/or the Engineer may require, and the failure to submit such additional documents, data or other information within fifteen (15) days following written request shall be deemed a waiver of the claim. Upon completion of such review, to take place within thirty (30) days of receipt of the additional documents, data or other information as may have been required by the Market and/or the Engineer, the Market in consultation with the Engineer shall issue a written determination, and if it deems appropriate accept such parts of the claim as they find in good faith to be proper and, if the Contractor agrees, a Change Order shall be issued to amend the Agreement Price, the time for completion or either of them as may be found proper. If the Contractor disputes the determination made by the Market, the Contractor as a condition precedent to any further action to resolve such dispute must notify the Market and the Engineer in writing within five (5) days following receipt of the decision of the factual basis of such dispute and permit the Market fifteen (15) additional days to reconsider and, if it deems it appropriate, issue a modified decision.

2. No Waiver

Nothing contained in this section shall operate to limit or extinguish any right or defense of the Market contained elsewhere in the Agreement Documents or available at law or in equity or constitute a waiver by the Market of any right or defense otherwise available.

3. Absolute Conditions Precedent

The failure of the Contractor to file any claim within the time limits prescribed herein or in the form or manner precisely as required hereby shall be deemed a material prejudice to the interests of the Market and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.

GC-49 MEASUREMENT AND PAYMENT

1. Measurement

All items of Work to be paid for at Agreement Prices per unit of measurement will be measured or certified by the Engineer.

2. Payment at Agreement Prices

The Agreement prices for items of Work shall include full compensation for all costs of items, including the costs for any Work, Materials and Equipment incidental to the items but not specifically shown or described in Agreement Drawings and Specifications, subject only to such express limitations as may be stated in the Specifications defining the items or prescribing

payment thereof.

GC-50 HISTORICAL, SCIENTIFIC, AND ARCHEOLOGICAL DISCOVERIES

All articles of historical or scientific value, including, but not limited to, coins, fossils, articles of antiquity, which may be uncovered by Contractor during process of Work, shall become the property of the Market. Such findings shall be reported immediately to the Engineer who will determine the further operations of Contractor, the method of removal, where necessary, and the final disposition thereof.

GC-51 SEPARATE AGREEMENTS

1. Separate Contractors

The Market reserves the right to award other Agreements in connection with this Project. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his Work with theirs. If the proper execution of results of any part of Contractor's Work depends upon the work of another contractor, Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

2. Cooperation

The Market may perform additional work related to the Project by itself, or it may let other contract containing provisions similar to these. Contractor shall afford the other contractors who are parties to such contracts, the Market, if it is performing the additional work itself, reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate his work with theirs.

3. Review of Separate Contractor's Work

If any part of the Contractor's Work depends for proper execution or results upon the work of the Market or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Engineer any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the Market's or separate contractor's work as fit and proper to receive the work, except as to defects which may subsequently become apparent in such work by others.

4. Notice to Contractor

If the performance of additional work by other contractors of the Market is not noted in the Agreement Documents prior to the execution of the Agreement, Written Notice thereof shall be given to Contractor prior to starting any such additional work.

5. Damage to Separate Contractor

Should the Contractor wrongfully delay or cause damage to the work or property of any separate contractor, the Contractor shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates a proceeding against the Market or the Engineer on account of any delay or damage alleged to have been caused by the Contractor, the Market shall notify the Contractor, who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the Market or the Engineer arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Market for all attorneys' fees and court costs which the Market has incurred.

6. Market's Right to Clean Up

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up or for accomplishing coordination, the Market may clean up and carry out such work and charge the cost thereof to the contractors responsible therefore as the Engineer shall determine to be just.

GC-52 *OFFICIAL NOT TO BENEFIT*

No officer or employee of the Market or the City shall be permitted to participate in the performance of this Agreement or receive any benefit or compensation arising out of the performance of such Agreement, and any Agreement entered into by the Market in which any officer or employee of the Market or the City shall be personally interested shall be void, and no payment shall be made thereon by the Market or any officer thereof; but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit.

GC-53 *BRIBES*

A bribe or attempt to bribe any representative or officer of the Market or the City by Contractor shall be considered as a breach of the Agreement in bad faith, and shall thus empower the Market to complete Work and deduct the entire cost thereof from any monies due or to become due Contractor under the Agreement.

GC-54 *PRECONSTRUCTION CONFERENCE*

Within twenty (20) days after delivery of the executed agreement by Market to Contractor, but before issuance of Notice to Proceed, a conference may be held to review progress schedules, to review the insurance and safety program, to establish procedures for handling Shop Drawings and other submittals and for processing progress payments, and to establish a Working understanding between the parties as to the Project.

The Contractor shall submit to the Market for approval, prior to the preconstruction conference, a preliminary schedule of Shop Drawing submittals, and certification of insurance as required by Appendix B.

GC-55 *TIME OF COMPLETION AND LIQUIDATED DAMAGES*

1. Liquidated Damages

It is understood and agreed that the Market will sustain substantial monetary and other injury and damages, including, but not limited to, increased costs, expenses and liabilities in the event of failure by the Contractor to perform its Work in accordance with the Completion and any Interim Milestone Date(s) set forth in Project Network Schedule prepared in accordance with the Special Conditions. Accordingly, should the Contractor not complete the Work, or any such portion thereof, within the date(s) required by the Project Network Schedule initially approved by the Engineer, as they may be adjusted pursuant to the Agreement Documents, then charges shall be assessed against any money due or that may become due the Contractor in accordance with the following schedule:

For Each delay in Substantial Completion of the entire Work: \$ 500 / day

For Each day of delay in Final Completion of the entire Work: \$ 500 / day

The amount of such charges is hereby agreed upon as fixed liquidated damages due the Market after the expiration of the Agreement Date(s) for completion specified in the Project Network Schedule for the Work or portions thereof. The Contractor and its surety shall be liable for any liquidated damages in excess of the amount due the Contractor on the Final Payment.

2. No Penalty

The fixed liquidated damages are not established as a penalty but are calculated and agreed upon in advance by the Market and the Contractor due to the uncertainty and impossibility of making a determination as to the actual direct, incidental and consequential damages which are incurred by the Market as a result of the failure on the part of the Contractor to complete the Work within the Agreement Completion Date(s) specified above. Liquidated damages shall start in accordance with the above schedule upon notification to the Contractor in writing that all apparent Agreement Time allowed to achieve the relevant Completion Date has been consumed. Liquidated Damages as they accrue will be deducted from periodic partial payments

to the extent they are sufficient to cover the liquidated damages owing; provided that any excess liquidated damages owing over the periodic partial payment amount may be deducted from retainage. Such deduction shall be in addition to the retainage provided for in the Agreement. The remaining amount of liquidated damages owing upon completion will be deducted from any amounts owing as Final Payment to the Contractor or his surety. Any excess amount owing as liquidated damages shall be paid upon demand.

GC-56 RIGHT TO AUDIT

The Contractor shall keep and maintain accurate books and records, and supporting data, documentation, correspondence, reports, instructions, Drawings, receipts, vouchers, and memoranda regarding performance of Work hereunder and including specifically, but without limitation, such information as estimates (pre and post bid), costs incurred, labor and Materials consumed, schedules and progress records and quality control. Such books and records shall be available for inspection, audit, and copying by the Market or its authorized representative during the Work and for a period of three (3) years after Final Payment.

GC-57 MEDIATION OF DISPUTES

In the event of any controversy, claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof or otherwise in conjunction with the Project to which this Agreement pertains, which has not been otherwise resolved or waived pursuant to other conditions of the Agreement Documents (hereinafter referred to as the "dispute"), the parties shall, as an express condition precedent to commencing legal action against the other relating to or arising out of the dispute, endeavor to resolve the dispute utilizing the Disputes Review Board. The Disputes Review Board may recommend, if both parties agree, non-binding mediation conducted under Commercial Mediation Rules of the American Arbitration Association, or under such other rules as the parties may promptly agree to employ. Such mediation shall be held at the regional office of the American Arbitration Association located in Atlanta, Georgia, or at any other convenient location agreeable to the parties and the mediator.

GC-58 AGREEMENT ADMINISTRATION DOCUMENTS

A substantial number of documents will be required for the administration of the Agreement. Some of these documents are identified in this document and elsewhere in the Agreement Documents (such as Change Order forms) and others may not be. The Engineer shall have full power and authority to designate and prepare the documents to be used and the Contractor and all Subcontractors and Material Suppliers shall utilize the documents so prepared and provided to them by the Engineer and shall follow the instructions of the Engineer with respect thereto in all regards save and excepting only those documents, if any, which the Contractor reasonably

determines contain terms or requirements contrary to or in addition to and not reasonably inferable from the terms of the Agreement Documents. If the Contractor believes that any form or other document provided by the Engineer under the authority of this Section is subject to rejection by the Contractor under the terms hereof, it shall notify the Engineer thereof within ten (10) days following his first receipt of the particular document or form giving specific reasons why the document or form is entitled to rejection. Thereafter, the form or document will be withdrawn, amended, or utilized as the Engineer finds in good faith to be appropriate after reviewing the notice provided by the Contractor. All Agreement Administration Documents may be revised at any time by the Engineer.

GC-59 MISCELLANEOUS PROVISIONS

1. Governing Law

The Agreement shall be governed by the law of the State of Georgia.

2. Contingent Assignment

Effective as of any termination of the Agreement, Contractor hereby assigns to Market all of the Contractor's interest in those subcontracts and purchase orders entered into by Contractor prior to termination which the Market specifically requests by Written Notice. All Subcontractors and Purchase Orders shall provide that they are freely assignable by Contractor to the Market and its assigns. Market shall be at liberty to negotiate with and engage (for itself) any Subcontractors, Suppliers, or others that Contractor dealt with prior to termination.

3. Rights and Remedies

- A. The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
- B. No action or failure to act or to require in anyone or more instances upon the strict performance of anyone or more of the provisions of the Agreement Documents, or to exercise any right herein contained or provided by law by the Market or the Engineer, shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, nor shall it be construed as a waiver of the right to subsequently demand strict performance or exercise such rights, and the rights shall continue unchanged and remain in full force and effect, except as may be specifically agreed in writing.
- C. The Contractor agrees that it can be adequately compensated by money damages for any breach of this Agreement which may be committed by the Market and hereby

agrees that no default, act, or omission of the Market, or the Engineer, shall constitute a material breach of the Agreement entitling the Contractor to cancel or rescind the provisions of this Agreement or (unless the Market shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. The Contractor hereby waives any and all rights and remedies to which it may otherwise be or become entitled, save only his right to money damages.

4. Unenforceability of any Clause

If any clause of this Agreement is held as a matter of law to be unenforceable or unconscionable, the remainder of the Agreement shall be enforceable without such clause.

5. Obligation to Perform

Contractor shall carry on the Work and adhere to the Progress Schedule during and notwithstanding all disputes or disagreements with Market. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Contractor and Market may otherwise agree in writing.

6. Labor Relations

Work on the Project may be performed by both union and nonunion separate contractors, Subcontractors, Suppliers, and other entities and persons. In the event of any strike, picket, sympathy strike, work stoppage, or other form of labor dispute at the Project whether directed at the Contractor, other separate contractors, Subcontractors, Suppliers or other persons, Contractor shall continue to perform its Work required hereby without interruption or delay. In the event the Contractor fails to continue its Work without interruption or delay, because of any or such events, the Market, in addition to all other rights it has in the Agreement Documents and at law, may terminate the Agreement after giving Contractor forty-eight (48) hours written notice of its intent to do so for reason of Contractor's failure to perform. Additionally, if Contractor is party to one or more labor agreement, Contractor shall take all reasonable action to avoid any Work stoppage, and in the event of a work stoppage, Contractor shall within twenty-four (24) hours take all legal action permitted by such labor agreements or by law in order to expedite resumption of Work on this Project.

7. Covenant Not to Sue

Should the Market elect to terminate the employment of the Contractor for default as provided herein, then the Contractor covenants that it will not file any suit or proceeding of any kind against the Market by reason thereof, until the Market shall have either abandoned the Project or completed the Contractor's Work as required under the Agreement. If the Contractor should breach this "Covenant Not To Sue," then Contractor shall be liable to the Market for all costs resulting to the Market therefrom, including, without limitation, all attorneys' fees expended by the Market in defending said suit or proceeding, unless a positive determination is made therein

that the Contractor's termination by the Market was motivated by fraud and bad faith and was without justification of any kind.

GC-60 STATEMENT OF NON-DISCRIMINATION

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1414 of the Code of Ordinances, City of Atlanta, and to warrant the following:

- a) The Contractor shall not discriminate against any employee, or applicant for employment, because of race, creed, religion, color, sex or national origin, marital status, physical handicap or sexual orientation. As used herein, the words "shall not discriminate" shall mean and include without limitation the following: Recruited, whether by advertising or other means; compensate, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notice to be provided by the Compliance Officer setting forth the provisions of the non-discrimination clause.

- b) Contractor shall in all solicitation or advertisement for employees, placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for the employment without regard to race, creed, religion, color, sex, national origin, marital status, physical handicap or sexual orientation.
- c) Contractor shall send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor commitments under the Equal Employment Opportunity Program for the City of Atlanta and under this Ordinance, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. Contractor shall register all workers in the skilled trades who are below the journeyman level with the Bureau of Apprenticeship and Training.
- d) Contractor shall furnish all information and reports required by the Contract Compliance Officer pursuant to this Ordinance and shall permit access to the books, records, and accounts during the normal business hours of Contractor by the contracting agency and the Contract Compliance Officer for the purpose of investigation so as to ascertain compliance with the program.
- e) Contractor shall take such action with respect to any subcontractor as the Market may direct as a means of enforcing the provisions of paragraphs (a) through (h) 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 Market, the Market will enter into such litigation as is necessary to protect the interest of the Market and to effectuate the Equal Employment Opportunity Program of the City. In the case of contracts receiving federal assistance, the Contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.

- f) Contractor and his subcontractors, if any, shall file compliance reports at reasonable times and intervals with the City in the form and to the extent prescribed by the Contract Compliance Officer of the City of Atlanta. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and his Subcontractors.
- g) Contractor shall include the provisions of paragraphs (a) through (h) of this Equal Employment Opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each Subcontractor or vendor.
- h) A finding, as hereinafter provided, that a refusal by Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
 - (1) Withholding from Contractor in violation all future payments under the involved public contract until it is determined that Contractor or Subcontractor is in compliance with the provisions of the Agreement;
 - (2) Refusal of all future bids for any public contract with the Market or the City of Atlanta or any of its departments or division until such time as the Contractor or Subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in this article;
 - (3) Cancellation of the public Agreement;
 - (4) In a case in which there is substantial or material violation, or the threat of substantial or material violation, of the compliance procedure therein set forth or as may be provided for by the contract, appropriate proceeding may be brought to enforce those provisions, including the enjoining, within applicable laws, of contractors, Subcontractors, or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

GC-61 *EQUAL BUSINESS OPPORTUNITY (EBO)*

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1441 through 2-1460 of the Code of

Ordinances of the City of Atlanta, the Equal Business Opportunity ("EBO") Program and to Warrant the following:

The Consultant agrees to make good faith efforts to meet the goals for this Agreement by making available opportunities for Minority Business Enterprises ("MBE"), African American Business Enterprises ("AABE"), Hispanic Business Enterprises ("HBE"), Asian Business Enterprises ("ABE"), Native American Business Enterprises ("NABE"), and Female Business Enterprises ("FBE"), for utilization in the Work set forth within this Agreement, and shall take the following actions as part of its good faith efforts:

1. Notification to MBEs and FBEs that the Contractor has subcontracting opportunities available and maintenance of records of the MBEs' and FBEs' responses.
2. Maintenance by the Contractor of a file of the names and addresses of each MBE and FBE contacted and action taken with respect to each such Agreement.
3. Dissemination of the Contractor's EBO policy externally by informing and discussing it with all management and technical assistance sources; by advertising in news media and by notifying and discussing it with all Subcontractors and Suppliers.
4. Specific and continuing personal (both written and oral) recruitment efforts directed at MBE and FBE Contractor organizations, MBE and FBE assistance organizations.
5. Sub-division of the Agreement into economically feasible segments as practical to allow the greatest opportunity for participation by MBEs and FBEs.
6. Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases of material for as many MBE and FBE Subcontractors as possible.
7. Adoption of the Equal Business Opportunity Plan submitted in its response to the Invitation for Bids or Requests for Proposals obligations under this Agreement
8. Submission of monthly reports on the forms and to the extent required, to be due on the last day of each month following the award of the Work set forth in this Agreement.
9. The Contractor further agrees that its breach of the EBO provisions contained herein shall subject it to any or all of the following penalties:
 - a) Withholding often per cent (10%) of all future payments under the involved eligible project until it is determined that the Contractor is in compliance;
 - b) Withholding of all future payments under the involved project until it is determined that the Contractor is in compliance;
 - c) Refusal of all future bids or offers for any eligible project with the Market or the City of Atlanta or any of its departments or divisions until such time as the Contractor demonstrates that there has been established and there shall be

carried out all of the EBO provisions contained herein; and

d) Cancellation of the eligible project.

GC-62 *WAGE RATES AND REPORTING PROCEDURES*

1. Certified Payrolls

The Contractor shall maintain accurate payroll records and be prepared to submit certified copies for the prime contractor and all subcontractors. Payrolls reporting an employee for the first time must contain the complete name, address, and social security of the employee.

2. Submittals

All required payrolls shall be submitted to the Market Manager. Any questions concerning these submittals can be addressed to the Market Manager as well.

3. Wage Requirements

Contractors shall pay the prevailing wages as stipulated by the wage scale(s) which are incorporated in Exhibit C. Such scale of wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the site of Work.

GC-63 *TECHNICAL MANUALS*

These manuals are operator and shop maintenance instructions which enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain and repair the Equipment. The manuals shall include repair parts data which provide positive identification for an item of the complete equipment without reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.

1. Preparation Instructions

A technical manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all Equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the

prime supplier or those purchased by the prime supplier from other sources and assembled in the finished end item.

2. Contents of Technical Manuals

The contents of complete set of technical manuals shall include, at a minimum, of the following:

- a) Table of Contents;
- b) Operating instructions;
- c) Preventive maintenance, service, and corrective maintenance or repair instructions;
- d) Parts list with recommended quantity; and
- e) Approved Shop Drawing(s).

3. Binding and Deliver

The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate the manufacturer's name, Agreement number, model number, and serial number of the unit or Equipment. Four (4) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.

GC-64 TESTING LABORATORY SERVICES

1. Scope

A. From time to time during progress of the Work, the Market may require testing to determine that materials meet the requirements of the Specifications. Testing will be done by a Lab designated by the Market for specified field quality control. Such testing includes, but is not necessarily limited to:

- (1) Cement;
- (2) Aggregate;
- (3) Concrete;
- (4) Soil-cement;
- (5) Asphalt;
- (6) Steel and metals;
- (7) Welding;
- (8) Soil compaction; and
- (9) Bituminous pavement.

B. Requirements for testing may be described in various sections of these Specifications, where no testing requirements are described but the Market decides that testing is required to demonstrate compliance with specified material or performance standards, the Market may require testing to be performed under current pertinent standards for testing.

- C. Employment of a testing laboratory shall in no way relieve the Contractor of Contractor's obligation to perform Work meeting the requirements of the Agreement.
- D. The independent testing laboratory, except as specified, shall be selected and paid by the Market for one passed test and this test shall not be included in the Contractor's proposal. The Contractor shall be responsible for notifying the Market to schedule the testing.
- E. The Contractor shall pay directly for the services of the independent testing laboratory, approved by the Market, for the following:
 - (1) Concrete mix design and
 - (2) Other materials and workmanship requirements specified in Divisions 2 through 12, unless otherwise specified.

2. Laboratory Duties

- A. Cooperate with Market, City and Contractor.
- B. Provide qualified personnel promptly.
- C. Perform specified inspections, sampling and testing of materials and methods of construction.
 - 1. Comply with specified standards, ASTM, other recognized authorities and as specified.
 - 2. Ascertain compliance with requirements of Agreement Documents.
- D. Promptly notify Market and Contractor of irregularity or deficiency of Work observed during performance of Work.
- E. Promptly submit three (3) copies [two (2) copies to Market and one (1) copy to Contractor] of report of inspections and tests in addition to those additional copies required by the Contractor including:
 - 1. Date issued;
 - 2. Project title and number;
 - 3. Testing laboratory name and address;
 - 4. Name and signature of inspector
 - 5. Date of inspection or sampling;
 - 6. Record of temperature and weather;
 - 7. Date of test;
 - 8. Identification of product and Specification section;
 - 9. Location of Project;
 - 10. Type of inspection or test;
 - 11. Results of test; and
 - 12. Observations regarding compliance with Agreement Documents.

F. Perform additional services as required.

G. Laboratory is not authorized to:

1. Release, revoke, alter or enlarge on requirements of Agreement Documents and Approve or accept any portion of Work.
2. Name and signature of inspector;

3. Contractor Responsibilities

A. Cooperate with laboratory personnel; provide access to Work and/or manufacturer's requirements.

B. Provide to laboratory, preliminary representative samples, in required quantities, of materials to be tested.

C. Furnish copies of mill test reports.

D. Furnish required labor and facilities.

1. To provide access to Work to be tested
2. To obtain and handle samples at the site
3. To facilitate inspection and tests
4. Build or furnish a holding box for concrete cylinders or other samples as required by the laboratory.

E. Notify laboratory sufficiently in advance of operation to allow for the assignment of personnel and schedules of tests.

F. Copies of all correspondence between the Contractor and testing agencies shall be provided to the Market.

4. Quality Assurance

Testing, when required, will be in accordance with all pertinent codes and regulations and with procedures and requirements of the American Society for Testing and Materials (ASTM) or applicable association, society, etc. (SSPC, etc.)

5. Product Handling

Promptly process and distribute all required copies of test reports and related instructions to ensure all necessary retesting or replacement of materials with the least possible delay in progress of the Work.

6. Furnishing Materials

The Contractor shall be responsible for furnishing all materials necessary for testing.

7. Code Compliance Testing

Inspections and tests required by codes or ordinances or by a plan approval authority, and made by a legally constituted authority, and made by a legally constituted authority, shall be the responsibility of and shall be paid for by the Contractor, unless otherwise provided in the Agreement Documents.

8. Convenience Testing

Inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

9. Schedule for Testing

- A. Establishing Schedule
- B. The Contractor shall by advance discussion with the testing laboratory determine the time required for the laboratory to perform its tests and to issue each of its finds, and make all arrangements for the testing laboratory to be on site to provide the required testing.
- C. Provide all required time within the construction schedule.
- D. When changes of construction schedule are necessary during construction, coordinate all such changes of schedule with the testing laboratory as required.

10. Test and Certification

- A. General: At a minimum, the following tests shall be performed and the following certifications provided:
 - 1. Cement: Certified test results by cement manufacturer or by independent laboratory shall be furnished as required by the Market.
 - 2. Aggregate and Mortar Sand: Certified test results by aggregate producer or by independent laboratory shall be furnished as required by the Market.
 - 3. Concrete:
 - a. At least five (5) standard 6-inch cylinders shall be taken each day for each one hundred (100) cubic yard or fraction thereof for each class of concrete used;
 - b. The number of cylinders, the point of sampling, and the method of securing the samples shall be determined by the Market;
 - c. The five (5) samples shall be taken to the testing laboratory for laboratory curing;
 - d. Two (2) of the laboratory cured samples shall be tested at seven (7) days, two (2) samples tested at twenty-eight (28) days; one (1) samples in reserve;

- e. Test all concrete in accordance with ASTM C31-69, C39-71 and C-172;
- f. Slump Tests:
 - (1) Perform slump tests on the mob in accordance with ASTM standards;
 - (2) One (1) slump test shall be performed for each twenty-five (25) cubic yards of concrete;
 - (3) More slump tests shall be performed if deemed necessary by the Market;
- g. Perform air entrainment tests in accordance with the following standards:
 - (1) Field test -ASTM C-173; and
 - (2) Laboratory Tests -ASTM C231.

B. Precast and Concrete Block for Buildings

- 1. Block and precast may be visually inspected on the site by the Market.
- 2. The Market reserves the right to have the concrete block tested by an independent laboratory.

C. Steel and Miscellaneous Metal: Reinforcing steel, structural steel and miscellaneous metal may be inspected visually on the site by the Market.

D. Welding: One percent (1 %) of all structural welds during construction shall be inspected either visually or by an independent laboratory as required by the Market.

E. Compaction of Earthwork:

- 1. The compaction shall be tested by the Market or by an independent laboratory.
- 2. The testing shall be performed in a manner in accordance with these Specifications.

F. Bituminous Concrete: The material testing for the bituminous concrete shall be performed by an independent laboratory as deemed necessary by the Market.

11. Taking Specimens

Unless otherwise provided in the Agreement Documents, all specimens and samples for tests will be taken by the testing laboratory or the Market or the City.

12. Transporting Samples

The Contractor shall be responsible for transporting all samples, except those taken by testing laboratory personnel to the testing laboratory.

PART III SCOPE OF WORK

1. SERVICES BEING PROCURED

The Municipal Market Company is seeking Bids from qualified general contracting companies to perform the renovation of a 50,000 S.F. structure which will houses the City of Atlanta's historic Curb Market/Municipal Market.

The funding for this project is being provided from two sources:

- i. Stimulus funds from the American Recovery and Reinvestment Act ("ARRA") of 2009
- ii. Community Development Block Grant (CDBG) from the City of Atlanta.

As such, the City of Atlanta's Office of Asset Management and the Department of Finance will be involved in all aspects of this project.

2. BUDGET

The amount of funding available for this project is a total of \$1,589,598.97 and the bid amount cannot exceed the total available funds. The bid should be inclusive of all fees and expenses not to exceed the total funds available.

As mentioned above, part of the funding is being provided through stimulus funds from the American Recovery and Reinvestment Act ("ARRA") of 2009. As such, the portion of the work funded by the stimulus program has to be tracked separately. The stimulus funds total \$534,820 and the scope of work is separate from the rest of the funding which is CDBG funds from the U.S. Department of Housing and Urban Development (HUD) in the amount of \$1,054,778.97.

3. SCOPE OF WORK

I. Stimulus Program - \$534,820

- A. Basement level cleaning and mechanical upgrades
- B. Bathroom renovation
- C. Repair doors and roll down gates
- D. Energy Audit
- E. Thermo graphic Survey to identify possible "hot spots" that may be fire hazards
- F. Replace/Add electrical circuits as needed
- G. Elevator upgrades
- H. Upgrade sprinkler system per latest fire codes

- I. Repair holes and unused drains in the floor
- J. Add additional HVAC rooftop unit(s) as needed based on energy audit
- K. Add "Blow Down" at loading dock door to reduce HVAC use.
- L. Retrofit light fixtures to reduce energy use of at least 25%.
- M. Install backflow prevention valve per city requirements
- N. Add six (6) cameras to existing security system
- O. Replace and repair signs damaged in Tornado
- P. Add signs for interior of market to direct customers
- Q. Install equipment to provide wireless Internet to the Market

NOTE:

For reporting purposes, the scope of work for each funding source has to be tracked separately. Contractors/bidders should be aware that it is required to provide certified affidavits from suppliers, and sub-contractors that materials used were made in America for any work that is funded by the Stimulus program (scope of work listed above). Also, this portion of the scope of work under the Stimulus program needs to specify that the project will retain or create new jobs and track how many jobs were retained or created by the project.

II. CDBG Program - \$1,054,778.97

1. General Items

- A. Architect for design services & drawings
- B. Construction project management
- C. Landscaping design and installation
- D. Add outdoor vendor stalls or carts

2. Exterior Building Renovations

- A. Pressure wash metal roof material, replace damaged panels, repaint all material to match
- B. Add fence on Edgewood side
- C. Loading Dock Elevation
 - (1) Install access gate for dumpster with coded lock
 - (2) Refinish Mansard / Canopy
 - (3) Install energy efficient exterior lighting
- D. South Elevation
 - (1) Repair concrete steps (replace)
 - (2) Remove paint from existing brick veneer

- (3) Repair loose handrails and Repaint
- (4) Sand and repaint exterior windows & doors
- (5) Refinish Mansard / Canopy
- (6) Install energy efficient exterior lighting
- (7) Landscaping Bed

E. West / East Elevation

- (1) Pressure wash sidewalks, stairs and landing
- (2) Remove paint from existing brick veneer
- (3) Sand and repaint exterior windows & doors
- (4) Refinish Mansard / Canopy
- (5) Install energy efficient exterior lighting
- (6) Clean existing overspray from brick veneer
- (7) Replace metal grating at entrance
- (8) Replace nonstandard window to match existing where A/C unit is
- (9) Remove / Refinish columns from spilling concrete / paint

F. North Elevation

- (1) Remove steel awning from canopy
- (2) Remove paint from existing brick veneer
- (3) Sand and repaint exterior windows & doors
- (4) Refinish Mansard / Canopy
- (5) Install energy efficient exterior lighting
- (6) Replace existing entrance door system

3. Interior Building Renovations

A. Common Area Seating

- a. Expand seating areas
- b. Add new tables/seating

B. Fix any existing plumbing problems

C. Lighting

- (1) Retrofit light fixtures
- (2) Reduce energy use

D. Painting

- (1) Strip & seal interior
- (2) Add fresh coat of paint

E. Signage for tenant spaces

F. Grocery Store

- (1) Return existing grocery store to tenant ready “white box” status
- (2) Contingency for new tenant and/or to reconfigure current space

G. Basement and Storage Space

- (1) Cleaning and mechanical upgrades
- (2) Add HVAC to 600 SF storage room
- (3) Build out 30 storage stalls and raise flooring for drainage
- (4) Clean and repair all coolers & freezers
- (5) Contingency for utilization of basement area for storage and/or additional coolers, freezers, and prep kitchens

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