

SECTION 01001

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SECTION 01001

GENERAL PROVISIONS

(THESE SPECIFICATIONS ARE PROVIDED FOR GUIDANCE ONLY. IT SHALL BE THE SOLE RESPONSIBILITY OF THE DESIGNER OF RECORD TO MODIFY AND AMEND THE SPECIFICATIONS, AS REQUIRED, FOR A SPECIFIC PROJECT.)

1.01 SCOPE

These Standard SPECIFICATIONS and Addenda, if any, are ***(BE REVIEWED AND DEVELOPED FOR EACH PROJECT)*** to govern construction of storm sewers, sanitary sewers, water lines, streets, site improvements, and other related WORK, within the CITY of SACO, and they shall become part of any contract with the CITY for the construction of said WORK within the CITY of SACO. Provisions of these SPECIFICATIONS shall be modified or changed only in writing. These standard specifications will be amended with supplemental specifications as necessary, and with CONTRACT PLANS. The standard specifications reflect other CITY ordinances and requirements including:

- Subdivision Regulations
- Site PLAN Regulations
- Sewer Regulations
- Stormwater Management Systems Inspections and Maintenance Guidelines
- Street Opening Permits

The Supplemental SPECIFICATIONS and CONTRACT PLANS delineate the particular PROJECT to which the CONTRACT DOCUMENTS pertain. Should any discrepancy be found to exist between the Standard SPECIFICATIONS and the Supplemental SPECIFICATIONS and/or the CONTRACT PLAN, the Supplemental SPECIFICATIONS and/or CONTRACT PLANS shall govern.

1.02 DEFINITIONS

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

ADDENDA – Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS, and SPECIFICATIONS, by additions, deletions, clarifications, or corrections.

ASTM – Whenever the abbreviation ASTM is used, it shall mean the American Society for Testing Materials and, unless otherwise stated, refer to the latest revision of the particular standard.

ANSI – The American National Standards Institute

BID – The offer or PROPOSAL of the BIDDER submitted on the prescribed form setting for the prices for the WORK to be performed.

BIDDER – Any person, firm, or corporation submitting a bid for the WORK.

BONDS – Bid, Performance, and Payment Bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the CONTRACT DOCUMENTS.

CHANGE ORDER – A written order to the CONTRACTOR authorizing an addition, deletion, or revision in the WORK within the general scope of the CONTRACT DOCUMENTS, or authorizing an adjustment in the CONTRACT PRICE or CONTRACT TIME.

CITY ENGINEER – Whenever the term CITY ENGINEER, or a pronoun in their stead, is used, it shall mean the CITY ENGINEER of the CITY of SACO or his assistants or inspector acting under him or his duly authorized representatives acting for him, limited to the particular duties entrusted to them. It shall mean ENGINEER, which is the abbreviation of the ENGINEER OF RECORD.

CONTRACT DOCUMENTS – Whenever the term CONTRACT DOCUMENTS, or a pronoun in its stead, issued, it shall mean and include but not necessarily limited to these items: The ADVERTISEMENT FOR BIDS and/or NOTICE TO CONTRACTORS, INFORMATION FOR BIDDERS, BID, BID BOND, AGREEMENT, PAYMENT BOND, PERFORMANCE BOND, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS OR CONTRACT PLANS, STANDARD SPECIFICATIONS, the SUPPLEMENTAL SPECIFICATIONS, any other documents included with these specification and attached thereto, and any Addenda to the above issued prior to the date of this CONTRACT.

CONTRACT PLANS – Whenever the term CONTRACT PLANS, PLANS, DRAWINGS, or a pronoun in their stead, is used, it shall mean and include all drawings, graphic representations, diagrams and any notes or explanations thereon supplied to the CONTRACTOR before the date of this CONTRACT.

CONTRACT PRICE - The total monies payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.

CONTRACT TIME – The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.

CONTRACTOR – Whenever the term CONTRACTOR or a pronoun in its stead is used, it shall mean the person or persons, or co-partnership or corporation which has entered into this agreement or their legal representative.

DIRECTOR OF PUBLIC WORKS OR DIRECTOR – Whenever the term DIRECTOR OF PUBLIC WORKS. Director, or a pronoun in their stead, is used, it shall mean the DIRECTOR OF PUBLIC WORKS of the CITY OF SACO, or his assistant or inspectors acting under him, limited to the particular duties entrusted to them.

DRAWINGS – The part of the CONTRACT DOCUMENTS which show the characteristics and scope of WORK to be performed and which have been prepared or approved by the ENGINEER. The CONTRACT DOCUMENTS shall further be defined to the bid drawings. The approval drawings provided to the BIDDER for initial review of the Scope of the CONTRACT are excluded.

ENGINEER OF RECORD – The person, firm or corporation named as such in the CONTRACT DOCUMENTS.

FIELD ORDER – A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the ENGINEER to the CONTRACTOR during construction.

LUMP SUM BID PRICE – Whenever the term lump Sum Bid PRICE, Lump Sum Bid, Lump Sum, or a pronoun in their stead, is used. It shall mean the amount of money mutually agreed to by the CONTRACTOR and the labor, machinery tools, apparatus and other means of construction and for doing all the WORK and furnishing all material called for by the CONTRACT DOCUMENTS except rock excavation and those items specifically stated as being considered extra WORK or for which unit prices have been established in the CONTRACT and PROPOSAL.

OWNER – Whenever the term OWNER or a pronoun in its stead, is used, it shall mean the party approved to conduct and contract the WORK, acting through its designated officials and/or employees.

NOTICE OF AWARD – The written notice of the acceptance of the Bid from the OWNER to the successful BIDDER.

NOTICE TO PROCEED – Written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the WORK and establishing the date of commencement of the WORK.

OWNER – A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the WORK is to be performed.

PROJECT – The undertaking to be performed as provided in the CONTRACT DOCUMENTS.

RESIDENT PROJECT REPRESENTATIVE – The authorized representative of the OWNER who is assigned to the PROJECT site or any part thereof.

SHOP DRAWINGS – All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a SUBCONTRACTOR, manufacturer, supplier or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.

SPECIFICATIONS – A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship. Whenever the term Specification: or a pronoun in its stead, is used, it shall mean and include the Standard SPECIFICATIONS as herein set forth and any Supplemental SPECIFICATIONS included in the CONTRACT DOCUMENTS.

SUBCONTRACTOR – An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other SUBCONTRACTOR for the performance of a part of the WORK at the site.

SUBSTANTIAL COMPLETION – That date as certified by the ENGINEER OF RECORD when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the CONTRACT DOCUMENTS, so that the Project or specified part can be utilized for the purposes for which it is intended.

SUPPLEMENTAL GENERAL CONDITIONS – Modifications to General Conditions required by an OWNER of the Project and approved by the OWNER prior to inclusion in the CONTRACT DOCUMENTS, or such requirements that may be imposed by applicable state laws.

SUPPLIER – Any person or organization who supplies materials or equipment for the WORK, including that fabricated to a special design, but who does not perform labor at the site.

UNIT BID PRICE – Whenever the term Unit Bid PRICE, Unit Bid, Unit PRICE, or a pronoun in their stead, is used, it shall mean the amount of money mutually agreed to by the CONTRACTOR and the CITY of SACO as full payment to the CONTRACTOR to furnish all necessary labor, materials, and equipment (except that which is specifically excluded in the SUPPLEMENTAL AND STANDARD SPECIFICATIONS, and CONTRACT PLANS) necessary to do one unit of WORK, i.e., the unit PRICE for one cubic yard of excavation multiplied by the actual number of cubic yards excavated, yields the total payment for the WORK done.

WORK – All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the Project.

WRITTEN NOTICE – Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the services thereof completed, when posted by certified or registered mail to the said party at his last given address or delivered in person to said party or his authorized representative on the WORK.

1.03 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The CONTRACTOR may be furnished additional instructions and detail drawings by the ENGINEER OF RECORD as necessary to carry out the WORK required by the CONTRACT DOCUMENTS.

The additional drawings and instruction thus supplied will become a part of the CONTRACT DOCUMENTS. The CONTRACTOR shall carry out the WORK in accordance with the additional detail drawings and instructions.

1.04 DRAWINGS AND SPECIFICATIONS

The intent of the DRAWINGS and SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DRAWINGS and all incidental WORK necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy or operation by the OWNER. The CONTRACT DOCUMENTS shall further be defined to be the bid drawings. The approval drawings provided to the BIDDERS for initial review of the scope of the contract are excluded.

In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over scale dimensions, and detailed DRAWINGS shall govern over general DRAWINGS.

Any discrepancies found between the DRAWINGS and SPECIFICATIONS and site conditions or any inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS shall be immediately reported to the ENGINEER of RECORD, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the CONTRACTOR after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR's risk.

Titles to divisions and paragraphs in these SPECIFICATIONS are introduced merely for convenience, and shall not be taken as a correct or complete segregation of the several units of material and labor. No responsibility, either direct or implied, is assumed by the ENGINEERS for omissions or duplications by the CONTRACTOR, or his SUBCONTRACTORS, due to real or alleged error in arrangement of the matter in these CONTRACT DOCUMENTS.

Before ordering any material or doing any WORK, the CONTRACTOR shall verify all dimensions at the job, and shall be responsible for the correctness of it. No extra charge or compensation will be allowed because of any differences in dimensions or quantities from those indicated on the CONTRACT DRAWINGS, unless such difference is submitted to the ENGINEER before proceeding with the WORK. A limit of six (6) copies of PLANS and Documents will be furnished by the ENGINEER. Additional copies may be purchased at cost.

Materials or WORK described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognized standards.

1.05 SHOP DRAWINGS

The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER shall promptly review all SHOP DRAWINGS. The ENGINEER'S approval of any SHOP DRAWING shall not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS. The approval of any SHOP DRAWINGS which substantially deviates from the requirement of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER.

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

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

Please also see requirements listed in Section 01000 General Requirements.

1.06 MATERIALS, SERVICES AND FACILITIES

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

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

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

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

Materials, supplies, or equipment to be incorporated into the WORK shall not be purchased by the CONTRACTOR or the SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

Wherever the words "approved by", "satisfactory to", "as directed by", "submitted to", "inspected by", or similar phrases are used in this Specification, they shall be understood to mean that the material or item referred to shall be approved by, satisfactory to, as directed by, submitted to, inspected by, the ENGINEER.

1.07 INSPECTION AND TESTING

All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with generally accepted standards as required and defined in the CONTRACT DOCUMENTS.

The OWNER shall provide all inspection and testing services not required by the CONTRACT DOCUMENTS. **(SPECIFIER TO VERIFY)**

The CONTRACTOR shall provide at his expense the testing and inspection services required by the CONTRACT DOCUMENTS. **(SPECIFIER TO VERIFY)**

If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the ENGINEER timely notice of readiness. The CONTRACTOR will then furnish the ENGINEER the required certificates of inspection, testing or approval.

Inspections, tests, or approvals by the engineer or others shall not relieve the CONTRACTOR from his obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.

The ENGINEER and his representatives will at all times have access to the WORK. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all WORK, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The CONTRACTOR will provide proper facilities for such access and observation for the WORK and or any inspection or testing thereof.

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

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

The DIRECTOR OF PUBLIC WORKS has the final authority in all matters affecting the WORK. Within the scope of the CONTRACT, the OWNER has the authority to enforce compliance with the PLANS and SPECIFICATIONS. The CONTRACTOR shall promptly comply with instructions from the OWNER or an authorized representative.

On all questions relating to quantities, the acceptability of material, equipment, or WORK, the execution, progress or sequence of WORK, and the interpretation of SPECIFICATIONS or drawings, the decision of the OWNER is final and binding, and shall be precedent to any payment under the CONTRACT, unless otherwise ordered by the DIRECTOR OF PUBLIC WORKS.

The WORK is subject to inspection and approval by the ENGINEER. The CONTRACTOR shall notify the ENGINEER before noon of the working day before inspection is required. Unless otherwise authorized, WORK shall be done only in the presence of the ENGINEER or an authorized representative. Any WORK done without proper inspection will be subject to rejection. The ENGINEER and any authorized representatives shall at all TIMES have access to the WORK during its construction at shops and yards as well as the PROJECT site. The CONTRACTOR shall provide every reasonable facility for ascertaining that the materials and Workmanship are in accordance with these specifications. Inspection of the WORK shall not relieve the CONTRACTOR of the obligation to fulfill all conditions of the CONTRACT.

1.08 SUBSTITUTIONS

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

Should the substitution of a product or material require changes in design of the facilities, the CONTRACTOR shall bear the expense of engineering costs to effect the design changes.

1.09 PATENTS

The CONTRACTOR shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the OWNER harmless from loss on account thereof, except that the OWNER shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, however, if the CONTRACTOR has reason to believe that the design, process, or product specified is an infringement of a patent. He shall be responsible for such loss unless he promptly gives such information to the ENGINEER.

1.10 SURVEYS, PERMITS, REGULATIONS

The OWNER will arrange for two control points for the CONTRACTOR'S use. The control points northing, easting, and elevation will be provided to the CONTRACTOR. The CONTRACTOR shall be responsible for maintaining all control points and bench marks necessary to locate the WORK. This WORK shall be performed by a qualified registered land surveyor in the State of Maine.

The CONTRACTOR shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the CONTRACTOR unless otherwise stated in the Supplemental General Conditions. Permits, licenses, and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, he shall promptly notify the ENGINEER in writing, and any necessary changes shall be adjusted as provided in Section 1.14, CHANGES IN THE WORK.

1.11 INSURANCE AND LIABILITY

The CONTRACTOR shall not commence WORK under this contract until he has obtained all the insurance required hereunder and such insurance has been approved by the OWNER. The CONTRACTOR shall also not use SUBCONTRACTORS until all similar insurance required of the SUBCONTRACTOR has been approved by the OWNER. The SUBCONTRACTOR's insurance shall not relieve or decrease the liability of the CONTRACTOR hereunder.

Claims under workmen's compensation disability benefit and other similar employee benefit acts;

Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;

Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any other person; and

Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.

Certificates of Insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the WORK. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen (15) days prior Written Notice has been given to the OWNER. Certificates of Insurance shall also be filed with OWNER promptly upon renewal and upon change of any coverage or insurer, and OWNER shall be permitted to examine any policy of insurance before approving the insurance provided hereunder.

The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, liability insurance as hereinafter specified:

The CONTRACTOR shall keep in force, and shall require all SUBCONTRACTORS and sub-SUBCONTRACTORS to keep in force, during the performance of the WORK and until final Contract completion, the following insurance coverage's in the following minimum amounts:

Comprehensive General Liability Insurance, including Products/Completed Operations, Contractual, XCU, Broad Form Property Damage, Independent Contractors and Personal Injury coverage's with a minimum combined single limit of \$2,000,000 per occurrence;

Comprehensive Automobile Liability Insurance, including operation of owned, non-owned and hired automobiles, with a minimum combined single limit for bodily injury and property damage of \$2,000,000 per occurrence;

Workers' Compensation Insurance in accordance with statutory requirements, and Employer's Liability Insurance with minimum limits of \$2,000,000 per accident or employee;

Umbrella Policies of Insurance of general liability, automobile liability and employer's liability, with total limits of no less than \$5,000,000 on a Following Form, Occurrence Basis.

THESE REQUIREMENTS ARE A GUIDELINE ONLY. IT SHALL BE THE RESPONSIBILITY OF THE DESIGNER OF RECORD TO MODIFY THE INSURANCE TO MEET THE REQUIREMENTS OF A SPECIFIC PROJECT

The CONTRACTOR shall procure and maintain at his own expense, during the CONTRACT TIME, in accordance with the provisions of the laws of the State in which the WORK is performed, workmen's Compensation Insurance, including occupational disease provisions for all of his employees at the site of the Project and in case of any WORK is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Workmen's' Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous WORK under this contract at the site of the Project is not protected under Workmen's' Compensation statute, the CONTRACTOR shall provide, and shall cause each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

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

1.12 PROTECTION OF WORK, PROPERTY, AND PERSONS

The CONTRACTOR will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the WORK. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby, all the WORK and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property, at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

All brush, limb, and tree removals shall be performed by a licensed arborist or appropriate personnel authorized by the City Tree Warden per City Ordinance. Within public ways, only those trees authorized by the City Tree Warden may be removed. Any tree, which dies or are unintentionally lost, shall be replace by type size and caliper approved by the City of Saco Parks and Recreation Department.

The CONTRACTOR will comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. He will erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. He will notify owners of adjacent utilities when prosecution of the WORK may affect them. The CONTRACTOR will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any SUBCONTRACTOR or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the CONTRACT DOCUMENTS or to the acts or omissions of the OWNER or the engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the CONTRACTOR.

In emergencies affecting the safety of the person or the WORK or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the ENGINEER or owner, shall act to prevent threatened damage, injury or loss. He will give the engineer prompt written notice of any significant changes in the WORK or deviations from the contract documents caused thereby, and a change order shall thereupon be issued covering the changes and deviations involved.

The Contractor shall ascertain the true location of all underground structures of any kind whatsoever and shall be completely responsible for same regardless of their indication on PLANS or Specifications. He shall make such arrangements as may be required to protect, adjust or replace same with the appropriate authority.

This PROJECT is subject to all of the safety and health regulations (Sec. 29 CFR 1518 as amended), Occupational Safety and Health Act (OSHA) as promulgated by the U. S. Department of Labor, April 1971. The Contractor is directly responsible for adhering to all requirements of this act.

The Contractor shall not enter upon private property for any purpose without first obtaining the permission of the Owner.

The Contractor shall protect carefully all land monuments and property marks. Property markers disturbed during construction shall be replaced by a land surveyor, registered in the State of Maine, at the Contractor's expense.

1.13 SUPERVISION BY CONTRACTOR

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

1.14 CHANGES IN THE WORK

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

The ENGINEER also, may at any TIME, by issuing a Field Order, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the engineer unless the CONTRACTOR believes that such field order entitles him to a change in CONTRACT PRICE or TIME, or both, in which event he shall give the ENGINEER Written Notice, thereof within seven (7) days after the receipt of the ordered change. Thereafter, the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days. The CONTRACTOR shall not execute such changes pending the receipt of an executed change order or further instruction from the OWNER.

1.15 CHANGES IN CONTRACT PRICE

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

1. Unit PRICES Previously Approved.
2. An agreed lump sum.
3. TIME and materials.

For all change order WORK performed under c, a fee for overhead and profit will be allowed over and above the "actual cost" of the WORK. For WORK performed by a SUBCONTRACTOR, this fee shall not exceed fifteen percent (15%) for the SUBCONTRACTOR and five percent (5%) for the general CONTRACTOR. The general CONTRACTOR's five percent (5%) is calculated on the SUBCONTRACTOR's actual cost before the fee is added. The total fee on "actual WORK" shall not exceed 20%. For WORK performed by the general CONTRACTOR, this fee shall not exceed fifteen percent (15%).

The "actual cost" of WORK includes the reasonable cost to the Contractor of the following:

1. materials used as part of the WORK;
2. common and skilled labor and foreman only;
3. equipment rental for the period employed directly on the WORK at rates not exceeding the monthly rate contained in the current "Rental Rate Blue Book for Construction Equipment" (published by the Equipment Guidebook Company);
4. additional insurance if required, to cover public liability for injury to persons and property;
5. Workman's Compensation Insurance, Federal Social Security and any other costs associated with payrolls and required by law.
6. The "actual cost" of WORK does not include the following:
7. purchase or rental of small tools and buildings;
8. Contractor's supervision of SUBCONTRACTOR (these costs are part of fee outlined above);
9. use of capital or premium on the bond unless the extra WORK includes an extension of TIME approved and authorized by the Owner.
10. overhead and profit.

"The unit PRICES in the bid form shall represent the "unit PRICES previously approved"."

1.16 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

The date of beginning and the TIME for completion of the WORK are essential conditions of the contract documents and the WORK embraced shall be commenced on a date specified in the NOTICE TO PROCEED.

The CONTRACTOR will proceed with the WORK at such rate of progress to insure full completion within the contract TIME. It is expressly understood and agreed, by and between the CONTRACTOR and the owner, that the contract TIME for the completion of the WORK described herein is a reasonable TIME, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK.

If the CONTRACTOR shall fail to complete the WORK within the contract TIME, or extension of TIME granted by the owner, then the CONTRACTOR will pay to the owner the amount for liquidated damages as specified in the bid for each calendar day that the CONTRACTOR shall be in default after the TIME stipulated in the contract documents.

The CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following, and the CONTRACTOR has promptly given written notice of such delay to the owner or engineer.

- a) To any preference, priority or allocation order duly issued by the owner.
- b) To unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another CONTRACTOR in the performance of a contract with the owner, fires, floods, epidemics, quarantine restricts, strikes, freight, embargoes, and abnormal and unforeseeable weather; and
- c) To any delays of SUBCONTRACTORS occasioned by any of the causes specified in paragraphs a) and b) of this article.

It is further agreed that no WORK shall be done under this CONTRACT on Saturdays or Sundays or on days declared by the State Legislature as Legal Holidays, except in cases of emergency and then only with consent in writing of the City Administrator or designated representative; nor shall any WORK be done at night unless authorized in writing by the Director. The CONTRACTOR shall make his workweek conform to that of the Public Works Department. When permission is granted to perform WORK during times other than this workweek, the CONTRACTOR shall reimburse the CITY for any costs for inspection during these periods.

1.17 CORRECTION OF WORK

WORK that does not conform to the requirements of the CONTRACT shall be remedied in a manner acceptable to the ENGINEER or removed and replaced in a manner acceptable to the OWNER and ENGINEER or removed and replaced at the CONTRACTOR's expense in a manner acceptable to the OWNER.

No WORK shall be done without lines and grades having been established in the field. WORK done contrary to the instructions of the CITY or OWNER, WORK done beyond the lines shown on the Plans, or any extra WORK done without written direction from the OWNER will be considered as unauthorized and will not be paid for. WORK so done may be ordered removed or replaced at the CONTRACTOR's expense.

If the CONTRACTOR fails to comply with any order of the ENGINEER made under the provisions of this Article, the ENGINEER has the authority to cause unacceptable WORK to be remedied or removed and replaced, and unauthorized WORK to be removed, by a party or parties other than the CONTRACTOR and to deduct the cost of such activities from any monies due or to become due to the CONTRACTOR.

All materials not incorporated in the WORK and not conforming to the requirements of the CONTRACT shall be considered as defective and shall be rejected and, unless otherwise permitted by the ENGINEER, shall be removed immediately from the site of the WORK. If deemed necessary by the ENGINEER, materials previously tested, approved and incorporated in the WORK may be retested, and if found not to conform to the CONTRACT may, with the Approval of the ENGINEER, be left in place providing an equitable adjustment in payment is made. No rejected material, the defects of which have been subsequently corrected, shall be used until approval for such use has been given by the ENGINEER. Should the CONTRACTOR fail to comply with any order of the ENGINEER made under the provisions of this article, the ENGINEER shall have authority to remove and replace defective material, and to deduct the cost of such removal and replacement from any money due or to become due the CONTRACTOR.

When a material is fabricated or treated with another material, or when any combination of materials is assembled to form a product, any or all of which are covered by specifications, the failure of any components of the product to comply with the designated specification may be sufficient cause for the rejection of the whole.

Materials shipped from approved deposits or sources of supply which are found to be defective upon arrival at destination shall not be used.

1.18 SUBSURFACE CONDITIONS

The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the owner by written notice of:

- a) Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents; or
- b) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the contract documents.

The Owner shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the TIME required for, performance of the WORK an equitable adjustment shall be made and the contract documents shall be modified by a change order. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless he has given the required written notice. Provided that the owner may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

The BIDDER shall have access to and may examine, at the office of the Engineer, the record of any and all borings, test excavation, other subsurface investigations and soil analyses, if any, made for design purposes prior to the construction of the PROJECT, the records of which may or may not be shown on the PLANS. Said borings, test excavations, and other subsurface conditions except at the location of said borings, test or investigations and at these points are subject to inaccuracies, inherent in drilling methods and to variations in the drillings' classification and interpretation of soil layers. The geotechnical report, which provides recommendations for the PROJECT, serves as the design basis and is a portion of the contract.

The owner and Engineer will make no attempt to interpret borings, test excavation, or other subsurface investigations, nor interpolate between said borings, test excavation or other subsurface investigations. Subsurface information is included only as an aid to the BIDDER and it is the obligation of the BIDDER to draw his own conclusions of subsurface conditions from his own investigations prior to submitting his PROPOSAL. The Contractor agrees, in signing this contract, that he will make no claims against the Owner or Engineer, if in carrying out the WORK he finds that the actual conditions encountered in performing the WORK do not conform to conditions presented, discussed, or anticipated prior to the commencement of WORK.

1.19 SUSPENSION OF WORK – TERMINATION AND DELAY

The owner may suspend the WORK or any portion thereof for a period of not more than ninety days or such further TIME as agreed upon by the CONTRACTOR, by WRITTEN NOTICE to the CONTRACTOR and the engineer which notice shall fix the date on which WORK shall be resumed. The CONTRACTOR will resume the WORK on the date so fixed. The CONTRACTOR will be allowed an increase in the contract PRICE or an extension of the contract TIME, or both, directly attributable to any suspension.

If the CONTRACTOR is adjudged a 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 the CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled Workmen or suitable materials or equipment or if he repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK or if he disregards the authority of the engineer, or if he otherwise violates any provision of the contract documents, then the owner may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety a minimum of ten (10) days from delivery of a written notice, terminate the services of the CONTRACTOR and take possession of the PROJECT and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the WORK by whatever method he may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the contract PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, SUCH EXCESS SHALL BE PAID TO THE CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the owner. Such costs incurred by the owner will be determined by the engineer and incorporated in a change order.

Where the CONTRACTOR's services have been so terminated by the owner, said termination shall not affect any right of the owner against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the owner due the CONTRACTOR will not release the CONTRACTOR from compliance with the contract documents.

After ten (10) days from delivery of a written notice to the CONTRACTOR and the engineer, the owner may, without cause and without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the contract. In such case, the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.

If through no act or fault of the CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the owner or under an order of court or other public authority, or the engineer fails to act on any request for payment within thirty (30) days after it is submitted, or the owner fails to pay the CONTRACTOR substantially the sum approved by the engineer or awarded by arbitrators within thirty (30) days of its approval and presentation, then the CONTRACTOR may, after ten (10) days from delivery of a written notice to the owner and the engineer, terminate the contract and recover from the owner payment for all WORK executed and all expenses sustained. In addition, and in lieu of terminating the contract, if the engineer has failed to act on a request for payment or if the owner has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) days written notice to the owner and the engineer stop the WORK until he has been paid all amounts then due, in which event and upon resumption of the WORK, change orders shall be issued for adjusting the contract PRICE or extending the contract TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the owner or engineer to act within the TIME specified in the contract documents, or if no TIME is specified, within a reasonable TIME, an adjustment in the contract PRICE or an extension of the contract TIME, or both, shall be made by change order to compensate the CONTRACTOR for the costs and delays necessarily caused by the failure of the owner or engineer.

1.20 PAYMENTS TO CONTRACTOR

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

Until construction is 50% complete, as determined by the ENGINEER, retainage shall be 10% of the monthly payments claimed. After construction is 50% complete, and provided the CONTRACTOR has performed to the satisfaction of the ENGINEER and provided further that there is no specific cause for greater retainage, no further retainage will be withheld.

Upon substantial or final completion, the amount of retainage will be reduced to 2% the total amount due the CONTRACTOR plus an additional retainage based on the ENGINEER's estimate of the fair value of the punch list items and the cost of completing specified amounts for each incomplete or defective item of WORK. As these items are completed or corrected, they shall be paid for out of the

retainage until the entire PROJECT is declared completed. The final 2% retainage shall be held during the one-year warranty period and released only after the PROJECT has been accepted by the OWNER.

The request for payment may also include an allowance for the cost of such major materials and equipment which are suitably stored either at or near the site.

Prior to SUBSTANTIAL COMPLETION, the OWNER, with the approval of the ENGINEER and with the concurrence of the CONTRACTOR, may use any completed or substantially completed portions of the WORK. Such use shall not constitute an acceptance of such portions of the WORK.

The OWNER shall have the right to enter the premises for the purpose of doing WORK not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.

Upon completion and acceptance of the WORK, the ENGINEER shall issue a certificate attached to the final payment request that the WORK has been accepted by him under the conditions of the CONTRACT DOCUMENTS. The entire balance found to be due the CONTRACTOR, including the retained percentages but except such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the WORK.

The CONTRACTOR will indemnify and save the OWNER or the OWNER'S agents harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, Workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed, in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, his Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

If the OWNER fails to make payment thirty (30) days after approval by the ENGINEER, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the CONTRACTOR.

The ENGINEER may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any approved partial payment estimate to such extent as may be necessary to protect the OWNER from loss on account of:

- (a) Defective WORK not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims.
- (c) Failure of CONTRACTOR to make payments properly to SUBCONTRACTORS or for material or labor.
- (d) A reasonable doubt that the WORK can be completed for the balance then unpaid.
- (e) Damage to another CONTRACTOR.
- (f) Performance of WORK in violation of the terms of the contract documents.

Where WORK on unit PRICE items are substantially complete but lack cleanup and/or corrections ordered by the ENGINEER, amounts shall be deducted from unit PRICES in partial payment estimates to amply cover such cleanup and corrections.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

1.21 ACCEPTANCE OF FINAL PAYMENT AS RELEASE

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

1.22 CONTRACT SECURITY

The CONTRACTOR shall within ten (10) days after the receipt of the NOTICE OF AWARD furnish the OWNER with a Performance Bond and a Payment Bond in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS. Such BONDS shall be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the state in which the WORK is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these BONDS shall be borne by the CONTRACTOR. If at any TIME a surety on any such BOND is declared a bankrupt or loses its right to do business in the state in which the WORK is to be performed or is removed from the list of Surety Companies accepted on Federal BONDS. CONTRACTORS shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable BOND (or BONDS) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such BOND shall be paid by the CONTRACTOR. No further payments shall be deemed due nor shall be made until the new surety or sureties shall be furnished and acceptable BOND to the OWNER.

1.23 ASSIGNMENTS

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

1.24 INDEMNIFICATION

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

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

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

1.25 SEPARATE CONTRACTS

The OWNER reserves the right to let other contracts in connection with the PROJECT. The CONTRACTORS shall afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and shall properly connect and coordinate his WORK with theirs. If the proper execution or results of any part of the CONTRACTOR, the CONTRACTOR shall inspect and promptly report to the ENGINEER any defects in such WORK that render it unsuitable for such proper execution and results.

The OWNER may perform additional WORK related to the PROJECT by himself, or he may let other contracts containing provisions similar to these. The CONTRACTOR will afford the other CONTRACTORS who are parties to such Contracts (or the OWNER if he is performing the additional WORK himself), 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.

If the performance of additional WORK by other CONTRACTORS or the OWNER is not noted in the CONTRACT DOCUMENTS prior to the execution of the CONTRACT, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional WORK. If the CONTRACTOR believes that the performance of such additional WORK by the OWNER or others involves him in additional expense or entitles him to an extension of the CONTRACT TIME, he may make a claim therefore as provided in Sections 1.15 and 1.16.

1.26 SUBCONTRACTING

The CONTRACTOR may utilize the services of specialty SUBCONTRACTORS on those parts of the WORK which, under normal contracting practices, are performed by specialty SUBCONTRACTORS.

The CONTRACTOR shall not award WORK to SUBCONTRACTOR(s), in excess of fifty (50%) percent of the CONTRACT PRICE, without prior written approval of the OWNER.

The CONTRACTOR shall be fully responsible to the OWNER for the acts and omissions of his SUBCONTRACTORS, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the WORK to bind SUBCONTRACTORS to the CONTRACTOR by the terms of the CONTRACT DOCUMENTS insofar as applicable to the WORK of SUBCONTRACTORS and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the CONTRACT DOCUMENTS.

Nothing contained in this CONTRACT shall create any contractual relation between any SUBCONTRACTOR and the OWNER.

1.27 ENGINEER'S AUTHORITY

The ENGINEER shall act as the OWNER'S representative during the construction period. He shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed. He shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The ENGINEER will make visits to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.

The CONTRACTOR will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, Workmanship and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply.

The ENGINEER will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

The ENGINEER shall promptly make decisions relative to interpretation of the CONTRACT DOCUMENTS.

1.28 LAND AND RIGHTS-OF-WAY

Prior to issuance of NOTICE TO PROCEED, the OWNER shall obtain all land and rights-of-way necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.

The OWNER shall provide to the CONTRACTOR information which delineates and describes the lands owned and rights-of-way acquired.

The CONTRACTOR shall provide at his own expense and without liability to the OWNER any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities, or for storage of materials.

1.29 GUARANTY

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

1.30 LITIGATION

All claims, disputes, and other matters arising out of, or relating to, the Contract Documents or breach thereof, except for claims which have been waived by the making and acceptance of final payment as provided by Section 20, shall be subject to litigation in accordance with the American Bar Association and laws of the State of Maine.

Notice of the demand for litigation shall be filed in writing with the other party to the Contract Documents and with the appropriate legal entities and a copy shall be filed with the Engineer. Litigation shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations.

The Contractor will carry on the WORK and maintain progress schedule during any litigation proceedings unless otherwise mutually agreed in writing.

1.31 OCCUPANCY

The Owner also reserves the right to occupy certain finished portions of the WORK before final acceptance. If such right is exercised, the owner will assume all responsibility for his damage to the structure, but assumption of such responsibility by the Owner in no way relieves the Contractor of his obligation as defined under – Guarantee of the General Conditions.

1.32 BLASTING

Blasting, if required, shall be performed only after approval has been given by the Owner for such operation.

All blasting shall be performed in accordance with all pertinent provisions of regulations adopted by the State of Maine. Blasting through the over burden will not be allowed.

The Contractor shall conduct a Pre-Blast Survey of all structures within the Blasting Area and provide the Engineer a written report of the Pre-Blast Survey.

The Contractor shall provide the Engineer with a Blasting Log for the WORK. The Blasting Log shall contain the following information:

- (1) Location
- (2) TIME and date
- (3) Number of holes
- (4) Amount and type of explosives used per hole
- (5) The names of persons, companies, corporations, or public utilities contacted, owning, leasing, or occupying property or structures in proximity to the site of the WORK of the Contractor's intention to use explosives.

Drilling equipment will be equipped with suitable dust control apparatus which must be kept in repair and used during all drilling operations.

1.33 CONSTRUCTION SAFETY RULES AND REGULATIONS

The operations of the Contractor shall be governed by the construction safety rules and regulations as adopted by the Board of Construction Safety, Augusta, Maine, and in particular parts A to M.

All equipment used on the PROJECT must be maintained and operated so as to provide maximum safety for Workers and the public. The Contractor will be required to have adequate exhaust silencers on all powered equipment in close proximity to residential structures.

This PROJECT is subject to all of the Safety and Health Regulations (CFR 29 Part 1926 and all subsequent amendments) as promulgated by the U.S. Department of Labor on June 24, 1974. Contractors are urged to make themselves familiar with the requirements of these regulations.

1.34 WORKMANSHIP

Workmanship shall, at all TIMES, be of a grade expected from skilled mechanics in each trade. Fitting of all materials shall be done to preserve the strength and durability of the materials and to present a clean, well worked appearance. The standards of all WORK shall be such as to produce first-class results throughout. Where different materials abut, or where it is necessary to cut or pass through one material with another, care must be taken not to injure or deface one material in placing the other. Various trades shall, at all TIMES, cooperate in the installation of their WORK to complete the whole in a satisfactory, acceptable manner.

1.35 OVERTIME WORK

If, in the opinion of the Engineer, the progress of the WORK is such that the completion date of the Contract cannot be met for causes other than those provided in Article II, he may request the Contractor to WORK additional men, additional hours, or both. The cost of all such overtime shall be borne by the Contractor.

1.36 HANDLING MATERIALS

The Contractor, or his SUBCONTRACTORS, shall be responsible for the proper care and protection of all of his materials, equipment, etc., during transportation and after delivery at the site. The Contractor and each SUBCONTRACTOR shall handle all material as directed so that it may be inspected by the Engineer. All materials capable of being injuriously affected by weather shall be protected from injury while being transported to the site as well as while being stored there.

1.37 PROTECTION FROM INCLEMENT WEATHER

The Contractor shall take such action as may be required to protect labor, materials and equipment including the land, trench and appurtenances in any way connected with the PROJECT, from the effect of extremes of heat and cold, wind and rain; and other climatologically conditions. Such actions by the Contractor shall meet the requirements of the Engineer. Special attention will be given to protection of concrete from freezing laying of pipe in frozen ground, protecting the clay subgrades by proper drainage and covering with sand shells in advance of inclement weather, etc.

1.38 PROTECTION OF UTILITIES

Prior to commencement of WORK, the Contractor, by careful examination, must make himself familiar with all utilities in the WORK area, both underground and overhead. The locations shown on the PLAN are based on the best information available, but the Owner and the Engineer do not warrant their accuracy in either horizontal or vertical locations, nor do they warrant that all existing utilities are shown. Certain relocation WORK may be required by existing utilities to allow installation of the WORK of this Contract. The Contractor shall make arrangements with such utilities for proper on-site coordination of construction.

During construction, the Contractor shall carefully protect all utilities from damage, and will notify appropriate representatives of utilities when WORK is to be accomplished in proximity to their facilities. The Contractor shall be fully responsible for any damage to existing utilities.

1.38.1 PROTECTION OF CUTTING OR VEGETATION

Branches, limbs, and roots shall not be cut except by permission of the City of Saco Tree Warden or Parks and Recreation. All cutting shall be smoothly and neatly done without splitting or crushing. In case of cutting or unavoidable damage to branches, limbs, and trunks of trees, the cut or damage portions shall be neatly trimmed with no use of tree healing paint should be used on cut portions of branches, limbs or trunks.

Cultivated hedges, shrubs, and plants which might be damaged by Contractor's operations shall be protected by suitable means, or shall be treated with anti-desiccants and dug up and temporarily replanted and cared for. After the construction operations have been substantially completed, they shall be replanted in their original positions and cared for until growth is re-established. If cultivated hedges, shrubs, and plants are injured to such a degree as to affect their growth or diminish their usefulness, they shall be replaced by items of kind and quality at least equal to that existing at the commencement of work. Any cutting where the person leaves the ground, must copy with:

ANSI 133.1-1994 Tree Care Operations
ANSI A300-1995 Plant Maintenance Standard Practices
OSHA CPL 2-1.19 Logging Operations
OSHA 1910.266 Logging Operations
OSHA 1910.333 Electrical Safety
OSHA 1910.269 Electrical General Transmission and Distribution
Maine Law L.D. 1247 Overhead High Voltage Line Safety Act

Planting and transplanting shrubs and ornamentals shall be in accordance with ANSI Z60.1-1990 American Standard for Nursery Stock.

1.39 MAINTENANCE OF TRAFFIC

The CONTRACTOR's operations shall cause no unnecessary inconvenience. The access rights of the public shall be considered at all TIMES. Unless otherwise authorized, traffic shall be permitted to pass through the WORK, or an approved detour shall be provided.

The City and the Fire Department will be kept continually aware of the status of any street closings during the term of construction. Safe pedestrian access to all buildings must be maintained at all times. The Contractor shall provide and pay for all traffic officers as necessary to assure traffic passage and safety. The Contractor shall provide and place all warning signs, flares, lights, and barricades as required. All traffic controls shall be in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways published by the U.S. Department of Commerce. The cost of all traffic controls, officers etc., shall be incidental to the WORK and no separate payment will be made.

Safe and adequate pedestrian and vehicular access shall be provided and maintained to fire hydrants, commercial and industrial establishments, churches, schools, parking lots, service stations, motels, fire and police stations, hospitals, and establishments of similar nature. Access to these facilities shall be continuous and unobstructed unless otherwise approved by the DIRECTOR OF PUBLIC WORKS.

Safe and adequate pedestrian zones and public transportation stops, as well as pedestrian crossings of the WORK at intervals not exceeding 300 feet, also shall be maintained unless otherwise approved by the DIRECTOR OF PUBLIC WORKS.

Vehicular access to residential driveways shall be maintained to the property line except when necessary construction precludes such access for reasonable PERIODS OF TIME. If backfill has been completed to such extent that safe access may be provided, and the street is opened to local traffic, the CONTRACTOR shall immediately clear the street and driveways and provide and maintain access.

The CONTRACTOR shall cooperate with the various parties involved in the delivery of mail and the collection and removal of trash and garbage to maintain existing schedules for these services.

Grading operations, roadway excavation and fill construction shall be conducted by the CONTRACTOR in a manner to provide a reasonably satisfactory surface for traffic. When rough grading is completed, the roadbed surface shall be brought to a smooth, even condition satisfactory for traffic.

Unless otherwise authorized, WORK shall be performed in only one-half the roadway at one time. One-half shall be kept open and unobstructed until the opposite side is ready for use. If one-half a street only is being improved, the other half shall be conditioned and maintained as a detour.

The CONTRACTOR shall include in its Bid all costs for the above requirements.

1.40 ENVIRONMENTAL REQUIREMENTS

The Contractor shall include in the appropriate contract bid items his costs for compliance with State and local environmental protection requirements including, but not limited to, the following:

Control of dust from excavations and spillage of materials on highways and dust from rock drilling operations.

Compliance with local ordinances on burning.

Control of erosion and washing of materials from excavated slopes and embankments.

Prevention of stream turbidity from dewatering and general earthwork operation.

In general, construction of necessary temporary erosion and sedimentation control devices will be in conformance with the best management practices adopted by the State of Maine Department of Environmental Protection or subsequent revisions thereto.

The Contractor shall not dispose of any excess materials on lands designated or classified as wetlands by the multi-parameter method of Federal Wetlands Identification. The Contractor is advised to contact related agencies prior to selecting any or all sites for disposal of excess materials.

1.41 TEMPORARY ENCLOSURES AND FACILITIES

The Contractor shall provide such temporary enclosures as the WORK may warrant. In addition, he shall provide the necessary temporary office, heat, utilities, telephone, and sanitary facilities, as required by the job, the Contractor, or the Engineer.

1.42 SPECIAL CONSTRUCTION REQUIREMENTS

(SPECIFIER TO EDIT THIS SECTION)

1.43 ENGINEER'S FIELD OFFICE

Refer to Division 1 of these specifications.

1.44 REGULATORY AGENCY ACCESS TO THE PROJECT

The Contractor shall allow the City of Saco, MeDEP, the USEPA, the U.S. Department of the Army Corps of Engineers, or any authorized representatives thereof, access to the site and PROJECT records at all reasonable TIMES.

1.45 STATUTORY REQUIREMENTS IN GENERAL

The Contractor shall keep himself fully informed of all existing and future State and Federal laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the WORK, or the materials used or employed in the WORK, or in any way affecting the conduct of the WORK, and of all such orders and decrees having any jurisdiction or authority over the same and of all provisions required by law to be a part of this Contract, all of which provisions are hereby incorporated by reference and made a part thereof. If any discrepancy or inconsistency is discovered in the Drawings or Specifications or Contract for this WORK in relation to any such law, ordinance, regulation, order or decree, he shall report the same to the Engineer in writing.

He shall at all TIMES himself observe and comply with, and shall cause all his agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees; and shall protect and indemnify the owner and Engineer and all of their officers, agents and servants against any claim or liability arising from or based on the violation of such law, ordinance, regulation, order or decree, whether by himself or his employees' SUBCONTRACTORS.

1.46 NON-RESIDENT CONTRACTORS

The successful BIDDER, if a corporation established under laws other than the State in which the proposed construction is located, shall file, at the TIME of the execution of the Contract, with the Owner, notice of the name of its resident attorney, appointed as required by the laws of the State in which the proposed construction is located.

The successful BIDDER, if a resident of another state other than that which the proposed construction is located and not a corporation, shall file, at the TIME of the execution of the Contract, with the Owner a written appointment of a resident of the State in which the construction is located, having an office or place of business therein, to be his true and lawful attorney upon whom all lawful processes in any actions or proceedings against him may be served; and in such writing, which shall set forth said attorney's place of residence, shall agree that any lawful process against him which is served on said attorney shall be of the same legal force and validity as if served on him, and that the authority shall continue in force so long as any liability remains outstanding against him in said state. The power of attorney shall be filed in the office of the Secretary of State if required, and copies certified by the Secretary shall be sufficient evidence thereof. Such appointment shall continue in force until removed by an instrument in writing, designating in a like manner some other persons upon whom such process may be served, which instrument shall be filed in the manner provided herein for the original appointment.

A nonresident Contractor shall be deemed to be:

1. A person who is not a resident in the state where the proposed construction is to be located.
2. Any partnership that has no member thereof resident in the state where the proposed construction is to be located.
3. Any corporation established under laws other than those of the state in which the proposed construction is located.

1.47 RESPONSIBILITY FOR DAMAGE CLAIMS

The Contractor and his surety shall indemnify and save harmless the Owner, his officers and employees, from all suits, actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the said Contractor; or on account of or in consequence of any neglect in safeguarding the WORK; or through use of unacceptable materials in construction of the WORK; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act", or of any other law, ordinance, order or decree; and so much of the money due the said Contractor under and by virtue of his contract as shall be considered necessary by the Owner for such purpose, may be retained; or in case no money is due, his surety may be held until such suits or suit, action or actions, claim or claims, for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Owner.

The Contractor shall promptly pay all bills for labor, materials, machinery, water, tools, equipment, trucks, automobiles, freight, fuel, light and power and for all other things, contracted for or used by him on account of the WORK herein contemplated, and if at any TIME during the progress of the WORK or before final payment of any money due the Contractor under the terms of this Contract, any claim for labor, materials, water, tools, equipment, trucks, automobiles, freight, fuel, light and power, or for any other things specified as aforesaid, or for damage by reason of any acts, omissions, or neglect of said Contractor in the prosecution of the WORK, shall be presented to said Owner, the Owner may retain such sum or sums from the monies due the Contractor under this Contract as would be necessary to discharge all claims whether for labor, materials, or damages as aforesaid, and until the validity of such claims shall be established and finally determined, and if determined and finally established as valid, all such claims shall be paid from the amount so retained if it be sufficient for that purpose; otherwise, or if at any TIME the Owner shall be satisfied that any of such claims are invalid and groundless, any amount so retained shall be paid to said Contractor, or in case of default of Contract to the Contractor's surety, and the said owner shall not be liable to any individual, firm, or party if he does not hold and retain any money due under this Contract for the purpose of payment of such claim.

If the monies so retained under this Contract are insufficient to pay all such claims presented to said Owner and adjudged by any court of competent jurisdiction to be valid obligations of said Contractor, the Owner may at its discretion pay the same and the Contractor shall repay the Owner all sums so paid. The Owner, at its option, may also use any monies due or to become due under this Contract for the purpose of paying any claims presented to said Owner. Should the Contractor neglect to Pay any undisputed claim, made in writing to the owner, within thirty (30) days after the completion of the WORK, but continuing unsatisfied for a period of ninety (90) days, the Owner may pay such claim and deduct the amount thereof from the balance due the Contractor.

1.48 SANITARY REGULATIONS

Sanitary conveniences, in sufficient numbers, for the use of all persons employed on the WORK, and properly screened from public observation, shall be provided and maintained at suitable locations, in accordance with State and local ordinances. When no longer required, they shall be removed from the site and the contents shall be removed and disposed of in a satisfactory manner, as the occasion requires. The Contractor shall rigorously enforce the use of the approved sanitary facilities provided.

The Contractor shall supply sufficient drinking water to all his employees from approved sources. He shall obey and enforce other local sanitary regulations and orders, and shall take such precautions against infectious diseases as may be deemed necessary.

1.49 SPECIAL SCHEDULING REQUIREMENTS

This PROJECT is subject to the following special scheduling requirements:

(SPECIFIER TO ADD ANY SPECIAL SCHEDULING REQUIREMENTS IF NEEDED.)

1.50 SUSPENSION OF WORK/PERFORMANCE OF WORK BY OWNER

If the Contractor fails to correct WORK which is not in accordance with the requirements of this Contract, or fails to carry out WORK in accordance with the Contract Documents, or otherwise violates any agreement of covenant herein contained, and fails within a thirty (30) day period after written notice from Owner to Contractor to cure such matter, the Owner may, in addition to its other rights under this Contract, order the Contractor to suspend further performance of the WORK, or any portion thereof, until the cause for such order has been eliminated.

If the Contractor defaults or neglects to carry out the WORK in accordance with this Contract and fails within a thirty (30) day period after written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, or in the event Contractor shall not have completed the WORK or Owner's building pad on or before the dates therefore set forth above, the Owner may, without limiting any other remedy available under this Contract, correct such deficiencies in which case, the reasonable cost of correcting such deficiencies or completing the WORK shall be deducted from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. To the extent necessary to permit the Owner to correct such deficiencies or complete the WORK, the Contractor shall, upon request of Owner, assign the Development Permits to Owner.

1.51 SOCIAL SECURITY OR UNEMPLOYMENT LAWS

The Contractor shall at its expense comply with the provisions of any Social Security or unemployment laws, state or federal, as now or hereafter in force applying to the WORK and accepts exclusive liability and will indemnify and hold the Owner harmless against any demands for contributions or taxes, including costs and attorneys fees relating thereto, with respect to the WORK payable under such laws.

1.52 WARRANTIES AND INDEMNITIES

All warranties and indemnities of this contract shall inure to the benefit of Owner and the City of Saco.

1.53 TAXES

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

1.54 SITE INVESTIGATION

The CONTRACTOR shall examine the PLANS, SPECIFICATIONS and site of the WORK and from his own investigation, determine the nature and location of the WORK, the general and local conditions, particularly those bearing on access, transportation, quality and quantity of surface and sub-surface materials to be encountered and all other aspects of the WORK, machinery and services required to complete the PROJECT as required by the CONTRACT DOCUMENTS. The CITY will not be responsible for any understanding or representation made by any CITY employee during or prior to negotiation and execution of the CONTRACT, unless such understanding or representation shall be in writing and become a part of the CONTRACT DOCUMENTS.

1.55 BORINGS AND ESTIMATE OF QUANTITIES NOT WARRANTED

It is expressly understood and mutually agreed to by the parties hereto that the quantities of the various classes of WORK to be done and materials to be furnished under this CONTRACT have been estimated and are approximate and only for the purpose of comparing on a uniform basis the bids

offered for the WORK. It is also understood that the CONTRACTOR has made his PROPOSAL from his own examinations and estimates, and shall not hold the CITY, the OWNER, its agents or employees, responsible for or bound by any schedule, estimate, sounding, boring or any PLAN thereof as being even approximately correct. If any error in any PLAN, drawing, specification or direction relating to anything to be done under this CONTRACT comes to his knowledge, report it at once to the OWNER. The CONTRACTOR further agrees that neither the OWNER, the CITY of SACO, nor the DIRECTOR OF PUBLIC WORKS, the ENGINEER, nor either of them separately or together are to be held responsible that any of the quantities be found even approximately correct in the construction of the WORK, and that the CONTRACTOR will make no claim for anticipated profits or for loss of profit because of a difference between the quantities of the various classes of WORK actually done, or of the materials actually delivered and any estimated quantities stated in the bids. The CONTRACTOR hereby agrees that he will complete the entire WORK to the satisfaction of the OWNER and in accordance with the SPECIFICATIONS and PLANS herein mentioned and at the PRICE agreed upon and fixed therefore.

1.56 NO DAMAGES FOR DELAY

The OWNER may delay the beginning of the WORK, or any part thereof, if the OWNER shall not have obtained possession of the land in or upon which the same is to be performed or if for any other reason, it becomes necessary to do so. The CONTRACTOR shall have no claim for damages on account of such delay, but shall be entitled to so much additional TIME wherein the perform and complete this CONTRACT on his part as the Director shall certify in writing to be just. Whenever any part of the WORK covered by this Agreement is done in part by or connects with the WORK so as to accommodate the WORK of the other CONTRACTORS; and to cooperate with such CONTRACTORS in mutual agreements as to all such WORK and no CONTRACTOR shall have an claim against the OWNER growing out of the negligence or delay of any other CONTRACTOR or CONTRACTORS: but each CONTRACTOR shall be liable to every other CONTRACTOR for any such delay or negligence.

1.57 WAIVER

The CITY of SACO shall not be precluded or stopped by any measurement, estimate or certificate made either before or after the completion and acceptance of the WORK and payment therefore from showing the true amount and character of the WORK performed and materials furnished by the CONTRACTOR, nor from showing that any such measurement, estimate or certificate is untrue or is incorrectly made, nor that the WORK or materials do not in fact conform to the contract documents. The CITY of SACO shall not be precluded or stopped, notwithstanding any such measurement, estimate or certificate and payment in accordance therewith from recovering from the CONTRACTOR or the CONTRACTOR's sureties or both, such damage as it may sustain by reason of the CONTRACTOR's failure to comply with the terms of the contract documents. Neither the acceptance by the CITY of SACO or any representative of the CITY of SACO, nor any payment for or acceptance of the whole or any part of the WORK, nor any extension of TIME, nor any possession taken by the CITY of SACO, shall operate as a waiver of any portion of the contract or of any power herein reserved or of any right to damages. A waiver of any breach of the contract shall not be held to be a waiver of any other or subsequent breach.

1.58 EXTRA WORK

The CONTRACTOR shall perform any WORK not herein otherwise provided for when and as ordered in writing by the OWNER, such written order to identify the WORK as Extra WORK.

The OWNER shall be authorized to issue Extra WORK Orders for such additional WORK outside the scope of the original CONTRACT as in his judgment is reasonably necessary for the satisfactory completion of the PROJECT provided that the WORK to be done under such an Extra WORK Order, either standing alone or in conjunction with any previously authorized Extra WORK Order, shall not result in a change of general magnitude and scope of the PROJECT.

1.59 LAWS AND REGULATIONS

The CONTRACTOR shall keep himself informed of all existing and future State and Federal laws, and municipal ordinances and regulations which in any way affect those engaged or employed in the WORK, or the materials used in the WORK; or in any way affect the conduct of the WORK and of all

orders and decrees of bodies of tribunals having any jurisdiction is discovered in the Plans or SPECIFICATIONS or CONTRACT for this WORK in relation to any such law, ordinance, regulation, order or decree, he shall forthwith report the same to the Director in writing. He shall at all TIMES himself observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees; and shall protect and indemnify the CITY and its officers and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation order or decree, whether by himself or his employees.

1.60 PERMITS

The CONTRACTOR shall, at his own expense, obtain all necessary permits from the Federal, SACO River Corridor Commission, State, CITY of SACO, or other public authorities, shall give all notices required by law or ordinances; and shall post all bonds and pay fees and charges incident to the due and lawful prosecution of the WORK covered by this CONTRACT and shall comply with all permit requirements.

1.61 WORK DAY

The normal workday shall be from 7:00 a.m. until dusk Monday – Friday; Holidays excluded.

1.62 WINTER CONSTRUCTION

The construction of projects in the winter period shall not be permitted except when provisions for winter construction have been provided in the contract documents and approved by the applicable Departments of the City of Saco.

Winter construction provisions shall include but not be limited to any and all additional provisions to protect the health, safety, and welfare of the City of Saco and the project as defined in the Contract Documents for the climatic conditions which do not exist when ambient temperatures are above 50° F.

---END OF SECTION 01001---