



PROJECT MANUAL

**Bombazee Brook Stream Crossing
Winding Hill Road
Norridgewock, Maine**

Prepared for:

**Town of Norridgewock
16 Perkins Street
Norridgewock, Maine 04957**

Prepared by:

**St. Germain
846 Main Street
Westbrook, Maine 04092
207-591-7000**

January 17, 2024

St. Germain File No.: 4661-0001

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SECTION A

INVITATION TO BID

Notice is hereby given that the Town of Norridgewock will receive sealed bids for the Bombazee Brook Stream Crossing until 2:00 PM local time on February 16, 2024 at the Norridgewock Town Office at 16 Perkins Street Norridgewock, Maine, at which time and place all bids will be publicly opened and read aloud. Bids received after this time will not be accepted.

Each Bidder must submit a single sealed envelope, the outside of which must be clearly marked Bid Enclosed for Bombazee Brook Stream Crossing. No proposal may be withdrawn for at least 30 days after receipt of proposals.

The project involves the removal of an existing culvert and replacement with open bottom, aluminum arch with precast concrete footers and associated work as shown on the plans.

The Project Manual will be available June 16, 2024. Copies of the Project Manual may be obtained upon payment of a non-refundable fee of \$25.00 per set and will be mailed from the offices of St.Germain, located at 846 Main Street, Westbrook, Maine. Credit card payments are accepted (contact St.Germain by phone at 207-591-7000 to coordinate credit card payments).

The project's in-stream work shall be completed between July 15, 2024 and September 30, 2024.

The Town reserves the right to accept or reject any or all bids and to waive formalities.

INSTRUCTION TO BIDDERS

1. The Town of Norridgewock is soliciting bid proposals for a culvert replacement project. The bid specifications are comprised of the following sections, all of which represent an integral part of the Town's request for bid proposals.
 - A. Invitation to Bid/Instructions to Bidders
 - B. Bid Form
 - C. Bid Bond Form
 - D. Technical Specifications
Latest edition of MDOT Standard Specifications for Highways and Bridges
 - E. Sample Contract
 - F. Payment and performance bond forms

The project drawings include:

Bombazee Brook Stream Crossing Drawings C-501, and C-502 dated March 15, 2024 by St.Germain.

Prospective Bidders shall become completely familiar with the required work and shall rely on their own investigation. No consideration will be granted for any alleged misunderstanding of the material to be furnished, the work to be done, or for any defects in the final product that are the result of the absence of pre-inspection of a site. Any questions concerning these specifications shall be addressed to Johnathan Malloy, P.E. (207-857-7368) johnathanm@stgermain.com.

2. All bids must be submitted on the enclosed bid form supplied by the Town and included herein. All bids must be signed and placed in a sealed envelope bearing the name and address of the Bidder and clearly marked "Bid Enclosed for Bombazee Brook Stream Crossing Project". and addressed to:

Town of Norridgewock
16 Perkins Street
Norridgewock, ME 04957

All bids must be accompanied by a duly signed and executed bid bond for the amount of 5% of the total bid.

3. Sealed bids are due to the Norridgewock Town Office by **2:00 PM, Friday, February 16, 2024**. No bid will be accepted after the time specified for bid closing.
4. The Contractor agrees to maintain liability insurance in the amount of \$2,000,000 to protect it from personal injury, death or property damage claims which may arise from the road projects under this contract. The Town and St.Germain shall be named as an "additionally insured party" under this policy. The Contractor further agrees to

indemnify, assume the defense of and save harmless, the Town, and St.Germain and its agents and employees from liability, action, claims or damage suffered by any person or association, which results from the willful or negligent action or inaction of the Contractor in the performance of duties and the work performed under this contract. The Contractor shall also carry adequate insurance to cover the risk and requirements specified under the Worker's Compensation Laws of the State of Maine, if applicable. In lieu of Worker's Compensation insurance, the Contractor must provide Independent Contractor Certification from the Worker's Compensation Board. All certificates of insurance must be submitted to the Town before any work begins.

5. Qualifications for Bidders: After the bid opening, The Town may make such investigation as it deems necessary to determine the ability of the Bidders to perform the work. Bidders shall furnish to the Town, all such information and data for this purpose as the Town shall request. The Town reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Town that such Bidder is properly qualified to carry out the obligation of the Contract and to complete the work contemplated therein.
6. The Town reserves the right to **ACCEPT OR REJECT** any or all bids in whole or in part.
7. All in-stream work shall be completed between July 15, 2024 and September 30, 2024. Other associated work shall be completed by October 31, 2024.

SECTION B

BID FORM

Project Identification: Bombazee Brook Stream Crossing
Norridgewock, Maine

This Bid is Submitted to: Town of Norridgewock
16 Perkins Street
Norridgewock, Maine 04957

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner to complete all work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the Contract Documents.
2. BIDDER accepts all the terms and conditions of the Instructions to Bidders. BIDDER will sign an Agreement within five (5) days after the date of Owner's Notice of Award.
3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
 - a. BIDDER has examined copies of all the Contract Documents and of the following addenda:

Date:

Number:

(Receipt of all of which is hereby acknowledged)

- b. BIDDER has examined the site and locality where the work is to be performed, the legal requirements (Federal, State and local laws, ordinances, rules and regulations) and the conditions affecting cost, progress or performance of the work and has made such independent investigations as BIDDER deems necessary.
 - c. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly

induced or solicited any other Bidder to submit a false Bid; BIDDER has not solicited or induced any person, firm or a corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for themselves any advantage over any other BIDDER or over Owner.

4. BIDDER will complete the work for the Lump Sum prices set forth in the Bid Form. Bidder understands that depending on the total bid price, portions of the work may be eliminated to bring the project into budget. Bidder also agrees to complete extra work or delete portions of the work on a unit price basis. The unit prices will be as listed in the Bid Schedule of Unit Prices.
5. BIDDER agrees that the work will be started prior to July 15, 2024 and all in-stream work will be completed on or before September 30, 2024 with other associated work complete by October 31, 2024.

BID FORM
January 17, 2024

Bombazee Brook Stream Crossing
Norridgewock, Maine

Item No.	Description	Unit	Total Price (Words)	Total Price (Numbers)
Item 1	Bombazee Brook Stream Crossing	L.S.		
Total Bid				

SUBMITTED on _____ 20_____

By: _____
(Corporation Name)

(State of Incorporation)

By: _____
(Name of Authorized Person/Title)

Attest _____
(Corporate Seal)

Business Address: _____

Phone No.: (____) _____ Fax No.: (____) _____

SUBMITTED ON _____, 20____

Employer's Tax ID No. _____

IF BIDDER IS:

An Individual

Name (typed or printed) _____

By: _____
(Individual's Signature)

Doing Business As: _____

Business Address: _____

Phone No.: (____) _____ Fax No.: (____) _____

E-Mail Address _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (typed or printed): _____

Business Address: _____

Phone No.: (____) _____ Fax No.: (____) _____

E-Mail Address: _____

BID SCHEDULE OF UNIT PRICES

The following is a list of Unit Prices referenced in the Bid Form submitted by:

(Bidder): _____

(Owner): Town of Norridgewock

Dated: _____ and which is an integral part of the Bid Form.

Should additional work be requested by The Town of Norridgewock or portions of bid items be eliminated by the Town of Norridgewock , we agree to perform additional work at the unit prices listed below, and agree to credit the Town of Norridgewock for quantities of unit price items eliminated from the lump sum bid items. We understand that the unit prices listed include all the overhead, supervision, labor, equipment and material necessary to complete each work item, and are as measured in place and complete.

Item	Unit Price	Unit	Item	Unit Price	Unit
Common Excavation	_____	/cy	Erosion Control Blanket	_____	/sq yd
Ledge Removal	_____	/cy	Loam & Seed	_____	/sq ft
Common Borrow (in place)	_____	/cy	Riprap	_____	/cy
Type D Gravel – Aggregate Subbase (in place)	_____	/cy	Pavement	_____	/sqyd
Type A Gravel – Aggregate Base (in place)	_____	/cy	Guardrail	_____	/lf
Stream Bed Material	_____	/cy	Sediment Barrier	_____	/lf
Cast-In-Place Concrete	_____	/cy			

Contractor Name

Date

Address

Telephone

BID BOND

A singular reference to Bidder, Surety, Owner or other party shall be plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name and Address of Principal Place of Business*):

OWNER (*Name and Address*):

BID

Bid Due Date:

Description (*Project Name and Include Location*):

BOND

Bond Number:

Date (*Not earlier than Bid due date*):

Penal sum

(Words)

\$

(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

Signature

Print Name

Title

Attest:

Signature

Title

By:

Signature (Attach Power of Attorney)

Print Name

Title

Attest:

Signature

Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venture's, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail,

return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

SECTION C

SUMMARY OF WORK

GENERAL

Work under this contract will be located within the public ROW of Winding Hill Road in the Town of Norridgewock, Maine. The Winding Hill Road Site is located at (N 44.74600, W -69.86450 °

Work Description

The work involves removal and disposal of an existing 72-inch diameter corrugated metal culvert and installation of precast concrete footers; installation of a 19 foot span, 49'6" long aluminum arch open bottom culvert); stream bed reconstruction; backfill and slope reinforcement; pavement installation; and site restoration.

Contractor shall be responsible for installing and maintaining all specified in-stream and adjacent fish protection, turbidity control, and erosion and sediment control measures shown on the Plans. Contractor shall also install and maintain dewatering activities shown on the Plans as necessary to perform the work in "dry" conditions to the greatest extent possible.

SCHEDULE

Work will not be started prior to July 15, 2024 and all in-stream work will be completed on or before September 30, 2024 with other associated work complete by October 31, 2024

COORDINATION

No work will begin prior to a one-week minimum notification to the Town of Norridgewock.

TRAFFIC CONTROL

Contractor shall be responsible for providing and maintaining all traffic control and detours including signage, flaggers and public notification. For properties after Bombazee Brook on Winding Hill Road, the detour shall start at the intersection of Winding Hill Road and Betterment Road, with traffic directed to turn left onto Betterment for 0.8 miles, then right onto Airport road for 1.2 miles, then right on Childs road for 2.0 miles, then right onto Sandy River road. The detour shall be in place until the road becomes passable.

WORK TO BE INCLUDED:

The work shall include but not be limited the following:

Culvert Installation – In-Stream Work (must be complete by September 30, 2024)

- Mark site and contact DigSafe
- Install block net, turbidity curtain, and other E&SC measures
- Build cofferdams
- Construct bypass drainage and dewatering
- Remove existing culvert and dispose offsite
- Stream bed excavation
- Install concrete footers
- Stream bed reconstruction
- Assemble and install aluminum arch
- Riprap placement for scour protection
- Removal of cofferdam and in-stream nets and curtains

Out-of-Stream Work

- Backfill and associated earthwork
- Slope reinforcement and stabilization
- Fine grading
- Pavement reconstruction
- Guardrail installation
- Loaming, seeding and mulch
- Erosion and sedimentation control measures removal
- Site restoration

SECTION D

TECHNICAL SPECIFICATIONS

Aluminum Arch CULVERT

GENERAL

This specification covers the requirements for providing and installing the Aluminum open bottom arch culvert.

Technical Specifications: Refer to the technical sections of the Standard Specifications for Highways and Bridges, MDOT, latest edition.

DIMENSIONS

Span	Span shall be 19 ft
Rise	Total rise shall be 9.5 Ft
Loading	H-20

MATERIALS

Aluminum Arch: Single radius 0.175 gage aluminum plate 49.5 feet long equal to Contech Engineered Solutions aluminum plate arch

Wing Walls: 4- aluminum 13.5'long

Footings: precast concrete

INSTALLATION

Assembly: The structure shall be assembled in accordance with the shop drawings and the manufacturer recommendations.

Installation: The structure shall be installed in accordance with AASHTO Standard Specifications for Highway Bridges Section 26 or ASTM A807, the plans and specifications, and the manufacturer's recommendations.

- (a) The Contractor shall provide footings as required per the plans and specifications.
- (b) The Contractor shall provide proper bedding and backfill as shown on the details.

Backfill: The structure shall be backfilled using clean, well graded granular materials that

meets the requirements of MDOT Aggregate Subbase 703.06 D.

- (a) Backfill materials shall be placed in symmetrical lifts on each side of the structure. The differential between the lifts on either side shall not exceed 24 inches. Each layer of backfill shall be placed in 12 inch loose lifts and compacted to a minimum of 95% density per ASTM D1557 (Modified Proctor).
- (b) Backfill soils shall be free of rocks exceeding 6 inches, frozen lumps, ice, and foreign materials that could voids.
- (c) The presence of a high percentage of silt or fine sand in the native soils suggests the need for well graded granular material in the critical backfill zone or the use of non-woven geotextile to prevent soil migration.

SECTION E

SAMPLE CONTRACT

CONSTRUCTION AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between: Town of Norridgewock, Maine ("Owner") and _____ ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 -WORK

- 1.1** Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Construction of the Bombazee Brook Stream Crossing in Norridgewock Maine.**

ARTICLE 2 – THE PROJECT

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

The work involves removal and disposal of an existing 72-inch diameter corrugated metal culvert; Installation of a 19 foot span, 49'6" long aluminum arch open bottom culvert; precast footing installation; stream bed reconstruction; backfill and slope reinforcement; pavement installation; and site restoration.

ARTICLE 3 – ENGINEER

- 3.1** The Bombazee Stream Crossing Project has been designed by St.Germain. St. Germain is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in

connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.1 Time of the Essence

All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence for the Contract.

4.2 Dates for Substantial Completion and Final Payment

A. The Work will be substantially completed and ready for final payment on or before October 31, 2024.

ARTICLE 5 – CONTRACT PRICE

5.1 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents.

ARTICLE 5 – PAYMENT PROCEDURES

6.1 Submittal and Processing of Payments

Contractor shall submit Applications for Payment on a monthly basis. Applications for Payment will be processed by Engineer.

6.2 Process Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day after approval of the estimate by the Engineer as provided in paragraph 6.2A.1 below.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold.

- a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain

satisfactory to Owner and Engineer, there will be no additional retainage;
and

- b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less 150 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.3 Final Payment

Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price as recommended by Engineer.

ARTICLE 7 – N/A

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.1 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified.
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) The cost, progress, and performance of the Work; (2) The means, methods, techniques, sequences, and procedures of construction to be employed by

- Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 8.1.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.1 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages CA1 to CA23, inclusive).
 - 2. Performance bond (page to , inclusive).
 - 3. Payment bond (pages to , inclusive).
 - 4. Other bonds (pages ____ to ____ inclusive).
 - a. (pages ____ to ____ , inclusive).
 - b. (pages ____ to ____ , inclusive).
 - c. (pages ____ to ____ , inclusive).
 - 5. Technical sections of Maine DOT Standard specifications for Highways and Bridges latest addition.
 - 6. Project plans consisting of 2 sheets consisting of:

C-101	Site Plan, Profile and Section
C-501	Erosion & Sedimentation Control Plan & Details

8. Exhibits to this Agreement (enumerated as follows):

- a. Contractors bid
- b. Bid attachment A – Unit Prices.

9. Addenda

- A. The documents listed in Paragraph 9.1.A are attached to this Agreement (except as expressly noted otherwise above).
- B. There are no Contract Documents other than those listed above in this Article 9.
- C. The Contract Documents may only be amended, modified, or supplemented as mutually agreed.

ARTICLE 10 – GENERAL PROVISIONS

10.1 The Contract Documents

The Contract Documents consist of this Agreement with Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order; (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Engineer. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

10.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties, hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Engineer and Contractor, (2)

between the Owner and a Subcontractor or sub-subcontractor, (3) between the Owner and Engineer or (4) between any persons or entities other than the Owner and Contractor.

10.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

10.4 Execution of the Contract

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

10.5 Ownership and Use of Engineer's Drawings, Specifications and Other Instruments of Service

The Drawings, Specifications and other documents, including those in electronic form, prepared by the Engineer and the Engineer's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Engineer or the Engineer's consultants, and unless otherwise indicated the Engineer and the Engineer's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Engineer, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Engineer and the Engineer's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Engineer and the Engineer's consultants. The Contractor, Subcontractors, sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Engineer and the Engineer's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Engineer and the Engineer's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection

with this Project is not to be construed as publication in derogation of the Engineer's or Engineer's consultants' copyrights or other reserved rights.

ARTICLE 11 – OWNER

11.1 Information and Services Required of the Owner

11.1.1 The Owner shall furnish and pay for surveys and a legal description of the site.

11.1.2 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

11.1.3 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for other necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

11.2 Owners Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

11.3 Owner's Right to Carry Out the Work

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after 10 days' written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Engineer's services made necessary thereby, from the payment then or thereafter due the Contractor.

ARTICLE 12 – CONTRACTOR

12.1 Review of Contract Documents and Field Conditions by Contractor

12.1.1 Since the Contract Documents are complementary, before starting, each portion of the Work, the Contractor shall carefully study and compare the various. Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished

by the Owner pursuant to Subparagraph 11.1.1, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions or inconsistencies in the Contract Documents; however, any errors, omissions or inconsistencies discovered by the Contractor shall be reported promptly to the Engineer as a request for information in such form as the Engineer may require.

12.1.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Engineer, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

12.2 Supervision and Construction Procedures

12.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall be fully and solely responsible for the jobsite safety thereof unless the Contractor gives timely written notice to the Owner and Engineer that such means, methods, techniques, sequences or procedures may not be safe.

12.2.2 The Contractor Shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

12.3 Labor and Materials

12.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

12.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

12.3.3 The Contractor shall deliver, handle, store and install materials in accordance with

manufacturers' instructions.

12.3.4 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Engineer and in accordance with a Change Order.

12.4 Warranty

The Contractor warrants to the Owner and Engineer that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse by other than the Contractor, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

12.5 Taxes

The project is exempt from State sales taxes.

12.6 Permits, Fees and Notices

12.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

12.6.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work. The Contractor shall promptly notify the Engineer and Owner if the Drawings and Specifications are observed by the Contractor to be at variance therewith. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Engineer and Owner, the Contractor shall assume appropriate responsibility for such Work and shall, bear the costs attributable to correction.

12.7 Submittals

12.7.1 The Contractor shall review for compliance with the Contract Documents, approve in writing and submit to the Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness. The Work shall be in accordance with approved submittals.

12.7.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

12.8 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

12.9 Cutting and Patching

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

12.10 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

12.11 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees; shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Engineer harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Engineer, unless the Contractor has reason to believe that there is an infringement of patent or copyright and fails to promptly furnish such information to the Engineer.

12.12 Access to Work

The Contractor shall provide the Owner and Engineer access to the Work in preparation and progress wherever located.

12.13 Indemnification

12.13.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance, with Paragraph 20.3, the Contractor shall indemnify and hold harmless the Owner, Engineer, Engineer's consultants and agents and employees of any

of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 12.13.

12.13.2 In claims against any person or entity indemnified under this Paragraph 12.13 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Subparagraph 12.13.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 13 – ENGINEER'S ADMINISTRATION OF THE CONTRACT

13.1 The Engineer will provide administration of the Contract and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Paragraph 21.2.

13.2 The Engineer, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Engineer will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or] procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 12.2.1.

13.3 The Engineer will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Engineer will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

13.4 Based on the Engineer's evaluations of the Work and of the Contractor's Applications for Payment, the Engineer will review, and certify, the amounts due the Contractor and will issue Certificates for Payment in such amounts

13.5 The Engineer will have authority to reject Work that does not conform to the Contract Documents.

13.6 The Engineer will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

13.7 The Engineer will interpret and decide matters concerning performance under requirements of, the Contract Documents on written request of either the Owner or Contractor. The Engineer will make initial decisions on all claims, disputes and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions so rendered in good faith.

13.8 Duties, responsibilities and limitations of authority of the Engineer as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Engineer. Consent shall not be unreasonably withheld.

13.10 Claims and Disputes

13.10.1 Claims, disputes and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Engineer but excluding those arising under Paragraph 19.2, shall be referred initially to the Engineer for decision. Such matters shall, after initial decision by the Engineer or 30 days after submission of the matter to the Engineer, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

13.10.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by the Engineer, by mediation or by arbitration.

13.10.3 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

13.10.4 Claims, disputes and other matters in question arising out of or relating to the Contract that are not resolved by mediation, except those waived as provided for in Paragraph 13.11 and Subparagraphs 18.5.3 and 18.5.4, shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, any person or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, (3) the interest or responsibility of such person or entity in the matter is not insubstantial and (4) such person or entity is not the Engineer or any of the Engineers employees or consultants. The agreement herein among the parties to the

Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

13.11 Claims for Consequential Damages

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

13.11.1 Damages incurred by the Owner for rental expenses for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

13.11.2 Damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 19. Nothing contained in this Paragraph shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE 14 – SUBCONTRACTORS

14.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

14.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Engineer the names of the Subcontractors for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor to whom the Owner or Engineer has made reasonable and freely objection within fifteen days. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

14.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Engineer, and (2) allow the Subcontractor the benefit of all rights,

remedies and redress afforded to the Contractor by these Contract Documents.

ARTICLE 15 – OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

15.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under conditions of the contract identical or substantially similar to these, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such claim as provided in Paragraph 13.10.

15.2 The Contractor shall afford the Owner and separate contractors' reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

15.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

ARTICLE 16 – CHANGES IN THE WORK

16.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor and Engineer, or by written Construction Change Directive signed by the owner and Engineer.

16.2 The cost or credit to the Owner from a change in the Work shall be determined by mutual agreement of the parties or by unit prices or, in the case of a Construction Change Directive, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit.

16.3 The Engineer will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

16.4 If concealed, or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted.

ARTICLE 17 – TIME

17.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

17.2 The date of Substantial Completion is the date certified by the Engineer in accordance with Subparagraph 18.4.2.

17.3 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by other causes which the Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Engineer may determine, subject to the provisions of Paragraph 13.10.

ARTICLE 18 – PAYMENTS AND COMPLETION

18.1 Applications for Payment

18.1.1 Payments shall be made as provided in Article 6 of this Agreement. Applications for Payment shall be in a form satisfactory to the Engineer.

18.1.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

18.2 Certificates for Payment

18.2.1 The Engineer will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Engineer determines is properly due, or notify the Contractor and Owner in writing of the Engineer's reasons for withholding certification in whole or in part as provided in Subparagraph 18.2.3.

18.2.2 The issuance of a Certificate for Payment will constitute a representation by the Engineer to the Owner, based on the Engineer's evaluations of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract documents prior to the completion and to specific qualifications expressed by the Engineer. The issuance of a Certificate of Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Engineer has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the contractor has used money previously paid on account of the Contract Sum.

18.2.3 The Engineer may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the owner, if in the Engineer's opinion the representations to the Owner required by Subparagraph 18.2.2 cannot be made. If the Engineer is unable to certify payment in the amount of the Application, the Engineer will notify the Contractor and Owner as provided in Subparagraph 18.2. The Engineer may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Engineer's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 8.2.2, because of:

8.2.3.1 defective Work not remedied;

8.2.3.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

8.2.3.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

8.2.3.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

8.2.3.5 damage to the Owner or another contractor;

8.2.3.6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

8.2.3.7 persistent failure to carry out the Work in accordance with the Contract

Documents.

18.2.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

18.3 Payments to the Contractor

18.3.1 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in similar manner.

18.3.2 Neither the Owner nor Engineer shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law.

18.3.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

18.4 Substantial Completion

18.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

18.4.2 When the Engineer determines that the Work or designated portion thereof is substantially complete, the Engineer will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion, establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contractor Documents shall commence on the date of Substantial Completion of the work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. Upon the issuance of the Certificate of Substantial Completion, the Engineer will submit it to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

18.5 Final Completion and Final Payment

18.5.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final application for Payment, the Engineer will promptly

make such inspection and, when the Engineer finds the Work acceptable under the Contract Documents and the Contract fully performed, the Engineer will promptly *issue* a final Certificate for Payment stating that to the best of the Engineer's knowledge, information and belief, and on the basis of the Engineer's on-site *visits* and *inspections*, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Engineer's final Certificate for Payment will constitute a further representation that conditions stated in Subparagraph 18.5.2 as precedent to the Contractor's being entitled to final payment have been Fulfilled.

18.5.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

18.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

18.5.3.1 lien, claims, security interests or encumbrances arising out of the Contract and unsettled;

18.5.3.2 failure of the Work to comply with the requirements of the Contract Documents;
or

18.5.3.3 terms of special warranties required by the Contract Documents.

18.5.4 Acceptance of final payment by the Contractor a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and indemnified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 19 – PROTECTION OF PERSONS AND PROPERTY

19.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall, take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

19.1.1 employees on the Work and other persons who may be affected thereby;

19.1.2 the Work and materials and equipment to be incorporated therein; and

19.1.3 other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Subparagraphs 19.1.2 and 19.1.3, except For damage or loss attributable to acts or omissions of the Owner or Engineer or by anyone for whose acts either 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 Paragraph 12.13.

19.2 Hazardous Materials

19.2.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Engineer in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up, which adjustments shall be accomplished as provided in Article 16 of this Agreement.

19.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Engineer, Engineer's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Subparagraph 19.2.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or {o injury to or destruction of tangible property, (other than the work itself), and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

19.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of mediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

ARTICLE 20 – INSURANCE

20.1 The Contractor: shall purchase from and maintain in a company or companies, lawfully authorized to do business in the jurisdiction in which the Project is located insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations. Certificates of Insurance acceptable to the Owner shall be filed, with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

20.2 Property Insurance (N/A)

20.2.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance on an "all-risk" policy form, including builder's risk, in the initial Contract Sum plus the value of subsequent modifications and cost of materials supplied and installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 18.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

20.2.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

20.3 Waivers of Subrogation

20.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the

Engineer, Engineers' consultants, separate contractors described in Article 15, if any, and any of their subcontractors, sub-contractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Paragraph 20.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contactor, as appropriate, shall require of the Engineer, Engineer's consultants, separate contractors described in Article 15, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly and whether or not the person or entity has an insurable interest in the property damaged.

20.3.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insured's, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

ARTICLE 21 – CORRECTION OF WORK

21.1 The Contractor shall promptly correct Work rejected by the Engineer or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial" Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

21.2 In addition to the Contractor's obligations under Paragraph 12.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 22.4.2, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

21.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 11.3.

21.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

21.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 21.

ARTICLE 22 – MISCELLANEOUS PROVISIONS.

22.1 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other.

22.2 Governing Law

The Contract shall be governed by the law of the place where the Project is located.

22.3 Tests and Inspections

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner. or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Engineer timely notice of when and where tests and inspections are to be made so that the Engineer may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

22.4 Commencement of Statutory Limitation Period

As between Owner and Contractor, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued:

22.4.1 not later than the date of Substantial Completion for acts or failures to act occurring prior to the relevant date of Substantial Completion;

22.4.2 not later than the date of issuance of the final Certificate for Payment for acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to the issuance of the final Certificate for Payment; and

22.4.3 not later than the date of the relevant act or failure to act by the Contractor for acts or failures to act occurring after the date of the final Certificate for Payment.

ARTICLE 23 – TERMINATION OF THE CONTRACT

23.1 Termination by the Contractor

If the Engineer fails to recommend payment for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment thereon for a period of 90 days, the Contractor may, upon seven additional days' written notice to the Owner and the Engineer, terminate the Contract and recover from the owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages applicable to the Project.

23.2 Termination by the Owner

23.2.1 The Owner may terminate the Contract if the Contractor:

23.2.1.1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

23.2.1.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

23.2.1.3 persistently disregards laws, ordinances, or rules, regulations or orders from a public authority having jurisdiction; or

23.2.1.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

23.2.2 When any of the above reasons exists, the Owner, upon certification by the Engineer that sufficient cause exists to justify such action may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor the owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

23.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 23.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

23.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Engineer's services and expenses made necessary thereby,

and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Engineer, upon application, and this obligation for payment shall survive termination of the Contract.

ARTICLE 24 – OTHER CONDITIONS OR PROVISIONS

24.1 The Owner shall withhold 5% of the money due to Contractor until the work under the Contract has been accepted by or for the Owner. The Owner may, upon the completion of part or parts of the contract and with the approval of the General Contractor and Designer, pay all or part of the retainage on those parts completed as the Owner deems prudent, provided satisfactory release of lien has been provided.

24.2 Liability Insurance shall be carried with the Town of Norridgewock, and St.Germain listed as additionally insured for the following limits:

General Liability	\$2,000,000
Each occurrence	\$1,000,000
Automobile Liability	\$1,000,000
Workers Compensation	As prescribed by Law

The Insurance Certificate shall stipulate that a per project endorsement applies.

24.3 "Reasonable overhead and profit", as described in Article 16, shall mean an allowance to be added to or subtracted from the "cost" in lieu of overhead and profit and of any other expense which is not included in the cost of the Work covered by the change. Percentage for a Contractor shall be 15% of any net increase or decrease of Cost of any Work performed by his own forces and 10% for Work performed by any Subcontractors.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR

Town of Norridgewock, Maine

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest

Attest: _____

Title: _____

Title: _____

Address for giving notices:
16 Perkins Street

Address for giving notices:

Norridgewock, Maine 04957

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

APPENDIX A

PERMITS

APPENDIX B

PLANS

- C-101 Topographic Site Plan, profile & Section**
- C-501 Erosion & Sedimentation Control Plan & Details**
- C-502 Details**

