

THE BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY

SPECIFICATIONS AND BID DOCUMENTS

*TO FURNISH LABOR, MATERIALS AND
EQUIPMENT FOR*

R.F. WILLSON BUILDING MECHANICAL AND ELECTRICAL UPGRADE PROJECT

CROSSING PATHS  BUILDING FUTURES

THE PEACE BRIDGE

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SPECIFICATIONS AND BID DOCUMENTS

TO FURNISH LABOUR, MATERIALS AND EQUIPMENT FOR THE

R.F. WILLSON BUILDING MECHANICAL AND ELECTRICAL UPGRADE PROJECT

BID DOCUMENTS AND TERMS & CONDITIONS

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SPECIFICATIONS AND BID DOCUMENTS

R.F. WILLSON BUILDING MECHANICAL AND ELECTRICAL UPGRADE PROJECT

*The Buffalo and Fort Erie
Public Bridge Authority*

Invitation for Bids

Part I – Instructions and General Requirements



SECTION 1

INSTRUCTIONS TO BIDDERS APPENDIX 1 - FORM OF AGREEMENT

SECTION 1

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

- 1.1 Terms used in these Instructions to Bidders have the meanings given to them in Schedule A to the Form of Agreement (CONTRACT DEFINITIONS). The term “Successful Bidder” or “Contractor” means the Bidder to whom the Authority (on the basis of the Authority’s evaluation as hereinafter provided) makes the Award of the Contract.

ARTICLE 2 - LOCATION AND DESCRIPTION OF THE WORK

- 2.1 The Project consists of work to be performed adjacent to the Peace Bridge (“**Bridge**”) that connects Fort Erie, Ontario, Canada and Buffalo, New York, United States of America. The Work to be performed under the Contract generally includes, but is not limited to, civil, architectural, mechanical, and electrical tasks associated with upgrading select electrical and mechanical infrastructure at the R.F. Willson Building (Administration Building). The Work is described in more detail in the Detailed Specifications that form part of these Bidding Documents.

ARTICLE 3 - COPIES OF BID DOCUMENTS

- 3.1 Complete sets of Bid Documents shall be used in preparing Bids. Neither the Authority nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents. All inquiries regarding interpretation of the Bid Documents shall be referred to the Engineer prior to submission of Bids.
- 3.2 The Authority and Engineer, in making copies of Bid Documents available on the above terms, do so only for the purpose of obtaining Bids on the Work and do not offer a license or grant for any other use.

ARTICLE 4 - QUALIFICATION OF BIDDERS

- 4.1 A Bid may be rejected if the Bidder cannot show that it has the necessary ability, plan, and equipment to commence the Work at the time prescribed and thereafter to execute and complete the Work at the rate or within the time specified. A Bid may be rejected if Bidder is already obligated for the performance of other work which, in the opinion of the Authority, would or could reasonably be expected to delay the commencement, execution, or completion of the Work.

ARTICLE 5 - EXAMINATION OF THE CONTRACT DOCUMENTS AND SITE

- 5.1 Before submitting a Bid, each Bidder must:
- A. examine the Contract Documents thoroughly;

- B. be present at the mandatory pre-bid meeting at the Site to familiarize itself with the local conditions that may in any manner affect cost, progress or performance of the Work;
 - C. familiarize itself with Applicable Laws that may in any manner affect cost, progress, or performance of the Work, and;
 - D. study and carefully correlate Bidder's observations with the Contract Documents.
- 5.2 Bids will not be accepted from Bidders that did not sign in at the mandatory pre-bid meeting.
- 5.3 Reference is made to the Special Conditions for the identification of those reports of investigations and tests of subsurface and latent physical conditions at the site or those reports that otherwise may affect cost, progress or performance of the Work which have been utilized by Engineer in preparation of the Drawings and Specifications. These reports are not intended to constitute any explicit or implicit representation as to the nature of the subsurface and latent physical conditions which may be encountered at the site or to constitute explicit or implicit representations as to any other matter contained in any report. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents.
- 5.4 Before submitting its Bid, each Bidder will, at its own expense, make such investigations and tests as the Bidder may deem necessary to determine its Bid for performance of the Work in accordance with the Contract Documents.
- 5.5 On request, the Authority will provide each Bidder additional access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of its Bid. However, if the Bidder has not attended the mandatory pre-Bid meeting, additional access will not be granted.
- 5.6 The lands upon which the Work is to be performed, rights-of-way for access thereto and other lands designated for use by the Contractor in performing the Work are identified in the General Provisions, General Requirements or Drawings.
- 5.7 The submission of a Bid will constitute an incontrovertible representation by the Bidder that it has complied with every requirement of this Article 6 and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

ARTICLE 6 – PROJECT RECORDS

- 6.1 For Projects that are currently being executed under separate contract that may affect the Work described under this Project, the Engineer in Charge is required to keep his project records in accordance with acceptable procedures. The Contractor is invited to review project records with the Engineer in Charge if it so desires. The Contractor is deemed to have considered such Project records in preparing its Bid Prices. The Contractor will be deemed to have accepted such Project records unless it makes note of any non-acceptance or qualification in its Bid, and will not be entitled to a Change Order or any change in the Contract Price or schedule for completion if it does not do so.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.1 All questions about the meaning or intent of the Bid Documents or the Contract Documents shall be submitted to the Engineer in writing. In order to receive consideration, questions must be received by the Engineer no later than **2 PM on May 10, 2019**. Any questions or comments so raised, which in the opinion of the Engineer require interpretations, will be issued by Addenda to holders of Bid Documents for receipt no later than **5 PM on May 14, 2019**. All other questions will be responded to by **5 PM on May 15, 2019**. The Engineer and the Authority will not be responsible for oral interpretations or clarifications which anyone presumes to make on their behalf.
- 7.2 The Engineer may issue such additional Addenda as may be necessary to clarify, correct or change the Bid Documents or the Contract Documents. Such Addenda, if any, will be in the manner and within the time period stated in Paragraph 7.1 of these Instructions to Bidders.
- 7.3 Failure of any Bidder to receive any such Addendum or interpretation shall not relieve any Bidder from any obligation under its Bid as submitted.
- 7.4 Should there be any conflicts between or among the Contract Documents, the interpretation shall be determined by the order of priority listed in Schedule C of the Agreement.

ARTICLE 8 - BID SECURITY

- 8.1 Bids must be accompanied by a certified cheque or Bid Security in the sum of ten percent (10%) of the amount of the total Base Bid Price set out in the Bid Form, satisfactory to and payable to the order of the Authority.
- 8.2 The Bid Security of the successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required Contract Security, whereupon the Bid Security will be returned. If the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract Security within ten (10) calendar days of the Notice of Award, the Authority may annul the Notice of Award and the Bid Security of that Bidder will be forfeited to the Authority as liquidated damages for such failure.

- 8.3 The Bid Security of the three (3) lowest Bidders may be retained by the Authority until the earlier of the seventh (7th) calendar day after the execution of the Agreement by the successful Bidder or the forty-fifth (45th) calendar day after the Bid opening. The Bid security of the other Bidders will be returned within seven (7) calendar days of the Bid opening.

ARTICLE 9 - CONTRACT TIME

- 9.1 The Work shall be Substantially Completed by the dates set out in Article 5 of the Agreement – CONTRACT TIME, which is to be inserted upon contract award.

ARTICLE 10 - LIQUIDATED DAMAGES

- 10.1 Provisions for liquidated damages, if any, are set out in GCC-5.7 of the General Conditions of Contract - FAILURE TO COMPLETE WORK ON TIME

ARTICLE 11 - SUBSTITUTE MATERIAL AND EQUIPMENT

- 11.1 The Contract, if awarded, will be on the basis of the specific materials and equipment shown on the Drawings or described in the Specifications. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or “or-equal” item of material or equipment may be furnished or used by the Contractor if acceptable to the Engineer, application for such acceptance will not be considered by the Engineer until after the effective date of the Agreement. The procedure for submittal of any such application by the Contractor and consideration by the Engineer is set out in GCC-3.10 of the General Conditions of Contract - SOURCE OF SUPPLY AND QUALITY REQUIREMENTS.

ARTICLE 12 - BASIS FOR BIDS

- 12.1 Where the Bid Form contains items that require alternative Bids for materials, equipment or systems, the Bidder shall total its Bid using the lowest priced Bid for a named alternative under each item. The low Bid will be based upon the Base Bid and Alternate Bid, if the Alternate Bid is accepted. The Alternate Bid will be accepted, at the sole discretion of the Authority, if it is within budget.

ARTICLE 13 - PREPARATION OF BID

- 13.1 All Bids must be made on individual Bid Forms bound in the Invitation for Bids. The Bid Forms shall not be separated from the Invitation for Bids nor shall it be altered in any way.
- 13.2 Each Bid Form must be completed in ink or by typewriter. Blank spaces in the Bid Form must be filled in correctly where indicated, and the Bidder must state, both in words and numerals, the prices for which it proposes to do each and every item of the Work contemplated. Ditto marks shall not be used.
- 13.3 Bids that are illegible or that contain any omissions, erasures, alterations, additions, or items not called for in the itemized Bid or that contain irregularities of any kind may be rejected as informal.

- 13.4 Each Bid shall specify the correct gross sum as the Bid Price, in the manner hereafter described for which the Work will be performed according to the Plans and Specifications and any Addenda to the specifications if the same are issued prior to the date of receipt of the Bid, together with a unit price for each of the separate items as called for. The lowest acceptable Bid shall be determined by the Authority on the basis of the gross sum for which the entire Work will be performed, arrived at by a correct computation of all items specified in the Bid therefore at the unit prices stated in the Bid. The Authority reserves the right to reject any Bid in which any of the Bid Prices are significantly unbalanced to the potential detriment of the Authority. An unbalanced Bid is considered to be one containing lump sum or unit Bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the Bidder's anticipated profit, overhead costs, and other indirect costs which are anticipated for the performance of the items in question. The Authority reserves the right, exercisable in its sole and complete discretion, to seek clarifications from Bidders after Bid submission to understand apparent imbalances, inconsistencies and errors, and, if the Authority considers necessary or in its interest, the Authority reserves the right, exercisable in its sole and complete discretion, to correct apparent imbalances, inconsistencies and errors after Bid submission.

Any Bid shall be deemed informal which does not contain prices set opposite each of the several items for which there is a quantity exhibited in the itemized Bid or which shall in any manner fail to conform to the conditions of the published notice inviting Bids.

The unit prices and gross sum Bid shall be indicated in words and figures. In case the amount shown in words and its equivalent in figures do not agree, the written words may, in the discretion of the Authority be considered binding. The Bidders attention is directed to the fact that it cannot exceed three (3) decimal positions in the cents column under unit Bid Price.

Similarly, one or more items may be designated as "Minimum Price Items" or "Maximum Price Items" in the Bid Form. When this is the case, the minimum (or maximum) prices are published in the Bid. These items can also be identified in the Itemized Bid by the words 'Minimum Bid ___' or 'Maximum Bid ___' appearing beneath the description of the item. The price bid for Minimum Price Items shall not be less than the minimum price shown in the itemized Bid Form, but it may exceed that price. Conversely, the Bid Price for Maximum Price Items shall be less than, or equal to, the maximum price shown in the applicable Maximum Price Item. In the event a Bid Price is less than the Minimum Price (or more than the Maximum Price) indicated in the applicable Minimum Price Item, the Authority will substitute the appropriate minimum (or maximum) price and make the necessary adjustments to determine the total amount of the Bid Price.

- 13.5 A Bidder shall execute its Bid as stated below:

- A. A Bid by an individual shall show his or her name and address.
- B. A Bid by a partnership or Joint Venture must be executed in the partnership name or Joint Venture name and signed by a partner with authority to bind the partnership, and must be accompanied by a certified copy of a resolution or other

authorizing document evidencing such authority. His or her title must appear under his or her signature and the registered address of the partnership shall be shown.

- C. A Bid by a corporation must be executed in the corporate name by an officer of the corporation or other authorized signatory, and must be accompanied by a certified copy of a resolution of the board of directors authorizing the person signing the Bid to do so on behalf of the corporation. The corporate seal shall be affixed and attested to by the Secretary or the Bidder. The Province of incorporation and registered corporate address shall be shown.
 - D. All names must be typed or printed below the signature.
- 13.6 The Bid shall contain an acknowledgement of the receipt of all Addenda in the space provided on the Bid Form.
- 13.7 The Bid shall contain a proposed project schedule, indicating major milestones and primary activities of the Work.
- 13.8 The following listed documents, which are bound in the Project Manual, shall be executed in the manner described in Paragraph 13.5 of these Instructions to Bidders unless another manner is indicated.
- A. Bid Security.
 - B. Non-Collusive Bidding Certification.
 - C. Bid Form.
 - D. Certified copy of board of directors' resolution authorizing Bid (if Bidder is a corporation).

ARTICLE 14 - SUBMISSION OF BID

- 14.1 Bids shall be submitted at the time and place indicated in the Invitation for Bids. All Bid Documents, excluding drawings, shall be submitted at this time.
- 14.2 The Bid shall be enclosed in an opaque, sealed envelope plainly marked on the outside with the name of the Bidder, its address, the name of the Project, and the Project name and/or number. Bids shall be submitted with Bid security and other required documents.
- 14.3 If the Bid is sent through the mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in another envelope plainly marked on the outside with the notation "Bid Enclosed" and complying with requirements in Paragraph 14.2 of these Instructions to Bidders.

ARTICLE 15 - MODIFICATION OR WITHDRAWAL OF BID

- 15.1 Withdrawal prior to Bid opening:

- A. A Bidder may withdraw its Bid before the time fixed for the opening of Bids by communicating its purpose in writing to the Authority. Upon receipt of such written notice, the unopened Bid will be returned to the Bidder. If the Bid is made by a joint venture, the name and place of residence of each member of the joint venture shall be given. If the Bid is made by a corporation, the names of the president, secretary and treasurer shall be given. If the Bid is made by a partnership, the names of the partners shall be given.
- B. Permission will not be given to modify or explain by letter, telegram, telephone or otherwise, any Bid after it has been deposited with the Authority.

Specifically, no Bid shall be withdrawn or canceled after the time designated for receiving such Bid or for opening such Bids publicly, except to exercise the option as provided herein.

- C. Any Bidder or its duly authorized agent which has submitted Bids on more than one project of any one letting may, at its option and upon written request, withdraw any or all of its additional Bids after the person, who opens and reads the Bids has announced that such Bidder has submitted the lowest Bid Price on a project for which Bids have been read. When this option is exercised, the Bids for other projects in the letting will be returned to the Bidder unopened. No returned Bids will be considered after the Bidder has exercised its privilege to withdraw the same. No Bids will be considered which have not been deposited with the Authority prior to the time indicated in the advertisements. Any Bidder exercising the privilege of so withdrawing its Bid or Bids waives all claims that may arise should it be found that its opened Bid is informal or for any other reason is unacceptable to the Authority. The Authority will open and read the Bids in the order in which they are drawn and not in the order in which the projects are advertised.

15.2 Modification prior to Bid opening:

- A. If a Bidder wishes to modify its Bid prior to Bid opening, it must withdraw its initial Bid in the manner specified in Paragraph 15.1A of these Instructions to Bidders. and submit a new Bid.

ARTICLE 16 - OPENING OF BIDS

16.1 Bids will be opened as indicated in the Introduction of the Invitation for Bids.

16.2 Bids received by mail or otherwise after the time specified for the opening of Bids will not be accepted and will be returned to the Bidder unopened.

ARTICLE 17 - DISQUALIFICATION OF BIDDERS

- 17.1 More than one Bid for the same work from an individual, or a firm, partnership, corporation or an association under the same or different names will not be considered. Reasonable grounds for believing that any Bidder is interested in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder is interested.

ARTICLE 18 - BIDS TO REMAIN OPEN

- 18.1 All Bids shall remain open for forty-five (45) days after the day of the opening of Bids, but the Authority may, in its sole discretion, release any Bid and return the Bid Security prior to that date.

ARTICLE 19 - AWARD OF CONTRACT

- 19.1 There shall be an award of one (1) contract for this Project.
- 19.2 The Authority reserves the right to reject any and all Bids, to waive any and all informalities, and the right to disregard all non-conforming, non-responsive or conditional Bids. The Authority reserves the right to delete Bid items prior to or after the Notice of Award if the Authority deems this to be in the Authority's best interest.
- 19.3 The Authority reserves the right to reject any Bid not accompanied by required documentation and Bid Security.
- 19.4 The Authority reserves the right to reject any Bid if it shows any omissions, alterations of form, additions not called for, conditions or qualifications, or irregularities of any kind.
- 19.5 The Authority reserves the right to reject any Bid that, in its sole discretion, it considered to be unbalanced or unreasonable as to the amount Bid for any lump sum or unit price item.
- 19.6 In evaluating Bids, discrepancies between words and figures will be resolved in favour of words. Discrepancies in the multiplication of units of work and unit prices will be resolved in favour of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favour of the correct sum.
- 19.7 In evaluating Bids, the Authority will consider, among other criteria as set out in the Bid Documents: the qualifications of Bidders; whether or not the Bids comply with the prescribed requirements; the alternatives, if any; the Construction Schedule(s) and Lane Closure Schedule(s); and the lump sum and unit prices, if requested in the Bid Form. It is the Authority's intent to evaluate each alternative Bid in accordance with the methods and criteria set out in the Bid Documents. The lowest Bid Price will be determined on the basis of the selection by the Authority of the alternative(s) deemed to be in the Authority's best interest, but the Authority will not be obliged to select the lowest Bid Price or any Bid, in its complete discretion.

- 19.8 The Authority may consider the qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the Work as to which the identity of Subcontractors and other persons and organizations must be submitted as provided in the GCC-3.23 of the General Conditions of the Contract -SUBCONTRACTORS AND SUPPLIERS.
- 19.9 The Authority may conduct such investigation as it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidder's proposed Subcontractor and other persons and organizations to do the Work in accordance with the Contract Documents.
- 19.10 The Authority reserves the right to reject the Bid of any Bidder which does not pass the evaluation contemplated herein to the Authority's satisfaction.
- 19.11 If a Contract is to be awarded to the Bidder, it will be awarded to the responsive and responsible Bidder who has neither been disqualified nor rejected pursuant to Article 17 or this Article 19 of these Instructions to Bidders.
- 19.12 The Authority reserves the right to accept any Bid deemed to be in its best interest even though the Bid chosen may result in the award of the Contract to a Bidder whose Bid Price is not the lowest Bid Price.
- 19.13 If required in the Bid Form or the Special Conditions, Bids must be submitted for all required Alternate Bids. The Authority reserves the right to award any Alternate Bid or any combination of Alternate Bids, in any order, consistent with available funds.

ARTICLE 20 - BONDS

- 20.1 The requirements for Performance, Labour and Material Payment and Maintenance Bonds are stated in GCC-10.2 of the General Conditions of Contract - BONDS.
- 20.2 The Successful Bidder shall, within five (5) calendar days from the date of the Notice of Award, deliver to the Authority, for its review and approval, the Performance Bond and the Materials and Payment Bond, and other Contract Security, if any are required, it proposes to furnish at the time of the execution of the Agreement.

ARTICLE 21 – CONTRACTOR'S INSURANCE

- 21.1 The requirements for Contractor's insurance are stated in GCC-10.1 of the General Conditions of Contract - INSURANCE.
- 21.2 The Successful Bidder shall within five (5) calendar days from the date of the Notice of Award deliver to the Authority, for its review and approval, the required certificates of insurance to the Authority as stated in the General Conditions.

ARTICLE 22 - EXECUTION OF AGREEMENT

- 22.1 The Successful Bidder, or its authorized representative, will be required to attend with the Contract Security offered by the Bidder and execute the Agreement within five (5) calendar days from the date of the Notice of Award. Two (2) fully executed copies of the full Contract will be required by the Authority.
- 22.2 The Authority will prepare the documents, and will identify, in the Notice of Award, the location and date at which the documents will be executed.

ARTICLE 23 - NOTICE TO PROCEED

- 23.1 The Successful Bidder will commence the performance of the Work upon receipt of the Notice to Proceed from the Authority and in accordance with the terms of the Contract.

ARTICLE 24 - SPECIAL REQUIREMENTS

- 24.1 Each Bidder shall certify to non-collusion in Bids on the “Non-Collusive Bidding Certification” provided herein. The form of certification is included in Part I- Section 2 of these Bid Documents.
- 24.2 The information and requirements included as Instructions to Bidders are neither inclusive nor exclusive and the Bidder shall make no claim for lack of notice because information or requirements are stated elsewhere in the Contract Documents, but are not repeated herein.
- 24.3 The construction of this Project, including the letting of contracts in connection therewith, shall conform to all Applicable Laws.
- 24.4 The Instructions to Bidders set out terms and conditions applicable to the Bid process and form part of the Contract and the Bid Documents.

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U R.F. WILLSON BUILDING MECHANICAL AND ELECTRICAL UPGRADE PROJECT

*The Buffalo and Fort Erie
Public Bridge Authority*

Invitation for Bids

Part I – Instructions and General Requirements



SECTION 2

NON-COLLUSIVE BIDDING CERTIFICATE

SECTION 2
NON-COLLUSIVE BIDDING CERTIFICATION

UNITED STATES OF AMERICA) IN THE MATTER OF THE CONTRACT
STATE OF [NEW YORK]) BETWEEN BUFFALO AND FORT ERIE PUBLIC
) BRIDGE AUTHORITY, OWNER, AND
) [CONTRACTOR], CONTRACTOR,
) FOR THE WORK ON PREMISES
TO WIT:) LOCATED AT 1 PEACE BRIDGE PLZ, BUFFALO,
) IN THE STATE OF [NEW YORK]
)

I, _____ of the _____ of _____ in the State of [NEW YORK], do hereby AFFIRM, CERTIFY AND DECLARE THAT:

1. I am the [OFFICE TITLE] of [NAME OF CONTRACTOR], the Contractor named in the Contract abovementioned, and as such have personal knowledge of the facts hereunder affirmed, certified and declared.
2. By submission of this Bid, the Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint Bid each partner or joint venturer thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:
 - (1) The prices in this Bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
 - (2) Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
 - (3) No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purpose of restricting competition.
3. A Bid shall not be considered for award nor shall any award be made where Paragraph 2(1), 2(2) or 2(3) above have not been complied with; provided however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the Bid a signed statement which sets out in detail the reasons therefore. Where Paragraph 2(1), 2(2) or 2(3) above have not been complied with, the Bid shall not be considered for award nor shall any award be made unless the Authority or its

SPECIFICATIONS AND BID DOCUMENTS

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CROSSING PATHS  BUILDING FUTURES
THE PEACE BRIDGE

SECTION 3

BID FORM

ADDENDA

Receipt of the following Addenda is acknowledged:

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

Addendum No. _____ Dated _____ Addendum No. _____ Dated _____

Accompanying the Bid is a certified cheque, bank cashiers check or Bid Security in the amount of not less than ten percent (10%) of the gross sum amount of the Base Bid in Canadian funds. In case this Bid shall be accepted by the Buffalo and Fort Erie Public Bridge Authority and the undersigned shall fail to execute the Contract and comply with the terms of the Invitation to Bid, the monies represented by such Bid Security or certified cheque shall be forfeited and become the property of the Authority.

On acceptance of this Bid for said Work, the undersigned does or do hereby bind itself to enter into written Contract and sign the Form of Agreement, within five (5) days of date of Notice of Award, with the Buffalo and Fort Erie Public Bridge Authority.

Dated _____ 20 _____

[Name of Bidder]

[Address of Bidder, Line 1]

[Address of Bidder, Line 2]

[Telephone number of Bidder]

By: _____
Name:
Title

By: _____
Name:
Title

APPENDIX A TO BID FORM
AUTHORIZED OFFICERS AND REPRESENTATIVES

Name:

Title:

Address:

ATTACHMENT A: ITEMIZED BID FORM

The Base Bid provided on the Bid Form is further broken down for information purposes into the following items, each including all labor, materials, and equipment necessary for the complete performance of the Work.

ITEM NUMBER	ITEM DESCRIPTION	UNIT	AMOUNT BID (IN WORDS)	AMOUNT BID (NUMERICAL)	
				DOLLARS	CENTS
01	EXISTING ELECTRICAL BUILDING DEMO INCLUDING ELECTRICAL RELOCATION	L.S.			
02	DEMO FOR 2 ND FLOOR MECHANICAL ROOM	L.S.			
03	NEW ELECTRICAL BUILDING SITE PREP AND FOUNDATIONS & SLAB	L.S.			
04	NEW ELECTRICAL BUILDING CONSTRUCTION	L.S.			
05	NEW 2 ND FLOOR MECHANICAL ROOM CONSTRUCTION	L.S.			
06	ROOM 135 MECH ROOM ACCESS UPGRADES	L.S.			
07	EXISTING ELECTRICAL EQUIPMENT DEMO AND REMOVAL	L.S.			
<i>CARRY FORWARD</i>					

Bidder's Initials _____

<i>BROUGHT FORWARD</i>					
ITEM NUMBER	ITEM DESCRIPTION	UNIT	AMOUNT BID (IN WORDS)	AMOUNT BID (NUMERICAL)	
				DOLLARS	CENTS
08	EXISTING HVAC AND PLUMBING EQUIPMENT DEMO AND REMOVAL	L.S.			
09	EXTERIOR IMPROVEMENTS – SIDEWALKS, FENCE AND GATE, TURF AND GRASSES	L.S.			
10	ELECTRICAL – MEDIUM VOLTAGE SWITCHGEAR, TRANSFER SWITCH AND ASSOCIATED EQUIPMENT	L.S.			
11	ELECTRICAL – MEDIUM VOLTAGE CABLE	L.S.			
12	ELECTRICAL – PANEL BOARDS AND TRANSFORMERS	L.S.			
13	ELECTRICAL – CONDUIT, WIRE AND MISCELLANEOUS ELECTRICAL SUPPLIES	L.S.			
14	PLUMBING – HOT WATER HEATERS				
<i>CARRY FORWARD</i>					

Bidder's Initials _____

<i>BROUGHT FORWARD</i>					
ITEM NUMBER	ITEM DESCRIPTION	UNIT	AMOUNT BID (IN WORDS)	AMOUNT BID (NUMERICAL)	
				DOLLARS	CENTS
15	PLUMBING – PIPING AND MATERIALS	L.S.			
16	HVAC – BOILERS AND ASSOCIATED EQUIPMENT	L.S.			
17	HVAC – ROOF TOP UNIT	L.S.			
18	HVAC – PUMPS	L.S.			
19	HVAC – EXHAUST FANS	L.S.			
20	HVAC – SERVER (COMPUTER) ROOM UNITS	L.S.			
21	HVAC – INDOOR SPLIT SYSTEMS (SMALL)	L.S.			
<i>CARRY FORWARD</i>					

Bidder's Initials _____

<i>BROUGHT FORWARD</i>					
ITEM NUMBER	ITEM DESCRIPTION	UNIT	AMOUNT BID (IN WORDS)	AMOUNT BID (NUMERICAL)	
				DOLLARS	CENTS
22	HVAC – PIPING, GLYCOL MAKE-UP SYSTEM AND MISCELLANEOUS MATERIALS	L.S.			
23	HVAC – DUCTWORK, INSULATION AND MISCELLANEOUS MATERIALS	L.S.			
24	GENERAL CONDITIONS, MOBILIZATION/DEMOBILIZATION	L.S.			
25	<i>OTHER: [please specify]</i>	L.S.			
PROJECT TOTAL					

PLEASE BE SURE A BID IS ENTERED FOR EACH ITEM. **PROJECT TOTAL SHALL ALSO BE ENTERED AS BASE BID ON BID FORM.**

NOTE: SHOULD THE LUMP SUM PRICE IN WORDS DISAGREE WITH THE LUMP SUM PRICE IN NUMERALS THEN THE WORDS SHALL TAKE PRECEDANCE.

Bidder's Initials _____

ATTACHMENT B TO BID FORM
LIST OF SUBCONTRACTORS

The following are the Subcontractors which we are prepared to accept for the performance of a portion of the Work.

Work to be performed	Subcontractor Company Name
Concrete	
Masonry	
Earthwork	
Structural	
Openings	
Finishes	
Plumbing	
Mechanical	
Electrical	
Communications	
Other <i>[please specify portion of the Work]:</i> _____	

Bidder's Initials _____

ATTACHMENT C TO BID FORM
PROJECT SCHEDULE

The attached is the proposed project schedule.

Bidder's Initials _____

*The Buffalo and Fort Erie
Public Bridge Authority*

FORM OF AGREEMENT

(September 27, 2017)



CROSSING PATHS  BUILDING FUTURES
THE PEACE BRIDGE

**R.F. WILLSON BUILDING MECHANICAL AND
ELECTRICAL UPGRADE PROJECT**

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***BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY
FORM OF AGREEMENT***

**PROJECT: TO FURNISH LABOR, MATERIALS AND EQUIPMENT FOR
R.F. WILLSON BUILDING MECHANICAL AND ELECTRICAL UPGRADE PROJECT**

THIS FORM OF AGREEMENT is entered into as of this ____ day of _____, 2019 between

THE BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY
(the “**Authority**”)

- and -

[NAME OF CONTRACTOR]
a **[corporation/partnership]** organized and existing under the laws of **[JURISDICTION]**
(the “**Contractor**”)

Recitals

- A. The Authority is the Buffalo and Fort Erie Public Bridge Authority, which is an international compact entity created pursuant to a compact entered into by the State of New York, with the consent of the United States Congress, and by the Government of Canada. The Authority is governed by a ten member Board consisting of five members from New York State and five members from Canada. The mission of the Authority is to be known as the premier Canada-United States international border crossing, providing excellence in customer service and an effective conduit for trade and tourism.
- B. The Authority's principal asset and source of revenue is the Peace Bridge, a major international toll crossing ~~overspanning~~ the Niagara River between Fort Erie, Ontario, and Buffalo, New York (the “**Bridge**”), as more particularly described in Section 1 of Schedule A (Contract Definitions). The Authority also derives significant revenues in the form of rental and fee income from the United States Bureau of Customs and Border Protection, Public Works and Government Services Canada, United States and Canadian duty-free shops, and commercial brokers operating on the property owned by the Authority and from leases of communication conduits spanning the Peace Bridge.
- C. The Authority is authorized under its legislation to establish and collect such tolls and charges as are necessary to produce at all times sufficient revenues to meet its expenses of maintenance and operation, to pay, as the same shall become due, the principal of and interest on bonds of the Authority, and to fulfill the terms of any agreement made with the holders of the bonds until such bonds and the interest thereon are fully met and discharged.
- D. Title to the property and assets of the Authority is vested in the Authority until July 1, 2020, or until all of the bonds issued by the Authority have been paid or discharged, whichever is later. Thereafter, the powers, jurisdiction, and duties of the Authority within the State of New York or within Canada shall be under the jurisdiction of the State of New York and Canada, respectively.
- E. The Authority is undertaking the Project for the construction of a dual-purpose inspection lane in the U.S. plaza of the Peace Bridge, and issued the Invitation for Bids in order to select a contractor, and, pursuant to which Invitation for Bids, the Contractor was selected to perform the required construction Work for the Project, as more particularly described in Schedule B (Scope of Work).
- F. Pursuant to the terms of the Invitation for Bids, the Contractor, upon being selected, was required to enter into this Contract for the Work, on the terms and conditions set out herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency are acknowledged, the Authority and the Contractor agree as follows:

ARTICLE 1. DEFINITIONS AND INTERPRETATION: Capitalized terms used in the Contract Documents will have the meanings given to them Schedule A (Contract Definitions). The Schedules to this Form of Agreement are incorporated in and form part of the Contract. The Schedules to this Form of Agreement include:

Schedule A	– Contract Definitions
Schedule B	– Scope of Work
Schedule C	– Contract Documents
Schedule D	– General Conditions of Contract
Schedule E	– Specifications and Drawings
Schedule F	– Dispute Resolution
Schedule G	– Construction Schedule
Schedule H	– Form of Application for Payment
Schedule I	– Required Reports
Schedule J	– Permits and Approvals
Schedule K	– Special Conditions
Schedule L	– Liquidated Damages
Schedule M	– Insurance

ARTICLE 2. WORK TO BE DONE: The Contractor shall perform all of the Work required by the Contract Documents, do and fulfill everything indicated by the Contract Documents.

ARTICLE 3. CONTRACT DOCUMENTS: The Contract Documents consist of the documents listed or described in Schedule C (Contract Documents) which form part of the Contract, and are deemed to include and all provisions required by law to be inserted in the Contract whether actually inserted or not.

ARTICLE 4. EXAMINATION OF DOCUMENTS AND SITE: This Contract shall be signed, and/or initialed as appropriate, by the Authority and the Contractor. Signing of this Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with the general and local conditions under which the Work is to be performed, and has fully reviewed the Contract Documents and all other materials referenced or otherwise made available, and has correlated personal observations with the requirements of the Contract Documents. Said investigation of conditions shall include but not be limited to (1) conditions bearing upon transportation, disposal, handling and storage of materials, (2) the availability of labor and of materials, water, electric power and roads, (3) uncertainties of weather, river stages, tides or similar physical conditions at or proximate to the site, (4) the conformation and conditions of the ground, and (5) the character of equipment and facilities needed preliminary to and during performance of the Work. The Contractor also acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials and obstacles to be encountered, insofar as this information is ascertainable from: i) an inspection of the site; ii) exploratory investigations, including but not limited to borings, taken or performed by the Contractor, the Authority, the Engineer or their agents or employees; iii) the Contract Documents; and iv) any materials or documents referenced by the Contract Documents or otherwise made available. Any failure of the Contractor to take the actions described and acknowledged in this Paragraph will not relieve the Contractor from responsibility for conditions or matters which the Contractor knew of or should have known of, and for estimating properly the difficulty and cost of successfully performing the Work without additional expense to the Authority, based on such knowledge. The Authority assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Authority; nor does the Authority assume any responsibility for any understanding reached or representations made concerning conditions which can affect the Work by any of its officers or agents before the execution of this Contract unless that understanding or representation is expressly stated in the Contract Documents, provided however, where conclusions as to existing conditions reached by the Contractor are reasonable considering those facts which the Contractor knew of or should have known of, then where conditions differ from such conclusions, such difference shall be a latent condition, and the Contractor may apply for a change order by reason of such latent condition.

ARTICLE 5. CONTRACT TIME: The Contractor agrees that it will commence the Work within five (5) calendar days from the issuance of the Notice to Proceed by the Authority, and, subject to adjustment in Contract Time as provided for in the Contract Documents, attain Substantial Completion, by the **16th** day of **February** in the year **2020**, and attain Total Completion by the **1st** day of **March** in the year **2020**. Compensation to the Contractor for changes in the Work and scheduled Substantial Completion date shall be in accordance with Article 5 of this Form of Agreement, GCC 5.11 – EXTENSION OF TIME and GCC-6.1 – CHANGES IN THE WORK. Time shall be of the essence as to all dates for performance of the Work, including all milestone dates in the approved Construction Schedule, including all dates governing the seasonal commencement, cessation and performance of the Work. No extension beyond the date of Substantial Completion fixed by the terms of this Contract shall be effective unless in writing signed by the Authority. Such extension shall be for such time and upon such terms and conditions as shall be fixed by the Authority, which may include a charge for engineering and inspection expenses actually incurred upon the Work. Notwithstanding anything herein contained to the contrary, the Contractor shall not be entitled to any increase in the Contract Price, unless the Contractor has performed work outside the scope of the Contract Documents after being duly authorized to do so in writing by the Authority. The Contractor agrees to make no claim for damages for delay in the performance of this Contract occasioned by any act or omission to act of the Authority or any of its representatives, or for any other reason, and agrees that any such claim shall be fully compensated for by an extension of time to complete performance of the Work as provided herein. The Contractor shall not be entitled to any increase in the Contract Price or adjustment or extension of the Contract Time caused by delay attributable in whole or in part to the Contractor or its Subcontractors.

Any claim for extension of Contract Time shall be made in writing to the Authority not more than twenty-one (21) days after the commencement of the delay, or after the Contractor reasonably could have anticipated the delay, whichever shall first occur; otherwise such claim shall be waived. In the case of a continuing delay, only one claim is necessary, but the written notice of claim shall indicate that it is a continuing delay and the Contractor shall further notify the Authority, in writing, when the circumstances causing the delay have abated or ended. Failure of the Contractor to give notice of such abatement or ending shall result in a waiver of any claim for the delay. Further, the Contractor shall, with the claim for an extension of Time, provide an estimate of the probable effect of such delay on the progress of the Work.

ARTICLE 6. NO COLLUSION OR FRAUD: The Contractor hereby agrees that the only person or persons interested as principal or principals in the Bid submitted by the Contractor in pursuit of this Contract are named therein, the Certificate of Non-Collusion delivered by the Contractor with its Bid was and is true and correct, and that no person other than those mentioned therein has any interest in the above mentioned Bid or in securing the award, and that this Contract has been secured without any connection with any person or persons other than those named, and that the Bid was in all respects fair, and the Bid was prepared (and the Contract was secured) without collusion or fraud and that neither any officer nor employee of the Authority has or shall have a financial interest in the performance of the Contract or in the supplies, work or business to which it relates, or in any portion of the profits thereof.

ARTICLE 7. CONTRACT PRICE AND PAYMENT: The Contract Price is [**INSERT CONTRACT PRICE FROM BID**]. The Contract Price will be subject to adjustments as provided in the Contract Documents. The Contract Price includes all payments to be made by the Authority to the Contractor for the performance of all of the Work and the Contractor's obligations under this Contract, including all applicable Taxes, other than for changes in the Work made pursuant to General Condition 6 – Changes of Schedule D (General Conditions of Contract). All amounts are in United States funds.

As the Work progresses in accordance with the Contract and in a manner that is satisfactory to the Authority, the Authority hereby agrees to make payments to the Contractor therefore, based upon the Contract Price and made a part hereof, as follows:

(a) The Authority shall, after satisfactory completion of a portion of the Work, make payment for the Work performed in accordance with the terms and conditions of the Contract, upon application therefor by the Contractor and based upon the Engineer's estimate of the progress of the Work, in accordance with the General Conditions of Contract and the most recent Schedule of Value approved by the Authority.

(b) The Authority shall retain ten percent (10%) of the amount of each payment or partial payment until the Work has been finally accepted after Substantial Completion.

(c) If the Authority determines that satisfactory progress is being made, the Authority may, after 50% of the Work has been completed, reduce to five percent (5%) the retention on the remaining 50% of the Work.

The Contract Price includes, and the Contractor shall pay, all federal (Canada and United States), state, provincial, municipal and foreign taxes, duties, currency exchange, custom, charges and other fees which may be applicable to the Contract, the Work, any products or materials incorporated in the Work or used to perform the Work. The Contractor acknowledges that the Authority is tax exempt in the State of New York and zero-rated for harmonized sales tax in Ontario. In amplification and not in limitation of the foregoing, the Authority is exempt from payment of sales and compensating use taxes of the State of New York and of cities, counties and other subdivisions of the State. These taxes are not to be included in bids or proposals for Work to be performed under the Agreement. This exemption shall apply to (i) materials permanently incorporated in the Work, such as equipment, pipe, catch basins, stone, gravel, concrete, paving, brick, masonry, insulation and other construction materials, etc.; (ii) supplies which are permanently incorporated into the Work; and (iii) material and furnishings for the Work which are incorporated therein. The Authority's tax exemption does not apply, however, to tools, machinery, equipment or other property purchased by, leased by or to the Contractor or its Subcontractors, or to supplies or materials not incorporated into the completed Work. The Contractor and its Subcontractors shall be responsible for and shall pay any and all applicable taxes, including sales and compensating use taxes, for which no exemption is available, without reimbursement by the Authority. The Contractor will take all necessary steps and shall cause its Subcontractors to take all necessary steps to ensure that all purchases of materials and supplies for the Project which are eligible for exemption from sales tax by virtue of the Authority's involvement in the Project are, in fact, purchased on a sales tax exempt basis.

The Project falls within the Joint Canada United States Government Projects Remission Order (the "Remission Order"), which grants remission of duties and taxes payable on goods imported into Canada from the United States of America, as described in the Remission Order. Equipment and materials imported into the United States of America from Canada are admitted without duty or taxes when accompanied by a commercial invoice and completed CBP Form 7533 – Inward Cargo Manifest For Vessel Under Five Tons, Ferry, Train, Car, Vehicle, Etc. (Appendix 1a) at the point of entry.

ARTICLE 8. NO PAYMENT FOR CONTRACTOR'S NON-COMPLIANCE: The Authority will not be obliged to pay for, and the Contractor will not be entitled to an estimate or payment for, any part of the Work that is not in compliance with the requirements of Applicable Laws or the Contract Documents.

ARTICLE 9. DISPUTES: The Contractor and the Authority will attempt to resolve all questions or disputes respecting any matter pertaining to this Contract or the Work, or arising from this Contract or the Work, or pertaining to the interpretation of the Contract Documents, in good faith and using commercially reasonable efforts. If any such questions, disputes or interpretations are not resolved by the Contractor and Authority through such efforts, after appropriate escalation to senior officers of each party, such questions, disputes or interpretations will be resolved in accordance with the rules for disputes, mediation and arbitration set out General Condition 12 - DISPUTE RESOLUTION of Schedule D (General Conditions of Contract) and Schedule F (Dispute Resolution Procedures).

ARTICLE 10. DETERMINATION AS TO VARIANCES: In case of any ambiguity in the plans, specifications or designs, or between any of them, the matter must be immediately submitted by the Contractor to the Facilities Manager, who shall adjust the same, and its decision in relation thereto shall be final and conclusive upon the parties.

ARTICLE 11. NOTICES: Notices in writing will be addressed to the recipient at the address set out below:

Authority:

Buffalo & Fort Erie Public Bridge Authority
100 Queen Street
Fort Erie, Ontario, Canada
L2A 3S6

Attention: Danielle McCaffery, Operations Coordinator
Fax: 716-884-2089 or 905-871-9940
Email: dem@peacebridge.com

With copies at the same time and in the same manner to:

Gowling WLG (Canada) LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario, Canada M5X 1G5
Attention: Edward G. Betts
Fax: 416-862-7661
Email: ted.betts@gowlings.com

and

Hodgson Russ LLP
The Guaranty Building
140 Pearl St., Suite 100
Buffalo, New York, USA 14202
Attention: Terrence M. Gilbride
Fax: 716-819-4625
Email: terry_gilbride@hodgsonruss.com

Contractor:

[INSERT UPON AWARD]

The delivery of a notice in writing will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender. A notice in writing delivered by one party in accordance with this Contract will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a Working Day, then the notice in writing shall be deemed to have been received on the Working Day next following such day. A notice in writing sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a Working Day or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first Working Day next following the transmission thereof. An address for a party may be changed by notice in writing to the other party setting out the new address in accordance with this Article.

ARTICLE 12. SUCCESSORS AND ASSIGNS: This Contract shall bind the successors, permitted assigns and representatives of the parties hereto.

ARTICLE 13. AGREEMENTS AND AMENDMENTS: The Contract supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the Work, including the bidding documents that are not expressly listed in Article 3 of the Agreement. The Contract may be amended only as provided in the Contract Documents.

ARTICLE 14. ALTERATIONS AND OMISSIONS: The Contractor will perform the Work in accordance with the Contract Documents without any further expense of any nature whatsoever to the Authority, other than the Contract Price.

ARTICLE 15. GOVERNING LAW: This Contract is governed by, and construed under, the internal laws of the State of New York, without giving effect to its principles of conflicts of law, and the federal laws of the United States applicable therein.

ARTICLE 16. STANDARD OF REVIEW. Wherever it is provided in this Contract that an application must be made to the Authority and/or determination made by the Authority, notwithstanding anything to the contrary contained herein, the Authority's decision on such application and/or its determination under this Contract shall be final, conclusive and binding upon the Contractor unless the same shall be determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous as necessarily to imply bad faith and unless the Contractor, within fifteen (15) calendar days after receiving notice of the Authority's decision or determination, files a written statement with the Authority that it reserves its rights in connection with the matters covered by said decision or determination.

IN WITNESS WHEREOF, this Contract has been executed by the Authority, acting by and through its proper officer duly qualified in that behalf, and the Contractor has duly executed this Contract on the day and year first above written.

[NAME OF CONTRACTOR]

**THE BUFFALO AND FORT ERIE PUBLIC
BRIDGE AUTHORITY**

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A TO THE FORM OF AGREEMENT
CONTRACT DEFINITIONS

1. DEFINITIONS

Capitalized terms used in the Contract and the Contract Documents will have the meanings set out below or in Schedule A to the Form of Agreement – Definitions, unless stated otherwise:

- 1.1. **ACCEPTANCE.** The acceptance by the Authority in accordance with GCC-5.4 – SUBSTANTIAL COMPLETION AND ACCEPTANCE that the Work has been substantially completed.
- 1.2. **ADDENDA.** Supplemental additions, deletions and modifications to the provisions of the Bid Documents which are in effect on the date of advertisement for receipt of Bids.
- 1.3. **AGREEMENT OR FORM OF AGREEMENT.** The written form of agreement between, and executed by, the Authority and Contractor covering the Work to be performed; other Contract Documents are incorporated into and made a part thereof as provided therein.
- 1.4. **ALTERNATE BID.** If required in the Bid Documents, alternate pricing, materials or both.
- 1.5. **AMENDMENT.** A formal alteration by addition, deletion or modification of a proposed contract, issued subsequent to the initiation of the sale and/or distribution of Bids and prior to the opening of Bids.
- 1.6. **APPLICABLE LAWS.** The federal (Canada or United States), state, provincial, municipal and foreign laws, regulations, ordinances, codes, court orders and rules applicable to the Parties, the Work, the Site or the Project, including Applicable Safety Laws, Applicable Environmental Laws, applicable building codes, and rules issued by governmental authorities.
- 1.7. **APPLICABLE SAFETY LAWS.** The federal, provincial, municipal and foreign laws, regulations, ordinances, codes, court orders and rules relating to health and safety applicable to the Parties, the Work, the Site or the Project, including the OHSA, the Canada Labour Code and the standards established by the CSA.
- 1.8. **APPLICABLE ENVIRONMENTAL LAWS.** The federal, provincial, state, municipal and foreign laws, regulations, ordinances, codes, court orders and rules relating to any Hazardous Materials or the environment applicable to the Parties, the Work, the Site or the Project, including the *Canadian Environmental Protection Act* and the *Canadian Environmental Assessment Act*.
- 1.9. **APPLICATION FOR PAYMENT.** The form accepted by Engineer which is to be used by Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.
- 1.10. **AUTHORITY.** The term Bridge Authority, Authority or Owner, as used herein shall mean the Buffalo and Fort Erie Public Bridge Authority or its duly authorized representatives.
- 1.11. **AUTHORITY PERMITS AND APPROVALS.** The permits, licenses, authorizations, certificates, registrations and approvals from a Governmental Authority for which the Authority retains responsibility, as listed on Schedule J (Permits and Approvals).
- 1.12. **AWARD.** The decision of the Authority to accept a Bid for the Work, subject to the execution and approval of a satisfactory contract therefore and bond to secure the performance thereof, and to such other conditions as may be specified or otherwise required by law.

Schedule A – Contract Definitions

- 1.13. **BID.** The offer or bid of the Contractor submitted in response to the Invitation to Bid, and setting out the contract price for the Work to be performed.
- 1.14. **BID DOCUMENTS.** The documents issued by the Authority as part of the procurement process for the Work, including the RFPQ, the Invitation to Bid, the documents, plans, specifications, drawings, schedules, appendices and exhibits attached to the RFPQ and the Invitation to Bid, and any addenda to the foregoing.
- 1.15. **BID PRICE.** The Bidder's price or prices for the Bid as set out in the Bid Documents, including the base bid and any Alternate Bids, and will be considered the Contract Price for the successful Bidder for the purposes of the Contract.
- 1.16. **BID SECURITY.** The security furnished by the Bidder with its Bid for the Project, as guaranty it will enter into the Contract for the Work if its Bid is accepted by the Authority.
- 1.17. **BIDDER.** An individual, partnership or corporation formally submitting a Bid for the Work contemplated acting directly or through a duly authorized representative.
- 1.18. **BONDS.** Bid, performance, maintenance and Labor and material payment bonds and other instruments of security required under the terms of the Contract Documents..
- 1.19. **BRIDGE.** The term "Bridge" means the Peace Bridge crossing over the Niagara River between Fort Erie, Ontario and Buffalo, New York, and includes any structure whether single or multiple span construction with a clear span in excess of 20 feet when measurement is made horizontally along the center line of the roadway from face to face of abutments or sidewalls immediately below the copings or fillets; or, if there are no copings or fillets, at points six inches below the bridge seats or immediately under the top slab, in the case of frame structures. In the case of arches, the span shall be measured from spring line to spring line, and as shown in the Drawings.
- 1.20. **CHANGE DIRECTIVE.** A written order to the Contractor signed by the Authority authorizing an addition, deletion, or revision to the Work, or an adjustment in the Contract Price or the Contract Time issued after the Effective Date.
- 1.21. **CHANGE OF CONTROL.** In respect of any Contractor Member (including a Joint Venture Member if the Contractor is a Joint Venture Contractor), any direct or indirect change, which results in another person, or another group of persons acting jointly or in concert, which did not control such Contractor Member person directly or indirectly immediately prior to the change, controlling such Contractor Member after such change.
- 1.22. **CHANGE ORDER.** A written order to, and agreed to by, the Contractor signed by the Authority authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after the Effective Date.
- 1.23. **-COMMENCEMENT DATE.** The day the Contractor is to commence performance of the Work in accordance with Article 5 of the Agreement – CONTRACT TIME.
- 1.24. **CONSTRUCTION SCHEDULE.** The construction and progress schedule for the Work prepared by the Contractor, and approved by the Authority, in accordance with GCC-5.2(a), and, until such construction and progress schedule is approved by the Authority, the Construction Schedule is set out in Schedule G (Construction Schedule).
- 1.25. **CONTRACT.** The full contract terms and arrangements between the Authority and the Contractor, including the Agreement and all other Contract Documents, covering the performance of the Work and

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the furnishing of Labor and materials in the construction of the Work in conformance with the requirements of the Contract Documents.

- 1.26. **CONTRACT DOCUMENTS.** The documents referenced in Schedule C (Contract Documents) as same are amended, replaced or updated from time to time with the written approval of the Authority.
- 1.27. **CONTRACT ITEM (PAY ITEM).** A specifically described unit of work for which a price is provided in the Contract.
- 1.28. **CONTRACT PRICE.** The monies payable by the Authority to Contractor under the Contract Documents as stated in the Contract, being the amount set out in Article 7 of the Form of Agreement – CONTRACT PRICE AND PAYMENT, unless otherwise revised with the express written approval of the Authority.
- 1.29. **CONTRACT SECURITY.** The approved form of security, executed by the Contractor and its Surety or Sureties, guaranteeing complete execution of the Contract and all supplemental agreement pertaining thereto and the payment of all legal debts pertaining to the construction of the project.
- 1.30. **CONTRACT TIME.** The number of days or the dates stated in the Contract from the Commencement Date to the date of Total Completion of the Work.
- 1.31. **CONTRACTOR.** The individual, partnership, joint venture or corporation undertaking the execution of the Work under the terms of the Contract and acting directly or through their or its agents or employees.
- 1.32. **CONTRACTOR PERMITS AND APPROVALS.** The permits, licenses, certificates, registrations, authorizations and approvals from a Governmental Authority which are required to be obtained in order to perform and complete the Work, including any listed on Schedule J (Permits and Approvals) as being required to be obtained by the Contractor, but excluding the Authority Permits and Approvals.
- 1.33. **CONTRACTOR TEAM.** The Contractor, including its Joint Venture Members in the case of a Joint Venture Contractor, and the Contractor's Primary Subcontractors.
- 1.34. **CONTRACTOR TEAM MEMBER.** The members of the Contractor Team, including its Joint Venture Members in the case of a Joint Venture Contractor, and the Contractor's Primary Subcontractors.
- 1.35. **CONTROL.** In respect of any person, the ability to control the management and direction of such person and such person is deemed to be controlled by another person if controlled in any manner whatsoever that results in control in fact by that other person (or that other person and any person or persons with whom that other person is acting jointly or in concert), whether directly or indirectly, and whether through the ownership of securities, a trust, a contract or otherwise, and “**CONTROLLING**” has a similar extending meaning.
- 1.36. **CULVERT.** The term “culvert” shall apply to any structure whether of single or multiple span construction with an interior width of 20 feet or less when measurement is made horizontally along with center line of roadway from face to face of abutments or sidewalls immediately below the copings or fillets; or, if there are no copings or fillets, at points six inches below the bridge seats or immediately under the top slab in the case of frame structures.

In case of arches, the span shall be measured from spring line to spring line. All measurements shall include the widths of intervening piers or division walls, as well as widths of copings or fillets.

- 1.37. **DAY.** A calendar day of twenty four hours measured from midnight to the next midnight.

Schedule A – Contract Definitions

- 1.38. **DEFECTIVE.** An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, referenced standard, test or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation for final payment (unless responsibility for the protection thereof has been assumed by the Authority at Substantial Completion).
- 1.39. **DRAWINGS.** The Drawings which show the character and scope of the Work to be performed and which have been prepared or approved by Engineer, and approved by the Authority in writing, and are referred to in the Contract Documents.
- 1.40. **EFFECTIVE DATE.** The date indicated in the Agreement on which it becomes effective as indicated on the first page of the Form of Agreement, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
- 1.41. **EMPLOYEE.** Any person working on the project mentioned in the Contract of which these specifications are a part, and who is under the direction or control, or receives compensation from the Contractor or Subcontractor.
- 1.42. **ENGINEER OR ENGINEER IN CHARGE.** The professional engineer, licensed to carry on the practice of engineering in the state of New York and the Province of Ontario, as the case may be, engaged by the Authority for the Project, and representing the Authority having the responsibility to monitor and inspect all aspects of the Contractor's Work under the direction of the Facilities Manager.
- 1.43. **ETHICS POLICY.** Ethics Policy means the Authority's Business Ethics Policy issued August 5, 2004, as amended or replaced from time to time, which has been made available to the Contractor by the Authority.
- 1.44. **EQUIPMENT.** All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of the Work.
- 1.45. **EXTRA WORK.** An item of work not provided for in the Contract as awarded but found essential to the satisfactory completion of the Contract within its intended scope.
- 1.46. **FACILITIES MANAGER.** The position of the Authority who has responsibility for the supervision of all the Work and the Project on behalf of the Authority.
- 1.47. **FIELD ORDER.** A written order issued by the Facilities Manager or the Engineer which orders minor changes in the Work, but which does not have the effect of adjusting the Contract Time or the Contract Price.
- 1.48. **GENERAL CONDITIONS OF CONTRACT OR GCC.** The General Conditions of the Contract set out in Schedule C of the Agreement.
- 1.49. **GENERAL REQUIREMENTS.** Sections of Part 1 of the Specifications.
- 1.50. **GOVERNMENTAL AUTHORITY.** Any federal (Canada or United States), state, provincial, territorial, regional, municipal or local governmental authority, quasi-governmental authority, court, government or self-regulatory organization, commission, board, tribunal, or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing, having jurisdiction in any way over or in respect of any aspect of the performance of the Work.

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- 1.51. **HAZARDOUS MATERIALS.** Any explosives, radioactive materials, hazardous wastes, or hazardous substances, including without limitation substances defined as “hazardous substances” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 9657; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 1801 1812; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 6987; any equivalent provisions in Applicable Laws relating to the environment in Canada; or any other federal (Canada or the United States), state, provincial, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning petroleum, petroleum by-products, asbestos, asbestos-containing materials, hazardous materials, waste, or substances now or at any time hereafter in effect.
- 1.52. **INSPECTOR.** The Authority representative retained to monitor or inspect methods and material relating to work both on and off the site of the Contract.
- 1.53. **INSTRUCTIONS TO BIDDERS.** The instructions to bidders issued by The Buffalo and Fort Erie Public Bridge Authority and set out in Section 1 of the Bid Documents.
- 1.54. **INVITATION TO BID.** The Invitation to Bid issued by the Authority on October 2, 2017 soliciting bids from potential contractors to perform the Work which have been pre-qualified pursuant to the RFPQ process.
- 1.55. **JOINT VENTURE.** For the purposes of this Contract:
- (a) a partnership established for the purposes of this Project and for preparing a Response or Bid where the legal or beneficial interest of such partnership is controlled or held by two or more corporations, partnerships or limited liability companies;
 - (b) a limited liability company established for the purposes of this Project and for preparing a Response or Bid where the legal or beneficial interest of such limited liability company is controlled or held by two or more corporations, partnerships or limited liability companies;
 - (c) an unincorporated joint venture of two or more corporations or partnerships; and
 - (d) a Joint Venture Corporation.
- 1.56. **JOINT VENTURE CORPORATION.** For the purposes of this Contract, a corporation established for the purposes of this Project and for preparing a Response or Bid where the legal or beneficial interest of such corporation is controlled or held by two or more corporations, partnerships or limited liability companies.
- 1.57. **JOINT VENTURE CONTRACTOR.** A Contractor that is a Joint Venture.
- JOINT VENTURE MEMBER.** Each partnership, limited liability company or corporation that is part of a Joint Venture or the person or persons who control a Joint Venture Contractor that is a Joint Venture Corporation.
- 1.58. **LANDSCAPE DEVELOPMENT.** Those items necessary to the complete highway which provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the highway.
- 1.59. **LANE.** The part of the Bridge or highway leading up to the Bridge designated by visual or physical delineators and intended to separate single lines of traffic according to direction.

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- 1.60. **LAYING LENGTH OF PIPE.** Linear feet (laying length) of pipe shall be measured by multiplying the number of whole units by the nominal length of each unit and adding thereto the length of any fractional units incorporated in the Work. The nominal length of a unit or fractional unit shall be the inside measured length from butt end to butt end exclusive of the bell or groove on the female end.
- 1.61. **MATERIAL.** Any approved material acceptable to the Authority and conforming to the requirements of the specifications.
- 1.62. **MILESTONE.** Any date or period identified in the approved Construction Schedule for the commencement, cessation or completion of any portion of the Work, including without limitation the dates set forth therein for the seasonal performance of portions of the Work.
- 1.63. **MODIFICATIONS:**
- 1.63.1. A written amendment of the Contract Documents signed by both parties;
 - 1.63.2. A Change Order;
 - 1.63.3. A Field Order;
- A Modification may only be issued after the Effective Date of the Agreement.
- 1.64. **NOTICE OF AWARD.** The written notice by the Authority to the successful Bidder stating that upon compliance by the successful Bidder with the conditions precedent enumerated therein, within the time specified, the Authority will sign and deliver the Agreement.
- 1.65. **NOTICE TO PROCEED.** A written notice given by the Authority to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform his obligations under the Contract Documents.
- 1.66. **OFF-PEAK SEASON.** The period from and including October 16 to May 15 of any year.
- 1.67. **OHSA.** The *Occupational Health and Safety Act* (Ontario) or the Occupational Health & Safety Act (29 USC ch. 15 et. seq.), as the case may be depending upon the country in which Work is being performed.
- 1.68. **PARTIAL OR MONTHLY ESTIMATES.** Payments to the Contractor for Work satisfactorily performed, made on percentage or other basis as determined by the Authority based on its reasonable estimate of the progress of the Work.
- 1.69. **PEAK SEASON.** The period from and including May 16 to and including October 15 of any year.
- 1.70. **PERMANENT LANE CLOSURE** – When all or part of a travel Lane is obstructed or restricted from use by traffic for a lengthy duration of time, typically work that occupies a location more than one (1) daylight period.
- 1.71. **PLANS.** The official contract drawings and applicable standard sheets, which show the location, character, dimensions and details of the Work to be performed.
- 1.72. **PRIMARY SUBCONTRACTORS.** The Primary Subcontractors which will enter into subcontracts with the Contractor for performance of a material part of the Work and upon whose experience and skill the Contractor relied as a Contractor Team Member in order to satisfy the requirements of the Bid Documents. For greater clarity, a Subcontractor is considered a Primary Subcontractor for the purposes of this Contract if: (a) such subcontractor is expected to undertake at least 25% of the Work in Canada

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- or 25% of the Work in the United States based on the total estimated construction costs for that part of the Work; or (b) the Contractor uses or relies upon the experience and skills of such subcontractor in the description of the Contractor Team's experience and skills in the RFPQ Response. The Authority does not consider a supplier of materials, goods or equipment which does not perform any construction work on the Bridge to be a Primary Subcontractor.
- 1.73. **PROJECT.** The total design and construction of which the Work to be provided under the Contract Documents may be the whole or a part as indicated elsewhere in the Contract Documents.
- 1.74. **PROJECT MANUAL.** The bound documentary information prepared for bidding and constructing the Project. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
- 1.75. **PUNCHLIST WORK.** The list of punchlist items of Work to be completed after the date of Substantial Completion, as defined in GCC-5.5 – TOTAL COMPLETION.
- 1.76. **RFPQ.** The Request for Pre-Qualifications issued by the Authority on September 14, 2017, including all Addenda to that Request for Pre-Qualifications.
- 1.77. **RFPQ RESPONSE.** The written response of the Contractor and submitted to the Authority in response to the RFPQ.
- 1.78. **REASONABLY CLOSE CONFORMITY.** Reasonably close conformity means compliance with reasonable and customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, reasonably close conformity means compliance with such working tolerances. Without detracting from the complete and absolute discretion of the Engineer to insist upon such tolerances as establishing reasonably close conformity, the Engineer may accept variations beyond such tolerances as reasonably close conformity where they will not materially affect the value or utility of the Work and the interests of the Authority.
- 1.79. **RIGHT OF WAY or R O W.** A general term denoting land, property or interest therein, usually in a strip, acquired or owned by the Authority.
- 1.80. **ROADBED.** The graded portions of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.
- 1.81. **ROADWAY.** The portion of a highway included between the outside edges of the shoulders.
- 1.82. **ROAD SECTION.** That portion of a highway included between the top of the slope in cut and the bottom of slope in fill.
- 1.83. **SAMPLES.** Physical examples furnished by the Contractor to illustrate materials, equipment or workmanship, and to establish standards by which some portions of the Work will be judged.
- 1.84. **SHOP DRAWINGS.** All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by Contractor to illustrate material or equipment for some portion of the Work.
- 1.85. **SHOULDER.** The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

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- 1.86. **SITE.** The specific area adjacent to and including the area upon which Work is to be performed, including any storage or staging areas, as indicated in the Drawings.
- 1.87. **SOIL AMENDMENT.** Materials such as sand, clay, gravel and organic materials used for incorporating with soils to affect the soil structure or organic content, exclusive of the use of lime and fertilizers.
- 1.88. **SPECIAL CONDITIONS OR SC.** Special directions, provisions, or requirements peculiar to the Project and included in Schedule K of the Agreement (Special Conditions), if any.
- 1.89. **SPECIFICATIONS.** Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.
- 1.90. **STANDARD SHEETS.** The standard drawings approved for repetitive use, showing details to be used where appropriate.
- 1.91. **STRUCTURES.** Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, end walls, buildings, sewers, service pipes, underdrain, foundation drains and other features which may be encountered in the Work and not otherwise classed herein.
- 1.92. **SUBCONTRACTOR.** Any individual, firm or corporation to whom the Contractor, with the written consent of the Authority, sublets or subcontracts any part of the Work.
- 1.93. **SUBSTANTIAL COMPLETION.** The Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer as evidenced by the Engineer's definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes which it was intended, or if no such certificate issued, when final payment is due. The terms "substantially complete" and "substantially completed" as applied to any Work refer to Substantial Completion thereof.
- 1.94. **SURETY.** The corporate body bound with and for the Contractor, for the full and complete performance of the Contract, and for the payment of all debts, pertaining to the Work.
- 1.95. **TEMPORARY LANE CLOSURE** – When all or part of a travel Lane is obstructed or restricted from use by traffic for a limited duration of time as described herein.
- 1.95.1. **Mobile Work:** Work that moves intermittently or continuously. Mobile work zones should only be used where the work at any specific location will be completed within 15 minutes.
- 1.95.2. **Short Duration:** Work that occupies a location for up to one (1) hour.
- 1.95.3. **Short-Term Stationary:** Daytime work that occupies a location for more than one (1) hour within a single daylight period.
- 1.95.4. **Night Work:** Work that occupies a location during non-daylight hours.

There may be cases where site specific conditions justify longer duration use of the described temporary lane closures. In such cases, an exception may be approved by the Authority after consideration of relevant factors such as staging of the work, degree of obstruction to traffic, traffic volumes, and the relative severity and duration of exposure to workers and traffic.

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- 1.96. **TEMPORARY WORK.** The temporary supports, structures, facilities, services and other work of a temporary nature at the Site, excluding Equipment, required for the performance of the Work, but not incorporated into the Work.
- 1.97. **TEST.** Methods adopted by the Authority to ascertain the quality character and acceptability of materials and processes utilized in performing the Contract.
- 1.98. **TOTAL COMPLETION.** The Work has progressed to the point where, in the opinion of the Engineer as evidenced by the Engineer's definitive certificate of Total Completion or as accepted by the Authority, all of the Work has been fully performed, including all Punchlist Work, and all reports and deliverables have been delivered to the Authority.
- 1.99. **UTILITY.** A publicly, privately or cooperatively owned agency or agencies operated by one or more persons or corporations for public service.
- 1.100. **WORK.** Work shall be understood to mean the furnishing of all Labor, materials, equipment and other incidentals necessary or convenient to the successful completion of the project and the carrying out of all duties and obligations imposed by the Contract Documents.
- 1.101. **WORKING DAY.** A calendar day, exclusive of Sundays and recognized legal holidays, on which weather and other conditions not under the control of the Contractor, will permit construction operations to proceed for the major part of the day on the principal item or items of work which would normally be in progress at that time.

2. ABBREVIATIONS

Wherever the following abbreviations are used in Specifications or on the Plans, they are to be construed the same as the respective expressions represented below:

- | | | | |
|-------|--------------------|---|--|
| 2.1. | A.A.N. | – | American Association of Nurserymen |
| 2.2. | A.A.R. | – | Association of American Railways |
| 2.3. | A.A.S.H.T.O | – | American Association of State Highway and Transportation Officials |
| 2.4. | A.C.I. | – | American Concrete Institute |
| 2.5. | A.G.C. | – | Associated General Contractors of America |
| 2.6. | A.I.A. | – | American Institute of Architects |
| 2.7. | A.I.S.I. | – | American Iron and Steel Institute |
| 2.8. | A.N.S.I. | – | American National Standards Institute |
| 2.9. | A.O.A.C. | – | Association of Official Agricultural Chemists |
| 2.10. | A.R.A. | – | American Railway Association |
| 2.11. | A.R.E.A. | – | American Railway Engineering Association |
| 2.12. | A.S.C.E. | – | American Society of Civil Engineers |

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2.13.	A.S.H.R.A.E Engineers	–	American Society of Heating, Refrigerator and Air Conditioning
2.14.	A.S.L.A.	–	American Society of Landscape Architects
2.15.	A.S.M.E.	–	American Society of Mechanical Engineers
2.16.	A.S.T.M.	–	American Society of Testing and Materials
2.17.	A.W.P.A.	–	American Wood Preservers Association
2.18.	A.W.S.	–	American Welding Society
2.19.	A.W.W.A.	–	American Water Works Association
2.20.	B.S.I.	–	British Standards Institution
2.21.	C.S.A.	–	Canadian Standards Association
2.22.	D.B.E.	–	Disadvantage Business Enterprise
2.23.	E.I.C.	–	Engineer In Charge
2.24.	F.H.W.A.	–	The Federal Highway Association
2.25.	F.S.S.	–	Federal Specifications and Standards, General Services Administration
2.26.	H.R.A.C.I.	–	Heating, Refrigeration and Air Conditioning Institute
2.27.	H.E.P.C.	–	Hydro Electric Power Commission
2.28.	I.E.S.	–	Illuminating Engineering Society
2.29.	M.T.O.	–	Ministry of Transportation Ontario
2.30.	M.U.T.C.D.	–	Manual of Uniform Traffic Control Devices
2.31.	N.B.C.	–	National Building Code of Canada
2.32.	N.F.P.A.	–	National Fire Protection Association
2.33.	N.R.C.	–	National Research Council of Canada
2.34.	N.Y.S.D.O.T.S.C.M.	–	New York State Dept. of Transportation Steel Construction Manual
2.35.	N.Y.S.D.O.T.S.S.	–	New York State Department of Transportation Standard Specifications
2.36.	O.P.S.	–	Ontario Provincial Standards
2.37.	R.A.I.C.	–	Royal Architectural Institute of Canada

Schedule A – Contract Definitions

- 2.38. **S.A.E.** – Society of Automotive Engineers
- 2.39. **S.P.N.** – Standardized Plant Names adopted by the American Joint Committee on Horticultural Nomenclature and in effect on the date of request of advertisement of Bids
- 2.40. **S.S.P.C.** – Steel Structures Painting Council Specifications
- 2.41. **U.L.C.** – Underwriters Laboratories
- 2.42. **U.L.I.** – Underwriters Laboratories Incorporated

3. INTERPRETATION

The Contract and the Contract Documents, and all Appendices, Schedules and Exhibits to this Contract, will be interpreted according to the following provisions, save to the extent that the context or the express provisions of the Contract and the Contract Documents, or any Appendices, Schedules and Exhibits hereto, otherwise requires:

- 3.1. The table of contents, headings and sub-headings, marginal notes and references to them in this Contract are for convenience of reference only, do not constitute a part of this Contract, and shall not be taken into consideration in the interpretation or construction of, or affect the meaning of, the Contract and the Contract Documents.
- 3.2. All references to paragraphs, Articles, Sections, General Provisions, Special Conditions and Schedules are references to paragraphs, Articles, Sections, General Provisions, Special Conditions of the Contract.
- 3.3. The Appendices, Schedules and Exhibits to the Contract (including any appendices, schedules and exhibits thereto) are an integral part of the Contract and reference to the Contract includes reference thereto and reference to any Appendices, Schedules and Exhibits includes reference to any appendices, schedules and exhibits thereto.
- 3.4. All references to any statute or statutory provision (including any subordinate legislation) include any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and include any orders, regulations, by-laws, ordinances, codes of practice, instruments or other subordinate legislation made under the relevant statute.
- 3.5. All references to time of Day are references to Standard time or Daylight Saving time, as the case may be, applicable in the State of New York.
- 3.6. The words “herein”, “hereto”, “hereof” and “hereunder” and other words of like import refer to the Contract as a whole and not to the particular Section, Appendix, Schedule, Exhibit, General Condition, Special Condition, part, paragraph or appendix in which such word may be used.
- 3.7. Words importing the singular include the plural and vice versa.
- 3.8. Words importing a particular gender include all genders.
- 3.9. The words “includes” or “including” are to be construed as meaning “includes without limitation” or “including without limitation”, respectively.
- 3.10. Words, phrases and abbreviations that have well known technical or trade meanings, and that are defined in the Contract, are used in the Contract in accordance with such recognized meanings.

Schedule A – Contract Definitions

- 3.11. If the time for doing an act falls or expires on a day that is not a Working Day, the time for doing such act will be extended to the next following Working Day.
- 3.12. Each provision of the Contract and the Contract Documents will be valid and enforceable to the fullest extent permitted by Applicable Law. If any provision of the Contract and the Contract Documents is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality will not prejudice or affect the validity, enforceability and legality of the remaining provisions of the Contract and the Contract Documents. If any such provision of this Contract is held to be invalid, unenforceable or illegal, the parties will promptly endeavour in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore the Contract and the Contract Documents as nearly as possible to its original intent and effect.

SCHEDULE B TO THE FORM OF AGREEMENT
SCOPE OF WORK

The Project scope includes all labour, services, materials, supplies, equipment, tools, transportation, and other facilities and items necessary or proper for or incidental to the R.F. Willson Building Mechanical and Electrical Upgrade Project, as defined in these Bid Documents.

In general, the Project is expected to begin construction in June 2019, and is scheduled for completion in February, 2020.

General scope of Work will include but will not be limited to work related to the following tasks, as specified in more detail in the Bid Documents.

- Site preparation and construction of a 20ft x 23ft building addition ('Electrical Building').
- Interior renovations to accommodate the expansion of existing boiler room.
- Replacement and new installations of electrical infrastructure and equipment (including but not limited to new 5KV medium voltage switch gear and associated distribution panels), relocation of various distribution and lighting panels with new equipment, and upgrade to the emergency power system.
- Replacement and new installations of domestic hot water system, as well as HVAC equipment and associated ductwork (including but not limited to boilers, hydronic system (pumps, heat exchangers, control valves, water treatment system), roof top units, and split systems).

SCHEDULE C TO THE FORM OF AGREEMENT
CONTRACT DOCUMENTS

The Contract Documents consist of the following documents:

1. Form of Agreement signed by the Authority and the Contractor.
2. Schedules to the Form of Agreement.
 - (i) Schedule K – SPECIAL CONDITIONS – of the Agreement
 - (ii) Schedule B – GENERAL CONDITIONS – of the Agreement
 - (iii) Drawings in Schedule E – SPECIFICATIONS AND DRAWINGS – of the Agreement
 - (iv) Specifications in Schedule E – SPECIFICATIONS AND DRAWINGS – of the Agreement
 - (v) Schedule A – CONTRACT DEFINITIONS – of the Agreement
 - (vi) Schedule F – DISPUTE RESOLUTION PROCEDURES – of the Agreement
 - (vii) Schedule G – PROJECT SCHEDULE – of the Agreement
 - (viii) Schedule H – FORM OF APPLICATION FOR PAYMENT – of the Agreement
 - (ix) Schedule I – REQUIRED REPORTS – of the Agreement
3. Modifications approved in writing by the Authority.
4. Drawings and Specifications, including updates, revisions and replacements of same approved in writing by the Authority.
5. The Invitation to Bid, including any Addenda.
6. The RFPQ, including any Addenda.
7. The Contractor's Bid.
8. The Contractor's RFPQ Response.

If there is any conflict between or among the Contract Documents, the interpretation and resolution of such conflict or inconsistency will be determined by the order of priority indicated above.

SCHEDULE D TO THE FORM OF AGREEMENT
GENERAL CONDITIONS OF CONTRACT

The following General Conditions of Contract apply to the performance of the Work and the Contract Documents.

GENERAL CONDITION 1 -GENERAL PROVISIONS

- GCC-1.1 CONTRACT DOCUMENTS.** The intent of the Contract Documents is to include the Labor, products and services necessary for the performance of the Work by the Contractor in accordance with these documents. It is not intended, however, that the Contractor shall supply products or perform work not consistent with, not covered by, or not properly inferable from the Contract Documents. Nothing contained in the Contract Documents shall create any contractual relationship between: (a) the Authority and a Subcontractor, a Supplier, or their agent, employee, or other person performing any portion of the Work; or (b) the Engineer and the Contractor, a Subcontractor, a Supplier, or their agent, employee, or other person performing any portion of the Work.
- GCC-1.2 RIGHTS AND REMEDIES.** Except as expressly provided in the Contract Documents, the duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the Authority, Engineer or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- GCC-1.3 MISCELLANEOUS CONTRACT CLAUSES.** The execution of the Agreement by the Contractor binds the Contractor to the following specific terms:
- (a) This Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the Authority.
 - (b) The relationship of the Contractor to the Authority is that of any independent contractor, and said Contractor, in accordance with its status as such Contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as or claim to be an officer or employee of the Authority by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Authority including, but not limited to, Workmen's Compensation coverage, employment insurance benefits, Canada Pension Plan coverage, or other employment benefits or entitlements.
 - (c) This Contract shall be void and of no effect unless the Contractor remains in good standing, and fully paid-up with the Workplace Safety and Insurance Board for workers compensation coverage relating to Work to be performed with the province of Ontario and maintains all statutory required workers compensation insurance relating to Work to be performed within the State of New York.
 - (d) No laborer, workman or mechanic in the employ of the Contractor or any Subcontractor engaged in the performance of any of the Work to be performed within the State of New York shall be paid less than the prevailing rate of wage. The "prevailing rate of wage," for the intents and purposes of this agreement shall be the rate of wage paid in the locality, as, by virtue of New York State Department of Labor – Prevailing Wages. Each Bidder shall base its Bid on its lowest wage rates generally offered for its best customers in Ontario for skilled and experienced workers capable of properly and satisfactorily performing the

Work. Upon request, the Bidder will provide the Authority with a schedule of its wage rates.

GCC-1.4 OTHER CONTRACTS. The Authority reserves the right to let other contracts in connection with this Project.

The Contractor's attention is specifically directed to the fact that because of the work on other contracts within and adjacent to the limits of this Contract, and because the plaza must remain functional, the Contractor may not have the exclusive occupancy of the territory within or adjacent to limits of the Site.

The Contractor will be required to cooperate with other contractors and the owner of the various Utilities and to coordinate and arrange the sequence of the Work to conform with the progressive operations of the work already under contract and to be put under contract. Cooperation and adjustments with the contractors already engaged and to be engaged upon the Site is essential to properly coordinate the construction efforts of all contractors, utility owners, and Subcontractors engaged in the work within and adjacent to the construction area of this Contract.

In the event that utility facility adjustments are to be made by utility owner's forces in connection with and during the life of the Contract, the Contractor will be required to cooperate with the owners of the various utilities and to coordinate and arrange the sequence of its Work to conform with the progressive operations of the utility owner's work underway or to be put underway.

In case of interference between the operation of the utility owners and different contractors, including the Contractor, the Facilities Manager will be the sole judge of the rights of each contractor and the sequence of work necessary to expedite the completion of the entire Project, and in all cases his decision shall be accepted as final.

GENERAL CONDITION 2 -REPRESENTATIONS AND WARRANTIES

GCC-2.1 CONTRACTOR'S REPRESENTATIONS AND WARRANTIES. The Contractor represents and warrants to the Authority that:

- (a) the Contractor is a *** duly created and validly existing under ***, it is in good standing and in compliance with the Applicable Laws that govern its existence and it is not in default of its obligation to produce any declaration or report required under Applicable Laws and it has full power, capacity and authority to own its property and assets, to carry on its business as it is currently being conducted and to enter into this Contract, the other Contract Documents and all other documents, instruments and agreements required to be executed and delivered by the Contractor pursuant to this Contract or to such other Contract Documents and to perform all its obligations thereunder;
- (b) if the Contractor is a Joint Venture Contractor:
 - (i) each Joint Venture Member is a *** duly created and validly existing under ***, it is in good standing and in compliance with the Applicable Laws that govern its existence and it is not in default of its obligation to produce any declaration or report required under Applicable Laws and it has full power and authority to own its property and assets, to carry on its business as it is currently being conducted and to enter into the Contract Documents to which it is a party and all other documents, instruments and agreements required to be executed and delivered by it pursuant to this Contract or such other Contract Documents and to perform all its obligations thereunder;

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- (ii) the ownership information set out the Contractor's RFPQ Response is true and correct.
- (c) the execution by the Contractor (and, in the case of a Joint Venture Contractor, each Joint Venture Member) of this Contract and the other Contract Documents to which they are a party, and of all other documents, instruments and agreements required to be executed by any of them pursuant to said documents, and the completion of the transactions contemplated herein or therein have been duly authorized by all necessary action on the part of the Contractor (and, in the case of a Joint Venture Contractor, each Joint Venture Member), and this Contract, and each other Contract Document to which the Contractor (or, in the case of a Joint Venture Contractor, each Joint Venture Member) is a party, have been duly executed by each of them and constitute legal, valid and binding obligations of the Contractor (and, in the case of a Joint Venture Contractor, each Joint Venture Member), enforceable in accordance with their respective terms, subject only to limitations by bankruptcy, insolvency, liquidation, moratorium, winding-up, arrangement, reorganization, fraudulent preference and conveyance or similar laws of general application affecting creditors' rights generally;
- (d) the execution and performance of by the Contractor and, in the case of a Joint Venture Contractor, each Joint Venture Member of this Contract or any other Contract Documents to which they are respectively a party do not and shall not violate or conflict with (i) any agreement to which it is a party; (ii) their respective constating, formation or organizational documents, including any by-laws; (iii) any Applicable Law; or (iv) any document which is binding upon them or any of their assets to the extent that such conflict would have or be reasonably likely to have a material adverse effect on the performance by the Contractor of its obligations under this Contract;
- (e) all required third party consents to the execution by the Contractor and, in the case of a Joint Venture Contractor, each Joint Venture Member of, and performance of their obligations under, this Contract and the other Contract Documents to which they are a party, have been received, other than the Contractor Permits and Approvals and other approvals contemplated herein to be obtained after the Commencement Date;
- (f) since the date of the delivery of the Contractor's RFPQ Response: (i) there has been no material reduction in the qualifications and expertise of the Contractor or any of the Primary Subcontractors to perform the Work; (ii) there has been no material adverse change in the financial condition of the Contractor, any Joint Venture Member (in the case of a Joint Venture Contractor), or any of the Primary Subcontractors; and (iii) Primary Subcontractor has been removed, changed or substituted from the Contractor Team as identified in the Contractor's RFPQ Response except as may have been disclosed in writing to, and approved in writing by, the Authority in accordance with this Contract.
- (g) all statements, representations and information provided in the Contractor's RFPQ Response and the Contractor's Bid were and, except as otherwise disclosed in writing to the Authority in accordance with the Bid Documents, still remain correct and accurate in all material respects; and
- (h) there are no Claims pending or, to the Contractor's knowledge, threatened, against the Contractor nor any of the Joint Venture Members (in the case of a Joint Venture Contractor) or, to the Contractor's knowledge, pending or threatened against any of the Primary Subcontractors, that, if successful, would materially adversely affect the financial condition of the Contractor or its ability to fulfil its obligations under this Contract or any of the other Contract Documents to which it is a party.

GCC-2.2 CONTRACTOR TEAM.

- (a) If the Contractor is a Joint Venture, the Joint Venture Members agree to be jointly and severally liable for all of the obligations, liabilities and responsibilities of the Contractor under the Contract Documents.
- (b) If a Contractor wishes to remove, add or otherwise change a Contractor Team Member (including any Joint Venture Member if the Contractor is a Joint Venture Contractor) after the Effective Date, then it must first obtain the written approval of the Authority, which approval may be granted in the Authority's sole discretion. In making its determination to grant or deny such approval, the Contractor will provide the Authority with such information, documents and other records as the Authority may request, including all information, documents and other records required under this Contract and all agreements and amendments to agreements demonstrating the amended Contractor Team structure.
- (c) A Change in Control of a Contractor Team Member is deemed to be a change to such Contractor Team Member for the purposes of this GCC-2.2 and an assignment for the purposes of GCC-1.3(a), and requires the approval of the Authority.

GCC-2.3 AUTHORITY'S REPRESENTATIONS AND WARRANTIES. The Authority represents and warrants to the Contractor that:

- (a) the Authority has full power, capacity and authority to enter into this Contract, the other Contract Documents to which it is a party and all other documents, instruments and agreements required to be executed and delivered by the Authority pursuant to this Contract or such other Contract Documents and to perform all its obligations thereunder;
- (b) the execution and delivery by the Authority of this Contract and the other Contract Documents to which it is a party, and all other documents, instruments and agreements required to be executed by it pursuant to this Contract or such other Contract Documents, and the completion of the transactions contemplated by this Contract and such other Contract Documents, have been duly authorized by all necessary action on the part of the Authority, and this Contract, and each other Contract Document to which the Authority is a party, have been duly executed by the Authority and constitute legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms.

GCC-2.4 WITHOUT PREJUDICE. Any covenant, representation or warranty made or given by the Contractor or the Authority, as the case may be, under any provision of this Contract is without prejudice to or limitation to any covenant, representation or warranty made or given by the Contractor or the Authority, as the case may be, under any other provision of this Contract.

GCC-2.5 SURVIVAL. All representations and warranties made or given by the Contractor or the Authority, as the case may be, under any provision of this Contract or in any certificate or other document delivered by or on behalf of the Contractor or of the Authority at the time of execution of this Contract, unless expressly provided otherwise, are given at the date of execution of this Contract, shall survive the execution of this Contract and the other Contract Documents and shall not be mitigated or affected by any investigation by or on behalf of the Authority or the Contractor, as the case may be.

GENERAL CONDITION 3 - PERFORMANCE OF THE WORK

GCC-3.1 WORK REQUIRED. The Contractor shall have total control of the Work and shall effectively direct and supervise the Work so as to ensure conformity with the Contract Documents. The

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Contractor shall be solely responsible for construction means, methods, techniques, sequences, and procedures and for co-ordinating the various parts of the Work under the Contract. The Contractor shall be required to do all Work enumerated under the different items of the Contract and in addition to this shall be required to protect all adjoining property, all utilities and existing highway facilities within the Right of Way from damage caused by the performance of the Work, and to repair or replace any such property, utilities and facilities damaged or destroyed by their employees as a result of the performance of the Work, both within and adjacent to the Right of Way.

The Contractor shall be responsible for the coordination of the Work of its various Subcontractors. Their respective operation shall be arranged and conducted so that delays will be avoided. Where the Work of the Contractor, or Subcontractors, overlaps or dovetails with that of other contractors, materials shall be delivered and operations conducted so as to carry on the Work continuously in an efficient and workmanlike manner.

Delays or oversights on the part of the Contractor or Subcontractors in getting any or all of their work done in the proper way thereby requiring the cutting, removing and replacing of work already in place, shall not be the basis for a claim of extra compensation. Such work will be performed at the cost and expense of the offending Contractor or Subcontractor.

The Contractor is required to communicate, coordinate and plan their work accordingly with all external stakeholders, including utilities owners, to avoid unnecessary delays and costs to the Work.

Refer to GCC 5.8 of the General Conditions of Contract – LIQUIDATED DAMAGES FOR PERMANENT LANE CLOSURES and GCC 5.9 of the General Conditions of Contract - LIQUIDATED DAMAGES FOR TEMPORARY LANE CLOSURES for further information regarding the scheduling of Work requiring bridge travel Lane closures.

GCC-3.2 **CLEANING UP.** All Work shall be neatly cleaned up upon completion according to the Engineer's directions, and be left in a neat and orderly condition. Any salvaged material not specified to be disposed of otherwise shall become the property of the Contractor and removed from the site. Cost to be included in various contract items.

GCC-3.3 **METHODS AND EQUIPMENT.** When particular methods or equipment are specifically required in the Specifications, the Contractor may apply in writing to the Engineer to use alternate methods and equipment to provide the same results. Such alternate methods or equipment may be used only after favourable recommendation by the Engineer. When, in the opinion of the Facilities Manager, satisfactory results are not being obtained using the Contractor's alternate methods and equipment, the methods and/or equipment shall be immediately modified to produce satisfactory results.

GCC-3.4 **COOPERATION OF THE CONTRACTOR.** The Contractor shall give its constant personal attention to the Work while it is in progress or it shall place it in charge of a competent and reliable English speaking superintendent, who shall have authority to act for the Contractor and who shall be acceptable to the Facilities Manager. The Contractor shall, at all times employ Labor and equipment which shall be sufficient to prosecute the several classes of work to full completion in the manner and time specified. All workmen must have sufficient skill and experience to properly perform work assigned them. All workmen engaged on special of skilled work shall have had sufficient experience in such work to properly and satisfactorily perform it and operate the equipment involved. Any person employed by the Contractor whom the Facilities Manager may deem incompetent or unfit to perform the Work shall be at once discharged from working on the Project, and shall not be again employed on the Project. In case of a disagreement with the Contractor regarding the discharge of such employees, the matter may be reviewed by the Authority.

GCC-3.5 **STAKEOUT.** The Contractor shall furnish, free of charge, all stakes, templates, standard subgrade

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testers, straight edges, approved paint and marking devices, and such temporary structures as may be necessary for marking and maintaining points and lines for the Work, and is to give the Engineer such facilities, Labor and materials for giving the lines and points as it may require.

All property lines and survey monuments which may be disturbed during construction shall be properly tied to fixed points before being disturbed and properly re set by the Contractor upon the completion of the Work as directed by the Engineer.

GCC-3.6 INSPECTION.

- (a) Authority Inspectors shall be authorized to inspect all Work done and materials furnished, including all or any part of the Work and the preparation, fabrication or manufacture of the materials to be used. Inspection shall include, but not be limited to the Contractor's compliance with applicable safety requirements set out in GCC-12.5 – SAFETY AND HEALTH REQUIREMENTS and all aspects of Maintenance & Protection of Traffic. The Inspector or inspecting agent is not authorized to either alter or waive the provisions of these specifications or the Contract, or to issue instructions contrary to the plans and specifications, without written approval of the Engineer or act as foreman for the Contractor. However, it shall have the authority to reject unacceptable Work or materials.
- (b) The Authority inspections and tests are for the sole benefit of the Authority and do not (1) relieve the Contractor of the responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for damage to or loss of the material before acceptance; (3) constitute or imply acceptance; or (4) affect the continuing rights of the Authority after acceptance of the completed work under GCC-5.4 – SUBSTANTIAL COMPLETION AND ACCEPTANCE.
- (c) INSPECTION OF WORK. All materials and each part or detail of the Work shall be subject to inspection by the Inspector and the Engineer. The Engineer and the Inspector shall be allowed full work access and shall be furnished with necessary information and assistance by the Contractor to make a complete and detailed inspection.
- (d) REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK. All Work which does not conform to the requirements of the Contract shall be considered unacceptable unless otherwise determined acceptable under the provisions of GCC-4.2 – CONFORMITY WITH PLANS AND SPECIFICATIONS.

Whenever the Engineer considers it necessary to remove any portion of the Work executed under this Contract for inspection or for any other purpose, no payment shall be made for such removal or for replacement of the Work to satisfactory condition in case such inspection shows that the Work was not constructed in accordance with the terms of the Contract; nor shall payment be made for the removal or replacement of any Work which may itself be satisfactory, but the removal of which is necessary for the replacement of unsatisfactory Work. However, if such inspection shows that the Work was constructed in accordance with the terms of the Contract, payment shall be made to the Contractor for such removal and subsequent replacement at a fair and reasonable price, arrived at through an order on contract for the Work performed. No payment shall be made in such removal and replacement situations and no extension of Contract Time shall be given if work was done or materials furnished not in accordance with the terms of the Contract or without inspection by an authorized Engineer or Authority representative.

The above paragraph shall not apply to concrete foundation for pavement or cement concrete pavement rejected as a result of core tests. Work so rejected shall be removed and

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replaced at the expense of the Contractor. Rejected Work relating to foundation for pavement or cement concrete pavement Work shall not give rise any increase in the Contract Price or any extension of Contract.

All Work shall be in first-class and satisfactory condition at the time of acceptance of the Contract.

Any Work done or materials used without inspection by the Engineer or an authorized Authority representative may be ordered removed and replaced at the Contractor's expense.

Unacceptable Work, whether caused by poor workmanship, defective materials, damage through carelessness or any other cause found to exist prior to the Acceptance of the Work, shall be removed immediately and replaced in an acceptable manner irrespective of the presence of, or lack of, an Authority Inspector or representative. This clause shall have full effect regardless of the fact that the defective Work may have been done or the defective materials used with the full knowledge of the Inspector. The fact that the Inspector or Engineer may have previously overlooked such defective Work shall not constitute an acceptance of any part of it.

GCC-3.7 CONSTRUCTION EQUIPMENT. It is the intent of the Specifications to permit the use of the most efficient Equipment that is consistent with conditions at the time of use. It is however anticipated that seasonal, traffic or weather conditions combined with the nature of the terrain will often require the use of lighter or smaller equipment than might be used under optimum conditions. Construction Equipment load in excess of the required load standards or live load equivalents shall not be operated on or across any segment of pavement or structure which is to be retained as part of the ultimate highway section without specific authorization in writing by the Engineer. This authorization shall indicate specifically the limits within which such Equipment with over-legal axle loads shall operate, the frequency of such over-loads and any other limiting factors consistent with conditions.

If the Engineer determines that the use of heavy Equipment on portions of the road section other than pavement, on any part or all of a contract, is having or will result in detrimental effects on the finished highway or structure it will so notify the Contractor in writing and shall indicate the maximum weight and/or axle load for any Equipment that may be used for any specific operation or location.

GCC-3.8 WINTER EARTHWORK OPERATIONS. Earthwork construction operations requiring compaction shall not be performed from November 15 to April 1 except with the written permission of, and under such special conditions and restriction as may be imposed by the Facilities Manager.

GCC-3.9 CONTRACTOR'S RESPONSIBILITY FOR WORK. The Contractor is responsible for carrying out the provisions of the Contract at all times, regardless of whether an authorized inspector is present or not. Any Work or item that is, at any time, found to be not in conformity to the Specifications or not in compliance with the plans shall remain the responsibility of the Contractor and shall be subject to such corrective measures that are approved in writing by the Engineer.

GCC-3.10 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS. All materials used in the Work shall meet the quality requirements described in Special Materials Details, unless the same are altered by specific requirement under any itemized specification or by notes shown upon the plans and Specifications.

It shall be the responsibility of the Contractor to advise the Engineer of the sources of proposed materials sufficiently in advance of their use so that proper tests may be made.

Immediately after the Effective Date, the Contractor shall furnish in writing to the Engineer the sources of supply, types of all items and kinds of materials which it proposes to use in the Work. No change shall be made in the sources of supply or kinds of materials or in the type of any item except upon written approval by the Facilities Manager.

Immediately after the Effective Date, the Contractor shall notify the Engineer of the name and address of the fabricator of all structural steel. This notification shall list specific shop or shops in which the steel will be fabricated.

The Contractor shall provide to the Engineer a Material Safety Data Sheet (MSDS) meeting current requirements of the OSHA and Applicable Safety Laws for materials to be used in the Work, before each material is first used in the Project. The requirement to provide a MSDS shall apply to all materials to which workers are exposed, to the extent that Applicable Safety Laws require a MSDS for that material. This applies to those materials brought to the Site to be incorporated into the Work, as well as to all materials that are encountered at the Site as a result of the use or incorporation of the other materials. This requirement shall be waived for commonly used generic construction materials such as portland cement and asphalt cement by providing to the Contractor a list of those materials. Such waiver, however, does not relieve the Contractor from the responsibility to maintain a copy of the MSDS for each material to which the Contractor's workers will be exposed, as required by Applicable Safety Laws.

GCC-3.11 SAMPLES, TESTS, AND CITED SPECIFICATIONS.

- (a) All materials and products proposed to be used in construction shall be inspected, sampled, and tested by the Authority, or its designated representative, as described in Special Materials Details, of the Specifications, as indicated by notes in the Contract Documents, or by procedural directives issued by the Authority. Whenever any specification provides for "Certification" or "Approved List" as a Basis of Acceptance, the Authority reserves the right to sample and/or test material in any shipment prior to incorporation in the Work.
- (b) Test specimens shall be removed from sampled items in the presence of the Authority representative, prepared for testing and shipped to the Authority as directed by the Authority. The cost of all samples, and any other expenses incurred in making materials or products ready for inspection, sampling and/or testing shall be included in the unit prices Bid for the various items in the Contract. The Engineer may request to perform tests on site or in public or private laboratories in order to examine whether the materials are in accordance with the technical specifications. The expenses of this testing shall be covered by the Owner unless otherwise specified in the contract. The Contractor shall provide the necessary tools and facilities should it request that the performance of these experiments occur on the Site.
- (c) The expense of all required sampling and testing performed in the forty eight contiguous states of the United States and the provinces of Canada, including the shipment of samples by the most economical means, shall be paid for by the Contractor unless specifically excluded elsewhere in the Contract Documents or procedural directives.
- (d) The expense of all required sampling, testing and qualification of plants and manufacturers or fabricators outside of the contiguous forty eight states of the United States, the state of Alaska and Canada shall be borne by the Contractor. These expenses shall include the costs of wages and benefits, travel, meals, lodging, communication and all other direct costs of

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inspection, sampling and testing paid by the Authority to perform these services using Authority or designated representatives under contract to the Authority. These expenses which exclude the costs of tests shall be taken into account by the Contractor in the preparation of its Bid. Reimbursement to the Authority shall be made in the form of a deduction from payments due the Contractor. The shipment of samples to the Authority from outside of the forty eight contiguous states of the United States and Canada shall be a direct cost borne by the Contractor or its agent of all such shipments shall be made under provisions established by the Authority to insure identity and security of the sample.

- (e) Materials and products manufactured, produced and/or fabricated outside of the contiguous forty eight states of the United States and the provinces of Canada and deemed by the Authority to require inspection, sampling and/or testing at the site of manufacture, production and/or fabrication shall be subject to qualification of the plant and manufacturers or fabricator by the Authority prior to the required inspection, sampling and/or testing during manufacture, production and/or fabrication. These materials and products include fabricated structural steel for bridges, precast concrete slabs, beams and piles and any other item specified in the Contract Documents or by procedural directives, to require such services outside of the contiguous forty eight states and the provinces of Canada. The Contractor shall notify the Authority fifty (50) calendar days in advance of beginning the Work in any mill, plant, shop or other manufacturing location to allow time for a qualification inspection and arrangements for inspection, sampling and/or testing during the Work.
- (f) Materials and products manufactured, produced and/or fabricated outside of the contiguous forty eight states of the United States, the state of Alaska and the provinces of Canada whose conformance with the requirements of the Contract Documents may be determined, in the judgment of the Authority, by visual inspection and tests of specimens may be presented within the contiguous forty eight states in specifically defined lot quantities as directed by the Authority for inspection, sampling and testing subsequent to manufacture, production and/or fabrication. Such materials or products shall be offered for inspection not less than 30 days prior to their intended shipment to the project. All expenses attendant to making such materials or products available for inspection, sampling and/or testing shall be paid by the Contractor.
- (g) All communications with the Authority, written or verbal, shall be in English. The instructions for the use of all materials and products, as well as all identifying information required by the specifications (i.e. labels, tags, certifications, etc.) shall be in the English language. Mechanical property measurements, dimensions and all other numerical data shall be in the foot pound second system of units of measurement. All references to costs, charges, prices, etc., shall be in United States Dollars, unless expressly stated otherwise in the Contract Documents.
- (h) The Contractor shall not be entitled to any extension of time for acts or events occurring outside of the United States or Canada, and it shall be the responsibility of the Contractor to deliver materials obtained from outside the United States or Canada in sufficient time to permit timely deliveries of accepted materials to the Site of the Work.
- (i) Unless otherwise directed by the Authority, no materials shall be used until the Engineer in Charge of the Contract has received written notification of acceptance of that material, and such material shall be used only so long as the quality remains equal to that of the accepted sample. This initial acceptance of a material shall in no way preclude further examination and testing of a material at any time the Facilities Manager suspects that the material is no longer properly represented by the accepted sample. The acceptance at any

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time of any materials shall not bar its future rejection if it is subsequently found to be defective in quality or uniformity.

- (j) Contractors shall furnish the names of companies from whom they purchase materials which are inspected at the manufacturing plants, with the Item Number, the Contract Description and the destination for each shipment of material so ordered. If any part of the Contract is sublet, the Subcontractor shall also conform to the foregoing requirements.
- (k) Unless otherwise designated, when a reference is made in these specifications to a non proprietary federal (Canada and United States), state, provincial or other specification or test designation, it shall mean the edition, as amended, which is current on the date of advertisement for bids.
- (l) Where plant inspection is not maintained, the method and procedure for sampling, inspecting and reporting shall conform to that established by the Authority.
- (m) The standard Screen Sieves meeting ASTM E11 shall be used on all materials requiring gradation tests.

GCC-3.12 PLANT ACCEPTANCE MATERIAL. Any material which has been plant inspected and accepted by the Authority contract shall not be shipped to other work unless authorized by the Authority.

GCC-3.13 REJECTION. Any material which is rejected because of failure to meet the required tests or that has been damaged so as to cause rejection, shall be immediately removed from the Site of the Work.

GCC-3.14 STORAGE OF MATERIALS. Materials shall be so stored as to insure the preservation of their quality and fitness for work. Stored materials, even though accepted before storage, shall be inspected prior to their use in the Work and shall meet the requirements of the Contract at the time of their use.

GCC-3.15 TRANSPORTATION OF MATERIALS. Railway cars, barges and other containers used for the transportation of materials shall be clean when any materials are deposited therein.

GCC-3.16 BASIS FOR MEASUREMENT. Weight shall be used in all cases for percentage determination unless otherwise specified.

GCC-3.17 REMOVAL OF REJECTED MATERIAL. Material which has been rejected on the results of tests will not be re-sampled or retested unless otherwise directed by the Authority. Rejected materials shall be removed immediately from the Site of the Work by the Contractor at its expense unless otherwise directed by the Engineer. No rejected materials, the defects of which have been subsequently corrected, shall be used until written notification of the acceptance of the material has been received by the Engineer.

GCC-3.18 EQUIVALENTS. The requirements for apparatus, articles or materials shall be specified, if feasible, in generic terms which afford competition for equivalent products or items. When no generic specification can be found or devised, a minimum of at least three, if available, known acceptable trade names or proprietary products shall be provided for the Contractor's benefit and to afford the desired competition. The Engineer shall be the sole judge of the qualifications of the products and will determine all questions regarding the conformance of any item with the specifications.

GCC-3.19 CONTRACTOR PERSONNEL. All Employees and workers performing any part of the Work

must be skilled and experienced and shall properly and satisfactorily perform such Work in accordance with the plans, Drawings and Specifications, Applicable Laws and good industry practice. The Contractor shall be responsible for making certain that any and all employees are in complete conformance with all Applicable Laws relating to immigration to or from Canada or the United States; see also the provisions at GCC-14.5 of the General Condition of Contract – SECURITY REQUIREMENTS for more information. A worker who is an apprentice under Applicable Laws may be employed by the Contractor provided conditions of such Applicable Laws are observed.

The Contractor shall comply with all obligations of Applicable Laws relating to discrimination; see also the provisions at GCC-14.3 of the General Conditions of Contract – NON-DISCRIMINATION AND EQUAL OPPORTUNITY for more information.

GCC-3.20 **TEMPORARY WORK.** The Contractor shall have the sole responsibility for the design, erection, operation, maintenance, and removal of Temporary Work. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in this GCC-3.20 where required by Applicable Law or by the Contract Documents and in all cases where such Temporary Work is of such a nature that professional engineering skill is required to produce safe and satisfactory results, in which case such Temporary Work shall be stamped and signed by a professional engineer retained by the Contractor.

GCC-3.21 **DOCUMENT REVIEW.** The Contractor shall review the Contract Documents and shall report promptly to the Engineer any error, inconsistency or omission the Contractor may discover. Such review by the Contractor shall be to the best of the Contractor’s knowledge, information and belief and in making such review the Contractor does not assume any responsibility to the Authority or the Engineer for the accuracy of the review. The Contractor shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the Contract Documents, which the Contractor did not discover. If the Contractor does discover any error, inconsistency or omission in the Contract Documents, the Contractor shall not proceed with the work affected until the Contractor has received corrected or missing information from the Engineer.

GCC-3.22 **SUPERVISION.** The Contractor shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the Site while work is being performed. The appointed representative shall not be changed except for valid reason, and with the written approval of the Authority. The appointed representative shall represent the Contractor at the Site. Information and instructions provided by the Engineer to the Contractor’s appointed representative shall be deemed to have been received by the Contractor, except with respect to Article 11 of the Agreement - NOTICES.

GCC-3.23 **SUBCONTRACTORS AND SUPPLIERS.** The Contractor shall preserve and protect the rights of the parties under the Contract with respect to work to be performed under subcontract, and shall:

- (a) enter into contracts or written agreements with Subcontractors and Suppliers to require them to perform their work as provided in the Contract Documents;
- (b) incorporate the terms and conditions of the Contract Documents into all contracts or written agreements with Subcontractors and Suppliers; and
- (c) be as fully responsible to the Authority for acts and omissions of Subcontractors, Suppliers and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.

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Prior to entering into any contract with a Subcontractor or Supplier, the Contractor shall submit the name of such Subcontractor or Supplier, with a description of such Subcontractor's or Supplier's proposed scope of work or supply, for the Authority's approval. If the Authority does not reject a proposed Subcontractor or Supplier within 5 Working Days of receipt of such name and description, the Contractor may enter into a contract with such Subcontractor or Supplier. If the Authority or Engineer after due investigation has reasonable objection to any proposed Subcontractor, other person or organization, either may before giving the Notice of Award request that the apparent successful Bidder to submit an acceptable substitute.

Subcontractors and Suppliers identified in the RFPQ Response are deemed to have been accepted by the Authority.

The Authority may, for reasonable cause, at any time before the Commencement Date, object to the use of a proposed Subcontractor or Supplier and require the Contractor to employ one of the other subcontract bidders. If the Authority requires the Contractor to change a proposed Subcontractor or Supplier, the Contract Price and Contract Time shall be adjusted by the differences occasioned by such required change. The Contractor shall not be required to employ as a Subcontractor or Supplier, a person or firm to which the Contractor may reasonably object.

GCC-3.24 LABOR AND PRODUCTS. The Contractor shall provide and pay for Labor, Products, tools, Equipment, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the Work in accordance with the Contract. Unless otherwise specified in the Contract Documents, Products provided shall be new. Products which are not specified shall be of a quality consistent with those specified and their use acceptable to the Engineer. The Contractor shall maintain good order and discipline among the Contractor's employees engaged on the Work and shall not employ on the Work anyone not skilled in the tasks assigned.

GCC-3.25 DOCUMENTS AT THE SITE. The Contractor shall keep one copy of current Contract Documents, submittals, reports, and records of meetings at the Site, in good order and available to the Authority and the Engineer.

GCC-3.26 SHOP DRAWINGS. The Contractor shall provide Shop Drawings as required in the Contract Documents. The Contractor shall provide Shop Drawings to the Engineer to review in orderly sequence and sufficiently in advance so as to cause no delay in the Work or in the work of other contractors. Upon request of the Contractor or the Engineer, they shall jointly prepare a schedule of the dates for provision, review and return of Shop Drawings. The Contractor shall provide Shop Drawings in the form specified, or if not specified, as directed by the Engineer. Shop Drawings provided by the Contractor to the Engineer shall indicate by stamp, date and signature of the person responsible for the review that the Contractor has reviewed each one of them. The Engineer's review is for conformity to the design concept and for general arrangement only. Shop Drawings which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the Contractor for approval. The Contractor shall review all Shop Drawings before providing them to the Engineer. The Contractor represents by this review that:

- (a) the Contractor has determined and verified all applicable field measurements, field construction conditions, Product requirements, catalogue numbers and similar data, or will do so, and
- (b) the Contractor has checked and co-ordinated each Shop Drawing with the requirements of the Work and of the Contract Documents.

At the time of providing Shop Drawings, the Contractor shall expressly advise the Engineer in writing of any deviations in a Shop Drawing from the requirements of the Contract Documents. The

Engineer shall indicate the acceptance or rejection of such deviation expressly in writing. The Engineer's review shall not relieve the Contractor of responsibility for errors or omissions in the Shop Drawings or for meeting all requirements of the Contract Documents. The Contractor shall provide revised Shop Drawings to correct those which the Engineer rejects as inconsistent with the Contract Documents, unless otherwise directed by the Engineer. The Contractor shall notify the Engineer in writing of any revisions to the Shop Drawings other than those requested by the Engineer.

GCC-3.27 USE OF THE WORK. The Contractor shall confine Equipment, Temporary Work, storage of Products, waste products and debris, and operations of employees and Subcontractors to limits indicated by Applicable Laws, ordinances, permits, or the Contract Documents and shall not unreasonably encumber the Site. The Contractor shall not load or permit to be loaded any part of the Work with a weight or force that will endanger the safety of the Work.

GCC-3.28 CUTTING AND REMEDIAL WORK. The Contractor shall perform the cutting and remedial work required to make the affected parts of the Work come together properly. The Contractor shall co-ordinate the Work to ensure that the cutting and remedial work is kept to a minimum. Should the Authority, the Engineer, other contractors or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in the Contract Documents. Cutting and remedial work shall be performed by specialists familiar with the Products affected and shall be performed in a manner to neither damage nor endanger the Work.

GCC-3.29 STOPPING WORK. The Engineer may stop by written order any Work or any part of the Work under the Contract if the methods or conditions are such that unsatisfactory work might result, or if improper material or workmanship is being used or if the Contractor fails to comply with any Contract requirement or with any provision of the Contract specifications, the Bid or Contract plans or with any Applicable Law or the conditions of the project are considered to be sufficiently deficient as to seriously affect the safety of the public or the persons employed for the construction of the project, or major non-conformance with the maintenance and protection of traffic provisions in the Contract is causing serious disruptions to traffic operations. The Contractor shall not be entitled to any additional monetary compensation for such a Work stoppage.

GCC-3.30 ORDERS TO FOREMAN. Whenever the Contractor or its superintendent is not present on any part of the Work where it may be desired to give directions, stop work orders will be given by the Engineer or its representative and shall be received and obeyed by the Foreman, or worker if Foreman is not present, who may have charge of the particular work in reference to which the stop work orders are given. All Foremen shall be fluent in English.

GENERAL CONDITION 4 -PLANS AND SPECIFICATIONS

GCC-4.1 ACCURACY OF PLANS AND SPECIFICATIONS. The detailed plans, if any, Drawings and Specifications for the Contract have been prepared with care and are intended to show as clearly as is practicable the Work required to be done. The Contractor must realize, however, that construction details cannot always be accurately anticipated and that in executing the Work, field conditions may require reasonable modifications in the details of plans and quantities of Work involved. Work under all items in the Contract must be carried out to meet these field conditions to satisfaction of the Engineer and in accordance with his instructions and the Contract specifications.

The Contractor shall take no advantage of any apparent error or omission in the plans or specifications. In the event the Contractor discovers an error or omission in the plans or specifications, it shall immediately notify the Engineer. The Engineer will then make such correction

and interpretations as may be deemed necessary for fulfilling the intent of the plans and specifications.

GCC-4.2 CONFORMITY WITH PLANS AND SPECIFICATIONS. All Work performed and all materials furnished shall be in reasonable close conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on the plans or indicated in the specifications.

Plan dimensions and contract specification values are to be considered as the target value to be strived for and complied with as the design value from which any deviations are allowed. It is the intent of the specifications that the materials and workmanship shall be uniform in character and shall conform as nearly as realistically possible to the prescribed target value or to the middle portion of the tolerance range. The purpose of this tolerance range is to accommodate occasional minor variations from the median zone that are unavoidable for practical reasons. When a maximum or minimum value is specified, the production and processing of the material and the performance of the Work shall be so controlled that material or Work will not be preponderantly of borderline quality or dimension.

In the event the Engineer finds the materials or the finished Work in which the materials are used not within reasonably close conformity with the plans and specifications but that reasonably acceptable Work has been produced, it shall then make a determination if the Work shall be accepted and remain in place.

In this event, the Engineer will document the basis of acceptance by Contract modification which will provide for an appropriate adjustment in the Contract Price for such Work or materials as it deems necessary to conform to his determination based on engineering judgment.

In the event the Engineer finds the materials or the finished Work in which the materials are used or the Work performed are not in reasonably close conformity with the plans and specifications and have resulted in an inferior or unsatisfactory product, the Work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

All traffic control devices (signs, signals, markings, and devices placed for the purpose of regulating, warning or guiding traffic) shall be in conformity with the edition of the Manual of Uniform Traffic Control Devices which is current on the date of the Invitation for Bids.

GCC-4.3 INTERPRETATION OF PLANS. In case of any difference in the interpretation of the plans, if any, Drawings or Specifications, or between them, the matter must be immediately submitted to the design engineer responsible for the applicable plans, Drawings or Specifications, who shall adjust the same, and his or her decision in relation thereto shall be final and conclusive.

GCC-4.4 REVIEW AND INSPECTION OF THE WORK. The Authority and the Engineer shall have access to the Work at all times. The Contractor shall provide sufficient, safe and proper facilities at all times for the review of the Work by the Engineer and the inspection of the Work by authorized agencies. If parts of the Work are in preparation at locations other than the Site, the Authority and the Engineer shall be given access to such work whenever it is in progress.

If Work is designated for tests, inspections or approvals in the Cataract Documents, or by the Engineers instructions, or by the laws or ordinances of the Site, the Contractor shall give the Engineer reasonable notification of when the work will be ready for review and inspection. The Contractor shall arrange for and shall give the Engineer reasonable notification of the date and time of inspections by other authorities.

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The Contractor shall furnish promptly to the Engineer two copies of certificates and inspection reports relating to the Work.

If the Contractor covers, or permits to be covered, work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the Contractor shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the Contractor's expense.

The Engineer may order any portion or portions of the Work to be examined to confirm that such work is in accordance with the requirements of the Contract Documents. If the work is not in accordance with the requirements of the Contract Documents, the Contractor shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the Contract Documents, the Authority shall pay the cost of examination and restoration.

The Contractor shall pay the cost of making any test or inspection, including the cost of samples required for such test or inspection, if such test or inspection is designated in the Contract Documents to be performed by the Contractor or is designated by the laws or ordinances applicable to the Site.

The Contractor shall pay the cost of samples required for any test or inspection to be performed by the Engineer or the Authority if such test or inspection is designated in the Contract Documents.

GCC-4.5 DEFECTIVE WORK. The Contractor shall promptly correct defective Work that has been rejected by the Engineer as failing to conform to the Contract Documents whether or not the defective work has been incorporated in the Work and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the Contractor. The Contractor shall make good promptly other contractors' work destroyed or damaged by such corrections at the Contractor's expense. If in the opinion of the Engineer it is not expedient to correct defective work or work not performed as provided in the Contract Documents, the Authority may deduct from the amount otherwise due to the Contractor the difference in value between the work as performed and that called for by the Contract Documents. If the Authority and the Contractor do not agree on the difference in value, they shall refer the matter to the Engineer for a determination. Under no circumstances shall the Contractor be entitled to any extension of the Contract time because of defective Work.

GENERAL CONDITION 5 -COMMENCEMENT AND COMPLETION OF WORK

GCC-5.1 CONSTRUCTION SCHEDULE. The Contractor shall:

- (a) prepare and submit to the Authority and the Engineer the Construction Schedule in accordance with GCC-5.2, which, upon approval by the Owner will be included as a Contract Document and replace the current Schedule G (Construction Schedule);
- (b) monitor the progress of the Work relative to the construction schedule and update the schedule on a monthly basis or as stipulated by the Contract Documents; and
- (c) advise the Engineer and the Authority of any revisions required to the schedule as the result of extensions of the Contract Time as provided in the Contract Documents.

GCC-5.2 COMMENCEMENT AND PROGRESS OF WORK.

- (a) After filing the necessary certificates of insurance with the Authority and before starting the Work, the Contractor shall prepare and submit to the Engineer and the Facilities

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Manager for review and approval, the Construction Schedule in accordance with this GCC-5.2 showing the order in which the Contractor proposes to carry on the Work, the date on which it will start the major items of work (including but not limited to excavation, drainage, paving, structures, mobilization, etc.) and the critical features (including procurement of materials, plant and equipment) and the contemplated dates for completing the same. The Construction Schedule shall show the order in which the Contractor proposes to carry on the Work. The Construction Schedule shall be in a suitable scale to indicate graphically the total percentage of work scheduled to be completed at any time. The Authority may require that the Construction Schedule, at a minimum, include the following items: (a) major Work items and activities to be performed; (b) seasonal weather limitations; (c) time and money curve, and (d) phase duration or milestone events, if applicable.

The purpose of this scheduling requirement is to ensure adequate planning and execution of the Work and to evaluate the progress of the Work.

Review of the Construction Schedule shall not be construed to imply approval of any particular method or sequence of construction or to relieve the Contractor of providing sufficient materials, equipment and Labor to guarantee completion of the project in accordance with the Contract, plans and specifications. Such Construction Schedule may be utilized to facilitate the Authority's inspection and coordination of construction activities. Review shall not be construed to modify or amend the Contract or the scheduled date of Substantial Completion or Total Completion therein.

At the end of each payment estimate period, or at such intervals as directed by the Engineer, the Authority may request that the Contractor shall (1) adjust the Construction Schedule to reflect any changes in the Work, completion time, or both, (2) enter on the time and money curve the total percentage of work actually in place, and (3) submit three copies of the adjusted Construction Schedule to the Engineer.

- (b) In the opinion of the Engineer, if the specified Work falls behind that Construction Schedule, the Contractor shall take such actions as necessary to improve the progress of the Work. If the Contractor is behind schedule any month, the Contractor shall indicate what measures it will take in the next thirty (30) days to put the Work back on schedule so as to meet the Contract completion date specified in the Contract. The Contractor shall not be entitled to any additional compensation unless provided for in other provisions of the Contract on account of the requirements to put the Work back on schedule. In preparing the schedule, the Contractor shall consider increasing its work force, construction plant and equipment, or the number of work shifts, etc. If the Engineer finds the proposed plan not acceptable, it may require the Contractor to submit a new plan. The Authority may request that progress meetings be held by the Contractor at least on a monthly basis and be attended by the Engineer who shall monitor the Contractor's progress and performance.
- (c) The Contractor shall employ and supply a sufficient force of workers, materials, Products and Equipment and shall prosecute the Work with such diligence so as to maintain the rate of progress indicated on the Construction Schedule to prevent work stoppage and ensure completion of the project within the Contract Time. Any additional or unanticipated costs or expense required to maintain the schedule shall be solely the Contractor's obligation and shall not be charged to the Authority unless provided for in other provisions of the Contract.

When requested by the Facilities Manager, the Contractor shall furnish weekly work schedules indicating number of personnel, kind of Equipment and location and nature of the Work to be performed.

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- (d) If the Contractor fails to submit a Construction Schedule within the time period described or any revision or update when required, the Engineer may withhold approval of progress payment estimates pursuant to Article 7 of the Agreement – CONTRACT PRICE AND PAYMENT until such time as the Contractor submits the required progress schedule.

GCC-5.3 **DATE OF COMPLETION AND CLOSING.** All Work to be performed under the Contract shall be substantially completed and totally completed within the times stated in Article 5 of the Agreement – CONTRACT TIME for the project or within such extended time for completion as may be granted by the Authority.

Whenever the Facilities Manager shall deem it necessary that any portion or certain portions of the Work shall be completed pursuant to a certain sequence or schedule and before the date of completion of the entire Work, the Contractor shall promptly comply with the related instructions, dates and periods of time.

If, during the progress of the Work, it should become necessary, because of any Milestone Date in the Construction Schedule, to stop the Work, then the Contractor shall open proper draining ditches, erect temporary structures where necessary, prepare the project so that there will be a minimum interference with traffic, set up and maintain a competent organization, as directed by the Engineer, to keep the Work in first class condition for traffic, and take every precaution to prevent any damage or unreasonable deterioration of the Work during the time it is closed.

GCC-5.4 **SUBSTANTIAL COMPLETION AND ACCEPTANCE.** When in the opinion of the Engineer, the Contractor has Substantially Completed the Work under the Contract, the Engineer shall recommend to the Authority the acceptance of the Work so completed. If the Authority accepts the recommendation of the Engineer, it shall thereupon by letter notify the Contractor of such acceptance (the “**Acceptance**”). Acceptance shall be final and conclusive, except for defects not readily ascertainable by the Authority, actual or constructive fraud, gross negligence amounting to fraud or other errors which the Contractor knew or should have known about as well as the Authority’s rights under any warranty or guarantee. The Acceptance may be revoked by the Authority at any time prior to the issuance of the final cheque by the Authority upon the Authority’s discovery of such defects, negligence, fraud or errors in the Work. If the Acceptance is revoked, the Authority will provide the Contractor with a written notice of such revocation with sufficient detail to enable the Contractor to repair, replace, correct or otherwise cure the defect, negligence, fraud or error giving rise to such revocation, and upon the completion of such repair, replacement, correction or cure, the Facilities Manager will opine on whether the Work is Substantially Complete and this Article will reapply. After Substantial Completion, the Contractor will remain responsible for fully completing the Work, including removal of Temporary Work, clean-up, demobilization and completing all Punchlist Work.

GCC-5.5 **TOTAL COMPLETION.** After the Acceptance of the Work, the Engineer shall prepare a final report of the Work completed from actual measurements and computations relating to the same, and it shall compile the value of such Work completed under and according to the terms of the Contract, and will include a list or punchlist of all items of Work that are defective, deficient or incomplete (“**Punchlist Work**”). This report shall be certified as to its correctness by the Engineer. Upon approval of such final report by the Facilities Manager, the Facilities Manager will send the report to the Contractor for agreement. After the Contractor and the Facilities Manager agree on and the Engineer has certified, such final report, it shall be submitted to the Authority for final approval. The right, however, is hereby reserved by the Authority to reject the whole or any portion of the final report, should the said certificate of the Engineer be found or known to be inconsistent with the terms of the Contract or otherwise improperly given. All certificates upon which partial payments may have been made being merely estimates shall be subject to correction in the final certificate or final payment. The Authority may set-off against any holdback or any Contract Security the Engineer’s reasonable estimate of the cost to complete any and all Punchlist Work. The

Work will only be considered to have attained Total Completion if all items of Punchlist Work are fully completed, as certified by the Engineer and accepted by the Authority in writing.

GCC-5.6 ENGINEERING CHARGES. When the Work is not completed on or before the date specified therein, engineering and inspection expenses incurred by the Authority upon the Work, from the Substantial Completion date originally fixed in the Contract to the date of Substantial Completion of the Work may be charged to the Contractor and may be deducted by the Authority from any moneys due to the Contractor. Consideration of any Extra Work or order in contract added to the original Contract, as well as extenuating circumstances beyond the control of the Contractor, will be given due consideration by the Authority before assessing engineering and inspection charges against the Contractor. Such charges will be assessed, however, in cases where the Work has been unduly delayed by the Contractor because of unwarranted reasons, inefficient operations, or for any other reason for which the Authority determines the Contractor liable.

GCC-5.7 LIQUIDATED DAMAGES FOR FAILURE TO COMPLETE WORK ON TIME.

- (a) The Contractor acknowledges and agrees that the Authority's damages resulting from the Contractor's failure to timely complete the Work within the Contract Time are difficult, if not impossible, to determine precisely. Accordingly, subject to GCC-5.10 of the General Conditions - DELAYS, the Contractor acknowledges, agrees and accepts that if the Contractor fails to achieve Substantial Completion of the Work on or before the scheduled date for Substantial Completion as set out in Article 5 of the Agreement – CONTRACT TIME, then the Contractor shall pay the Authority liquidated damages in the amounts set out, and in accordance with, Schedule L (Liquidated Damages) ("**Delay Liquidated Damages**"). The amount of Delay Liquidated Damages payable in accordance with Schedule L (Liquidated Damages) (if any) are payable to the Authority by the Contractor within 30 calendar days of receipt of a written invoice from the Authority.
- (b) The amount of the Delay Liquidated Damages set out in Schedule L (Liquidated Damages) represents a genuine pre-estimate of the Authority's damages (and not a penalty), and are the Authority's sole and exclusive remedy for the Contractor's failure to cause Substantial Completion to be completed within the required time period. Notwithstanding the foregoing, the remedies available to the Authority under this GCC-5.7 shall not preclude the availability to the Authority of any other remedies under this Contract in relation to the same or similar event or circumstance.
- (c) If the preceding provisions of this GCC-5.7 (or any part thereof) are found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Authority from claiming Delay Liquidated Damages, the Authority shall be entitled to claim against the Contractor for damages at law (if any) for the Contractor's failure to cause Substantial Completion to be completed within the required time period. Those damages in any case shall not exceed the amount specified in Schedule L (Liquidated Damages).
- (d) For the avoidance of doubt, the Contractor is responsible and liable for Delay Liquidated Damages even in the event that the Contractor abandons the Work or the Contractor's employment is terminated pursuant to the provisions of this Contract.
- (e) Permitting the Contractor to continue and finish the Work or any part of it after the time fixed for its completion or after the date to which the time for completion may have been extended, will in no way operate as a waiver on the part of the Authority of any of its rights under the Contract.

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- (f) The Authority may waive such portions of the Delay Liquidated Damages as may accrue if it deems the Work is in such condition as to be safe and convenient for use by the traveling public.
- (g) The assessing of Delay Liquidated Damages shall be in addition to engineering charges as provided for in GCC-5.6 of the General Conditions of Contract – ENGINEERING CHARGES.
- (h) In the event the delivery of any material in short supply is delayed substantially beyond the normal delivery time which results in delaying Substantial Completion of the Work, the Contract Time will be extended without the assessment of engineering charges or Delay Liquidated Damages. The Contractor shall, however, demonstrate to the Facilities Manager that it had made every reasonable effort to obtain such material on a timely basis and complete the Work within the required time period.

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LIQUIDATED DAMAGES FOR PERMANENT LANE CLOSURES

- (a) The Contractor may perform the Work at the Site at any time during the Contract Time except as restricted by this Contract and Applicable Laws; provided, however, that the Contractor shall not perform any Work at the Site during the Peak Season of any calendar year during the Contract Time that requires, or in the reasonable opinion of the Authority could require, the closure of any Lanes of travel on the Bridge and the highways leading up to the Bridge, unless such Lane closures are expressly approved by the Authority in writing in advance.
- (b) At all times during the Contract Time, the Contractor will ensure that: (a) during the Peak Season, not less than three operational Lanes of travel on the Bridge and the highway leading up to the Bridge remain open to the public; and (b) during the Off-Peak Season, not less than two operational Lanes of travel on the Bridge remain open to the public (one Lane of travel in each direction), unless expressly approved otherwise by the Authority in writing in advance.
- (c) The Contractor acknowledges and agrees that the Authority's damages resulting from the Contractor's failure to maintain the minimum number of operational Lanes of travel on the Bridge and the highways leading up to the Bridge during the Contract Time are difficult, if not impossible, to determine precisely. Accordingly, if:
 - (i) at any time during the Peak Season, the Contractor fails to maintain at least three operational Lanes of travel to the public on the Bridge and the highways leading up to the Bridge; or
 - (ii) on specified days during the Off-Peak Season identified by the Contractor in the Construction Schedule as Working Days, the Contractor fails to maintain two or more operational Lanes of travel to the public on the Bridge and the highway leading up to the Bridge,
 - (iii) on specified days during the Off-Peak Season identified by the Contractor in the Construction Schedule as not requiring Permanent Lane Closures, the Contractor fails to maintain three operational Lanes of travel to the public on the Bridge and the highway leading up to the Bridge,

then the Contractor shall pay the Authority liquidated damages as set out, and in accordance with, Schedule L (Liquidated Damages) (“**Permanent Lane Closure Liquidated**

Damages”). The amount of Permanent Lane Closure Liquidated Damages payable in accordance with Schedule L (Liquidated Damages) (if any) are payable to the Authority by the Contractor within 30 calendar days of receipt of a written invoice from the Authority.

- (d) The amount of the Permanent Lane Closure Liquidated Damages set out in Schedule L (Liquidated Damages) represents a genuine pre-estimate of the Authority’s damages (and not a penalty), and are the Authority’s sole and exclusive remedy for the Contractor’s failure to maintain minimum lane operations on the Bridge and the highways leading up to the Bridge set out in GCC-5.8(c). Notwithstanding the foregoing, the remedies available to the Authority under this GCC-5.8 shall not preclude the availability to the Authority of any other remedies under this Contract in relation to the same or similar event or circumstance.
- (e) If the preceding provisions of this GCC-5.8 (or any part thereof) are found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Authority from claiming Permanent Lane Closure Liquidated Damages, the Authority shall be entitled to claim against the Contractor for damages at law (if any) for the Contractor’s failure to maintain minimum lane operations on the Bridge and the highways leading up to the Bridge. Those damages in any case shall not exceed the amount specified in Schedule L (Liquidated Damages).

GCC-5.9 LIQUIDATED DAMAGES FOR TEMPORARY LANE CLOSURES

- (a) The Contractor may perform the Work at the Site at any time during the Contract Time except as restricted by this Contract and Applicable Laws; provided, however, that the Contractor shall not perform any Work at the Site in any manner which requires, or in the reasonable opinion of the Authority could require, the temporary or permanent disruption of any Lanes of travel on the Bridge and the highways leading up to the Bridge, unless such Temporary Lane Closures are expressly approved by the Authority in writing in advance.
- (b) The Authority shall have the right, but not the obligation, to permit the Contractor to temporarily disrupt Lane operations on the Bridge and the highways leading up to the Bridge from time to time based upon the Contractor’s planned schedule of the Work. The Authority may specify a date and period of time in which Lane operations may be temporarily disrupted in order to allow the Contractor to complete such Work (a **“Permitted Temporary Lane Closure”**). The Contractor shall not temporarily close any Lanes of travel on the Bridge or the highways leading up to the Bridge unless and until the Authority has expressly approved such temporary closures in writing in advance.
- (c) If the Contractor temporarily closes Lane operations on the Bridge or the highways leading up to the Bridge:
 - (i) without the prior written approval of the Authority; or
 - (ii) in excess of the time period prescribed by the Authority for any Permitted Temporary Lane Closure,

then the Contractor shall pay the Authority liquidated damages as set out, and in accordance with, Schedule L (Liquidated Damages) (**“Temporary Lane Closures Liquidated Damages”**). The amount of Temporary Lane Closure Liquidated Damages payable in accordance with Schedule L (Liquidated Damages) (if any) are payable to the Authority by the Contractor within 30 calendar days of receipt of a written invoice from the Authority.

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- (d) The amount of the Temporary Lane Closure Liquidated Damages set out in Schedule L (Liquidated Damages) represents a genuine pre-estimate of the Authority's damages (and not a penalty), and are the Authority's sole and exclusive remedy for the Contractor's disruption of Lane operations on the Bridge and the highways leading up to the Bridge in contravention of GCC-5.9(c). Notwithstanding the foregoing, the remedies available to the Authority under this GCC-5.9 shall not preclude the availability to the Authority of any other remedies under this Contract in relation to the same or similar event or circumstance.
- (e) If the preceding provisions of this GCC-5.9 (or any part thereof) are found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Authority from claiming Temporary Lane Closure Liquidated Damages, the Authority shall be entitled to claim against the Contractor for damages at law (if any) for the Contractor's disruption of Lane operations on the Bridge and the highways leading up to the Bridge in contravention of GCC-5.9(c). Those damages in any case shall not exceed the amount specified in Schedule L (Liquidated Damages).

GCC-5.10 DELAYS.

- (a) In the event that Work is delayed at any time by changes or alterations in the Work not caused by or attributable to any act or omission of the Contractor or any Subcontractor, by strikes, by lockouts, by fire, by embargoes, by flood, by earthquake, by acts of war, by changes in public laws, regulations or ordinances enacted after the Effective Date, by acts of public officials not caused by any fault or omission of the Contractor or any Subcontractor, the Contractor may make written request for a Change Order granting an extension of time in accordance with the provisions of General Condition 6 -of the General Conditions. The Contractor assumes the risk for delays if any caused by any other reason. Except as otherwise expressly provided for in this Contract and except for delays or interference caused by the malicious, or grossly negligent conduct of the Authority, to the fullest extent permitted by law, the Contractor hereby agrees that it shall make no claims against the Authority for costs or damages resulting from delay or interference in the performance of this Contract and hereby waives any rights it may now or hereafter have to recover costs or damages from the Authority, its officers and employees for any delay or interference in the performance of this Contract.
- (b) If the Contractor is delayed in the performance of the Work by the malicious or grossly negligent action or omission of the Authority, Engineer or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the Contract Documents, then the Contract Time shall be extended for such reasonable time as the Engineer may recommend in consultation with the Contractor. The Contractor shall be reimbursed by the Authority for reasonable costs incurred by the Contractor as the result of such delay.
- (c) If the Contractor is delayed in the performance of the Work by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or omission of the Contractor or any person employed or engaged by the Contractor directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Engineer may recommend in consultation with the Contractor. The Contractor shall be reimbursed by the Authority for reasonable costs incurred by the Contractor as the result of such delay.
- (d) If the Contractor is delayed in the performance of the Work by:
 - 1. Labor disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the Contractor is a member or to which the Contractor is otherwise bound),

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2. fire, unusual delay by common carriers or unavoidable casualties, embargoes, flood, earthquake, acts of war, changes in public laws, regulations or ordinances enacted after the Effective Date, or acts of public officials not caused by any fault or omission of the Contractor,

then the Contract Time shall be extended for such reasonable time as the Engineer may recommend in consultation with the Contractor. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the Contractor agrees to a shorter extension. The Contractor shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the Authority, Engineer or anyone employed or engaged by them directly or indirectly. The Contractor assumes the risk for delays if any caused by any other reason. Except as otherwise expressly provided for in this Contract and except for delays or interference caused by the malicious, or grossly negligent conduct of the Authority, to the fullest extent permitted by law, the Contractor hereby agrees that it shall make no claims against the Authority for costs or damages resulting from delay or interference in the performance of this Contract and hereby waives any rights it may now or hereafter have to recover costs or damages from the Authority, its officers and employees for any delay or interference in the performance of this Contract.

No extension shall be made for delay unless notice in writing of the cause of delay is given to the Engineer not later than 21 days after the commencement of the delay. In the case of a continuing cause of delay only one notice in writing shall be necessary.

- (e) If the Contractor intends to claim any increase or change in the Contract Price or for reimbursement of any costs as a result of any delay covered by this GCC 5.10, it must make such claim in accordance with GCC-6.4 – CLAIMS FOR A CHANGE IN CONTRACT PRICE promptly, and, in any event, not later than 21 days after the occurrence of the event causing the delay.

GCC-5.11 EXTENSION OF TIME. Delays which affect the scheduled completion or any Milestone dates of the Work shall be compensated solely by the granting of an extension of time by the Authority to complete the Work of the Contract without engineering charges, but only to the extent expressly provided for herein. Time necessary for reviews by the Authority of shop drawings, for field changes to meet actual conditions, delays incurred by seasonal weather limitations should be anticipated and are neither compensatory nor eligible for extensions of time.

Where extra costs can be demonstrated relative to delays caused directly by acts of the Authority beyond the Contract requirements, such costs as are necessary may be reimbursable subject to the prompt substantiation of such costs by the Contractor via the initiation of procedures specified in GCC-13.1 – DISPUTED WORK. The substantiated necessary costs of such delays which may be considered for reimbursement shall be limited to orders by the Authority to stop Work for reasons other than provided in the Contract specifications and requirements and for the unavailability of Right of Way parcels for such an extended period beyond that indicated in the Contract Documents that the Contractor's progress on the Contract as a whole is significantly affected.

The Contractor agrees that it has included in the Contract Price for the various items of the Contract the additional costs of doing the Work under this Contract caused by not having a clear Site for the Work, by interference by other contractors and necessary utility work and by other non compensatory delays described above and being required to open certain sections of pavement to traffic before the entire work is completed. In planning all activity within the agreed Contract Time and in establishing the Contract Price, it shall be assumed that the Contractor has anticipated the amount of adverse weather conditions which can be reasonably anticipated at the Site for the season or seasons of the year involved. There will be no adjustment in Contract Time or the Contract Price for inclement weather other than rain or snow conditions encountered during the scheduled time for

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performance exceeds the 10 year average for the same, provided that the Contractor has taken (and has caused each Subcontractor to take) all reasonable steps to continue the Work utilizing methods and procedures generally accepted in the construction industry for such inclement weather.

GCC-5.12 LIQUIDATED DAMAGES SUBCAP. The maximum aggregate liability of the Contractor to the Authority for Delay Liquidated Damages, Permanent Lane Closure Liquidated Damages and Temporary Lane Closure Liquidated Damages under GCC-5 – COMMENCEMENT AND COMPLETION OF WORK will not in the aggregate exceed an amount equal to 50% of the Contract Price (the “LD Subcap”). If at any time Delay Liquidated Damages, Permanent Lane Closure Liquidated Damages, Temporary Lane Closure Liquidated Damages or any of them become due and owing by the Contractor to the Authority under this Agreement in an amount equal to the LD Subcap, then the Authority will have the right, but not the obligation, to terminate this Contract.

GENERAL CONDITION 6 - CHANGES

GCC-6.1 CONTINGENCIES, EXTRA WORK, DEDUCTIONS. Whenever the Facilities Manager determines that any terms of the Contract should be altered to provide for changes in the Work, it may issue an order on the Contract therefore to the Contractor who shall forthwith proceed with the performance of the Work and the furnishing of the materials and equipment necessary for its accomplishment in accordance with the pertinent Contract Documents. No such extra work shall be commenced or undertaken until the Facilities Manager has issued an order on the Contract.

GCC-6.2 CHANGES IN THE WORK. The Authority may make changes to the Work or provide for Extra Work under the Contract in accordance with this GCC-6.1 – CHANGES IN THE WORK for changes that are within the general scope of the Work, as required by Applicable Laws in relation to the Project or as otherwise agreed by the parties. No changes in the Work shall proceed without a written Change Order or Change Directive signed by the Authority and no claim for any change in the Contract Price or for any extension or alteration of the Contract Time shall be valid except as shown on the Change Order or Change Directive, as the case may be. This requirement is of the essence and it is the express intention of the parties hereto that any claims for a change in the Contract Price shall be based, and that the Contract Time shall be altered, only upon strict compliance with the requirements of this Contract. Accordingly, no course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the Work and no claim that the Authority has been unjustly enriched by any alteration or addition to the Work, whether in fact there is any such unjust enrichment or not, shall be the basis of a claim for payment under this Contract or any extension of the Contract Time without a Change Order or Change Directive.

Any agreement by the Contractor and the Authority to a change in the Work or Extra Work, the Contract Price or the Contract Time must be set out in a written Change Order signed by both parties, setting out any adjustment to the Contract Price (or method for determining the adjustment to the Contract Price, including agreed unit prices and rates) and any adjustment to the Contract Time (or method for determining the adjustment to the Contract Time). If the Authority wishes to proceed with a change in the Work or Extra Work, it may proceed with a force account order or Change Directive in accordance with this GCC-6.1 – CHANGES IN THE WORK, including the payment of the Force Account Charges set out in Section GCC-6.1(b)(2).

(a) **CONTRACT ITEM CHARGES.** When an order on contract provides for similar items of work or materials which increase or decrease the itemized quantity provided for in the Contract, the price to be paid therefore, shall not exceed the unit Bid Price in the Contract for such items.

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(b) NEW ITEM CHARGES.

- (1) Agreed prices. Agreed prices for new items of work or materials may be incorporated in the order on contract as the Facilities Manager may deem them to be just and fair and beneficial to the Authority. These prices will be used in computing the final estimate.

Agreed prices must be supported by a complete price analysis in the order on contract. The analysis will be based on an estimated breakdown of charges listed in the following paragraph (2), "Force Account Charges", unless some other basis is approved by the Authority.

(2) Force Account Charges

- (a) Contractor Charges. Where there are not applicable unit prices for extra work ordered and agreed prices cannot be readily established or substantiated, and the Authority has instructed the Contractor in writing to proceed with the Work without agreed pricing, the Contractor shall be paid the actual and reasonable cost for the following in accordance with the rates specified for Force Account work under New York State Department of Transportation Standard Specifications for work performed in the U.S., and in accordance with the rates specified for Payment on Time and Material Basis under Ontario Provincial Standard Specifications for work performed in Canada:

- 1) Necessary materials (including transportation to the site). Material used, if acquired by direct purchase must be covered by bills or acceptable invoices. All prices on used material incorporated in either temporary or permanent work shall be billed at a fair market value, less than the original cost when new. A reasonable salvage credit shall be given for all salvageable material recovered. Salvage value of substantial material recovered must be determined jointly by the Contractor and the Engineer.
- 2) Necessary direct Labor charges. Each class of Labor shall be billed separately at actual payroll rates (without any premium or mark-up for the Project). Average rates based on different class of Labor, will not be accepted.
- 3) Payments required to be made to Labor organizations under existing collective bargaining agreements.
- 4) Sales taxes, if any, required to be paid on materials incorporated into the Work under the order on contract.
- 5) Equipment, other than small tools.
- 6) Contractor Owned Equipment.
- 7) Profit and Overhead. Profit and overhead costs shall be computed of the following:

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- a) Total Material Cost (Bare Cost at Incoterm DAP); and
- b) Total Direct Labor Cost (Actual hours worked multiplied by regular hourly wage rate (including payroll burden)).

The Contractor shall not invoice or charge the Authority for any other overhead or profit. Overhead is defined to include all back office and administration expenses, all salaries of employees and officers not directly involved in performing the Work, and includes, without limitation, the following:

- c) Premium on bond;
- d) Premium on insurance required by the Authority other than Workmen's Compensation Insurance, public liability and property damage insurance, employment insurance, F.I.C.A. contributions, Canada Pension Plan, other payroll and source deductions and taxes, and such reasonable charges that are paid by the Contractor pursuant to written agreement with its employee;
- e) All salary and expenses of executive officers, supervising officers or supervising employees proportionate to ;
- f) All clerical or stenographic employees;
- g) All charges for minor equipment, such as small tools, including shovels, picks, saws, axes, bars, sledges, lanterns, jacks, cables, pails, wrenches, etc., and other miscellaneous supplies and services.
- h) All drafting room accessories such as paper, tracing cloth, blue printing, etc.

8) Subcontractor Charges (mark-up)

(c) **FORCE ACCOUNT REPORT.** Payment for Force Account Work will be made on the basis of the following reports:

- (3) The Contractor will deliver to the Engineer a daily summary of FORCE ACCOUNT WORK done on the Contract. This summary on 8 1/2" x 11" paper will be delivered to the Engineer not later than closing time on the day following that for which the Work is reported.

The summary shall contain:

- a) A list of materials used indicating the amount and nature of each material. The cost (if known) should also be included.

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This must be later documented by proper receipts.

- b) A list of equipment used indicating the number of hours used and the kind, type and size of equipment.
 - c) A list of personnel by name, including the hours worked, and Labor classification at which they were used on the Force Account Work and the location by station or stations of the Work proposed.
 - d) A statement of the Work accomplished by force account for that day.
 - e) This summary will be dated and signed by the Contractor's authorized representative and the Engineer.
 - f) The contract number and other identification as well as the name of the Contractor shall appear on the statement.
 - g) The Engineer will make any notations, remarks or comments on this form that may assist in final payments.
- 2) Within five (5) calendar days after the end of each pay period the Contractor shall deliver to the Engineer a FORCE ACCOUNT SUMMARY OF LABOR used on the Work which shall include the name, hourly rate of pay, hours worked, allowable employee benefits and/or other items as shown on the actual payroll.
 - 3) On completion of the specific Force Account Work the Contractor shall within ten (10) calendar days, deliver to the Engineer's a FORCE ACCOUNT SUMMATION wherein all materials, equipment and Labor charges are shown and totaled together with such other expenditures as are concerned with the Force Account item. This summation shall be dated and signed by the Contractor's authorized representative and the Engineer.

GCC-6.3

CONCEALED OR UNKNOWN CONDITIONS. If the Authority or the Contractor discover conditions at the Site which are:

- (a) subsurface or otherwise concealed physical conditions which existed before the commencement of the Work which differ materially from those indicated in the Contract Documents and for which Contractor has not expressly assumed responsibility hereunder; or
- (b) physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents and for which Contractor is not expressly assumed responsibility hereunder,

then the observing party shall give notice in writing to the other party of such conditions before they are disturbed and in no event later than 5 Working Days after first observance of the conditions.

The Engineer will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would cause an increase or decrease in the Contractor's cost or time to perform the Work, the Engineer, with the Authority's approval, will issue appropriate instructions for a change in the Work as provided in GCC-6.2 - CHANGES IN THE WORK.

If the Engineer finds that the conditions at the Site are not materially different or that no change in the Contract Price or the Contract Time is justified, the Engineer will report the reasons for this finding to the Authority and the Contractor in writing.

If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GCC-8.8 - TOXIC AND HAZARDOUS SUBSTANCES.

GCC-6.4 CLAIMS FOR A CHANGE IN CONTRACT PRICE. If the Contractor intends to make a claim for an increase to the Contract Price, or if the Authority intends to make a claim against the Contractor for a credit to the Contract Price, the party that intends to make the claim shall give timely notice in writing of intent to claim to the other party and to the Engineer in accordance with this GCC-6.4.

Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:

- (a) take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
- (b) keep such records as may be necessary to support the claim.

The party making the claim shall submit within a reasonable time to the Engineer, but in no event any later than twenty-one (21) days following the commencement of the events giving rise to such claim, a detailed account of the amount claimed and the grounds upon which the claim is based.

Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under the preceding paragraph shall be considered to be an interim account and the party making the claim shall, at such intervals as the Engineer may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.

The Engineer's findings, with respect to a claim made by either party, will be given by notice in writing to both parties within 30 Working Days after receipt of the claim by the Engineer, or within such other time period as may be agreed by the parties.

If such finding is not acceptable to either party, the claim may be settled in accordance with General Condition 12 - DISPUTE RESOLUTION and Schedule F (Dispute Resolution Procedures).

GENERAL CONDITION 7 - PAYMENT

GCC-7.1 SCHEDULE OF VALUES. Prior to the Commencement Date, the Contractor shall submit to the Authority and the Engineer a Schedule of Values setting out the estimated progress payments and progress of the Work. The Schedule of Values, once approved by the Authority and the Engineer,

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will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Contractor to submit proposed Schedule of Values within 10 days of notice to proceed. Progress payments on account of Unit Price Work, where Unit Price Work is called for in respect of changes in the Work under the Contract, will be based on the number of units completed.

GCC-7.2 ESTIMATES AND PAYMENT. In computing amounts in estimates done, the unit prices will be used when applicable. Otherwise the engineer in charge will calculate the percent complete for each pay item.

In making up the final estimate the linear measurement made along the axis of the surface of the finished Work will be considered the length of the Work.

All estimates, including the final, will be made for actual quantities of Work performed and materials placed in accordance with the requirements contained in the specifications, contract plans and standard sheets (except as provided under GCC-7.5 – PARTIAL PAYMENTS) as determined by the measurements of the Engineer, and the resulting quantities involved in any contract shall be accepted as final, conclusive and binding upon the Contractor. For computation of the quantities of earthwork to be paid for under various items of the Contract, it is agreed that the planimeter shall be considered an instrument of precision, and quantities computed from areas obtained by its use shall be accepted by all parties hereto as accurate. Arithmetical computations, utilizing any type of computing device or machines including electronic computers, shall not be precluded by reference to the planimeter.

GCC-7.3 FINAL ADDITIONS OR DEDUCTIONS. Upon the completion of the required Work as shown in the plans and specifications, should the final estimate of quantities show either an increase or decrease from the approximate estimate of, a final agreement will be made respectively adding or deducting this amount from the gross sum Bid.

GCC-7.4 PAYMENTS ON CONTRACT. Payments to the Contractor for Work satisfactorily performed will be made monthly upon receipt of a written application for payment in the form attached as Schedule H to the Agreement (Form of Application for Payment) and acceptable to the Authority. No monthly estimate will be rendered unless the value of the Work done equals 5% of the Contract Amount or \$1,000.00, whichever is the lesser. Semi-monthly estimates may be rendered provided the value of the Work performed in a two week interval is in excess of fifty thousand dollars or if, in the opinion of the Facilities Manager, it is to the best interests of the Authority to do so.

GCC-7.5 PARTIAL PAYMENTS. Payment of actual cost of the materials mentioned in the following list may, when requested or required for changes approved by the Authority pursuant to GCC-6.2, upon application by the Contractor and a favourable recommendation of such application by the Engineer, be made to the Contractor prior to the incorporation of any such materials in the Work, provided the amount of the partial payment requested for each item is greater than five hundred dollars (\$500.00) and the Contractor shall first file with the Authority a bill or bills of sale showing that the materials have been paid for and that the title to the materials without encumbrances, is in the name of the Contractor. Such payment may be made when said materials are delivered and are properly stored at the Site of the Work or at a place and in a manner approved by the Facilities Manager. No payment shall be made on any materials without documented evidence of the acceptability of such materials filed with the Engineer. Such payment shall not be deemed to be an acceptance of such materials, and the Contractor shall be responsible for and must deliver to the Site and properly incorporate in the Work only those materials that comply with the specifications.

If the materials are stored on private property, the Contractor shall furnish and file with the Authority a release and a waiver covering such materials, which release and waiver shall be executed by the owner of such private property in favour of the Authority or its agent. The Contractor shall mark all

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materials and goods stored elsewhere than on the Site and paid for by the Authority, fully or partially.

LIST OF MATERIALS

Pavement	Aluminum Products	Structural Steel
Reinforcement	Asphalt	Steel Railings
Reinforcing Mesh	Pipes	Grid Deck
Reinforcement Couplers	Grout	
Geotextiles	Dowels	
Concrete	Manholes	
Miscellaneous Metals	Traffic Signs	

The Contractor shall pay any and all costs of handling and delivering materials to and from the place of storage to the Site of the Work, as well as any storage rental.

Partial payments made for changes shall not exceed eighty five percent (85%) of the Contractor's Contract Price for the item of change, nor shall the quantity allowed exceed the corresponding quantity estimated in the Contract.

GCC-7.6 **PROGRESS PAYMENTS.** Unless otherwise specified in the method of payment for a particular item, no payment will be made for an item of work until its completion in accordance with the Specification.

GCC-7.7 **FINAL ESTIMATE.** The Authority will approve a final estimate for final payment based on the final agreement as prepared and approved by the Engineer, less previous payments and any and all deductions authorized to be made by the Authority under the Contract. Payment pursuant to such final estimate less any deductions authorized to be made by the Authority under the Contract shall constitute the final payment and shall be made by the Authority.

GCC-7.8 **ACCEPTANCE OF FINAL PAYMENT.** The acceptance by the Contractor, or by anyone claiming by or through it, of the final payment shall to the greatest extent permitted by Applicable Laws, constitute and operate as a release to the Authority from any and all claims of any liability to the Contractor for anything theretofore done or furnished for or relating to or arising out of the Work done thereunder, and for any prior act, neglect, or default on the part of the Authority or any of its officers, agents or employees. Should the Contractor refuse to accept the final payment as tendered by the Authority, it shall constitute a waiver of any right to interest thereon.

GCC-7.9 **CONTRACTOR'S COST RECORDS.** The Contractor shall maintain records of all payrolls and of the details that comprise its total cost pursuant to any of the provisions under GCC-6.1 – CONTINGENCIES, EXTRA WORK, DEDUCTIONS, and the Contractor shall, at any time within 6 years following the date of Acceptance of the Work, make such records available, upon request therefore, to the Authority for review and audit, if deemed necessary by the Authority. In case all or a part of such records are not made so available, the Contractor understands and agrees that any items not supported by reason of such unavailability of the records shall be disallowed, or if payment therefore has already been made, the Contractor shall, upon demand in writing by the Authority, refund to the Authority the amount so disallowed.

GCC-7.10 PAYROLL RECORDS. Certified payroll records for any part of the Work performed in the United States or in relation to a Change Directive, Change Order or Force Account shall be submitted with each request for payment or as otherwise directed by the Authority. Failure to do so will delay payment.

GCC-7.11 WITHHOLDING OF PAYMENT. If because of climatic or other conditions reasonably beyond the control of the Contractor, there are items of work that cannot be performed, payment in full for that portion of the Work which has been performed as certified by the Engineer shall not be withheld or delayed by the Authority on account thereof, but the Authority may withhold, until the remaining portion of the Work is finished, only such an amount that the Engineer determines is sufficient and reasonable to cover the cost of performing such remaining work.

GCC-7.12 NON-CONFORMING WORK. No payment by the Authority under the Contract nor partial or entire use or occupancy of the Work by the Authority shall constitute an acceptance of any portion of the Work or Products which are not in accordance with the requirements of the Contract Documents.

GENERAL CONDITION 8 -PROTECTION OF PEOPLE AND PROPERTY

GCC-8.1 PRESERVATION OF PROPERTY. The Contractor will protect and preserve all public and private property, including all existing vegetation, existing landscape features and monuments within, along and adjacent to the highway Right-of-Way. The Contractor shall: use every precaution necessary and perform the Work as specified, in a manner approved by the Engineer, to prevent damage, injury, pollution or destruction; shall protect all trees and other woody plants which are to remain; take special care to protect the natural vegetation and surroundings including all natural drainageways, ponds, lakes, swamps, woods and fields; store materials in such a manner as to prevent leaching which would be injurious to soils and to plants; repair all injuries to woody plants, which are to remain, by approved horticultural methods; and scarify the compacted soil and regrade as directed to restore the property to a natural condition.

The Contractor shall also use suitable precaution necessary to prevent damage to pipes, conduits and other underground structures, and protect carefully from disturbance or damage all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.

Where the soil over root area of trees to be preserved has been compacted, it shall be restored by proper cultivation as directed by the Engineer to a condition to permit the entrance of water and the proper aeration of roots.

GCC-8.2 DAMAGE. For all damages direct or indirect, of whatever nature resulting from the performance of the Work or resulting to the Work during its progress from whatever cause, including omissions and supervisory acts of the Authority shall be done and sustained by the Contractor, and all Work shall be solely at the risk of the Contractor until it has been finally inspected and accepted by the Authority except the following:

- (a) The Authority shall pay the Contractor for the repair or replacement required as a result of the Authority's grossly negligent or intentionally malfeasant acts or omissions or non-compliance with this Contract.
- (b) The Contractor shall not be responsible for damages resulting from faulty designs as shown by the plans and specifications nor from damages resulting from willful acts of the Authority officials or employees and nothing in this paragraph or in this Contract shall

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create or give to third parties any claim or right of action against the Contractor or the Authority beyond such as may legally exist irrespective of this paragraph or Contract.

- (c) In the event that damage to the Work in progress is caused by an “Occurrence” as hereinafter defined and to the extent that such damage has been determined by the Authority to be beyond that which may be reasonably anticipated and also the extent that such damage is not reimbursable by insurance carried by the Contractor, the Contractor may apply in writing to the Facilities Manager for the Authority to pay or participate in the cost of repairing the damage to the Work from such cause, or, in lieu thereof, and at the sole discretion of the Authority, terminate the Contract and relieve the Contractor of further obligation to perform the Work subject to the following:
- (4) OCCURRENCE. “Occurrence” shall include only those floods, fires, earthquakes, landslides or other non-weather -related catastrophes when such occurrences or conditions and effects have been proclaimed a disaster or state of emergency.
- (5) APPLICATION BY CONTRACTOR. The Contractor’s written request for the Authority to pay or participate in the cost of rebuilding, repairing, restoring or otherwise remedying such damage that has been determined by the Authority to be beyond that which may be anticipated from heavy storms to the Work caused by the occurrence shall be submitted to the Facilities Manager and approved by the Authority before performing any Work other than emergency work necessary to provide for passage of public traffic.

The Contractor shall defend, indemnify and save harmless the Authority from suits, actions, damages and costs of every name and description, resulting from the Work under this Contract during its prosecution and until three years after the completion thereof, and the Authority may retain such monies from the amount due the Contractor as may be necessary to satisfy any claim for damages recovered against the Authority. The Contractor’s obligations under this paragraph shall not be deemed waived by the failure of the Authority to retain the whole of any part of such monies due the Contractor, nor shall such obligations be deemed limited or discharged by the enumeration or procurement of any insurance for liability for damages imposed by law upon the Contractor, Subcontractor or the Authority.

Such obligation does not extend to those suits, actions, damages and costs of every name which arise out of the sole negligence of the Authority, its agents or employees relative to the construction, alteration, repairs or maintenance of a building, structure, appurtenances and appliances including moving, demolition and excavating connected therewith.

For information on construction equipment and maximum allowable loads, reference is made to GCC 3.7 of the General Conditions of Contract – CONSTRUCTION EQUIPMENT.

GCC-8.3 RESTORATION OF DISTURBED AREAS OUTSIDE THE RIGHT OF WAY. All areas outside of the Right of Way that are disturbed, used by, or serving as a source of material for the Contractor be restored to a pleasing and acceptable condition as required under any Applicable Law.

GCC-8.4 RESTORATION OF DISTURBED AREAS WITHIN THE RIGHT OF WAY. All disturbed areas that are within the Right of Way, but outside of the Work limits, shall be restored to a condition as specified and as satisfactory to the Engineer. For the purposes of this section, the Work limits shall include the road section plus a reasonable work area at top of cut and toe of fill as determined

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by the Engineer.

When a pay item for seeding is not included in the Contract, disturbed earth areas within the Work limits shall be graded in a manner approved by the Engineer and seeded as specified. The cost of this Work shall be included in the Contract Price for the various items in the Contract and not separate payment shall be made thereof.

The Contractor shall obtain the written permission of the Engineer before beginning the use of any area within the Right of Way, but outside the Work limits as noted in the preceding paragraph. Where deemed necessary by the Engineer the Contractor shall submit, as part of the request for approval, a grading plan showing the proposed final grading of the area. If in the opinion of the Engineer, the area is not adaptable to acceptable restoration or if serious or permanent ecological damage is foreseeable, approval shall not be given.

The obligations of this GCC-8.4 applies to areas such as, but not limited to, borrow pits or area, spoil or waste areas, haul roads, storage areas, batching areas, water points, equipment storage areas, shop areas and similar areas.

In general, the restoration shall include:

- (a) The removal of all equipment and parts, junk, rubbish, excess materials and debris of all kinds;
- (b) Clean up as required, grading as shown if a grading plan has been prepared or graded so as to blend into the surrounding ground forms to the satisfaction of the Engineer;
- (c) Scarification of storage yards, batching sites, haul roads, etc. to the depth of the compaction as determined by the Engineer;
- (d) The removal of pavement or granular surfacing from temporary roads or areas as required by the Engineer;
- (e) The repair or removal of damaged trees and the fertilizing, seeding and mulching of the areas as provided for in the Contract or as directed by the Engineer. Areas within sight of the finished highway or any other highway will require particular attention insofar as the above features are concerned. It is the intent to have all such areas present a pleasing appearance to travelers on any highway.

All of this restoration shall be accomplished prior to acceptance of Contract except that work or restoring Contractor's work areas (storage, batching, equipment, shop areas, etc.) may be done after the official acceptance of the Contract but must be completed prior to the final release of the retained funds.

No payment will be made for any Labor, material or equipment necessary for the restoration of disturbed areas which extend beyond the Work limits. The cost of such Work shall be included in the Bid Price for the various items of the Contract. All Work shall be in accordance with the Authority specifications for similar items of work and/or as specified by the Facilities Manager.

GCC-8.5 SOIL EROSION, WATER AND AIR POLLUTION ABATEMENT. The Contractor shall schedule and conduct its operations to minimize erosion of soils and to minimize silting and muddying of streams, rivers, irrigation systems, impoundments (lakes, reservoirs, etc.) and lands adjacent to or affected by the Work. Construction of drainage facilities and performance of other

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Contract Work which will contribute to the control of erosion and sedimentation shall be carried out in conjunction with earthwork operations as soon thereafter as practicable. The area of bare soil exposed at any one time by construction operations shall be kept to a minimum.

In carrying out erosion control measures, the Contractor will be guided by, but not limited to the following controls:

- (a) When borrow material is obtained from other than commercially operated sources, erosion of the borrow site shall be so controlled both during and after completion of the Work that erosion will be minimized and minimal sediment will enter streams or other bodies of water. Waste disposal areas and construction roads shall be located and constructed in a manner that will minimize sediment entering streams.

Unless otherwise approved by the Engineer, the Contractor shall submit grading plans for all borrow areas, waste and disposal areas to the Engineer for its approval prior to the start of Work on or the use of such areas. The objective of the grading plan is to insure stability of the slopes and provide a pleasing appearance in conformity with the surrounding landscape. The areas shall be seeded, mulched and fertilized as provided for in the Contract. All of the above Work shall be done at the Contractor's expense.

- (b) Frequent fording of streams will not be permitted, therefore, temporary bridges or other structures shall be used whenever an appreciable number of stream crossings are necessary. Unless otherwise approved in writing by the Engineer, mechanized equipment shall not be operated in live streams.
- (c) When work areas or gravel pits are located in or adjacent to live streams, such areas shall be separated from the main stream by a dike or other barrier to minimize sediment entering a flowing stream. Care shall be taken during the construction and removal of such barriers to minimize the muddying of a stream.
- (d) All waterways shall be cleared as soon as practicable of falsework, piling, debris or other obstructions placed during construction operations and not a part of the finished Work.
- (e) Ditches which are filled, or partly inoperative shall be cleaned and made operative before the Contractor stops for any day, and shall be maintained in a condition satisfactory to the Engineer for the duration of the Contract.
- (f) Water from aggregate washing or other operations containing sediment shall be treated by filtration, settling basin or other means sufficient to reduce the turbidity so as not to cause a substantial visible contrast to natural conditions.
- (g) Pollutants such as fuels, lubricants, bitumens, raw sewage and other harmful materials shall not be discharged into or near rivers, streams and impoundments or into natural or manmade channels leading thereto. Wash water or waste from concrete mixing operations shall not be allowed to enter live streams.
- (h) All applicable regulation of fish and wildlife agencies and statues relating to the prevention and abatement of pollution shall be complied with in the performance of the Contract.

Any material generated by any activity for the development, modification and construction of any transportation facility SHALL NOT be burned on or off the Contract Site. This shall include but not be limited to land clearing material and demolition material. Such material

shall hereinafter be referred to as disposable material in the clearing and grubbing specifications.

When it becomes necessary, the Engineer will inform the Contractor of unsatisfactory construction procedures and operations insofar as erosion control, water and air pollution are concerned. If the unsatisfactory construction procedures and operations are not corrected promptly, the Engineer may suspend the performance of any or all of other construction until the unsatisfactory condition has been corrected.

GCC-8.6 OPENING HIGHWAY TO TRAFFIC PRIOR TO ACCEPTANCE. When directed in writing by the Facilities Manager, the Contractor shall open to traffic any portion of new pavement and/or structures before Acceptance of the Contract. Traffic on these portions of highway so opened to travel by the Facilities Manager shall be maintained and protected in accordance with all the provisions of the Maintenance and Protection of Traffic provisions of the Contract Documents.

Should the Contractor be dilatory in completing certain features of the Work on the portion of the highway directed to be opened, the Facilities Manager may order all or a portion of the said highway open to traffic, and in this event the Contractor shall not be relieved of its liability and responsibility during the period the Work is so opened prior to Acceptance.

These provisions apply not only to the reconstruction of existing highways, but also to work on new locations where traffic is not maintained during construction.

GCC-8.7 FURNISHING RIGHT OF WAY. The Authority will secure all rights of way in advance of construction. Any exception will be indicated prior to the award of the Contract. The Contractor shall not enter upon any parcel until the proper rights of entry have been obtained.

GCC-8.8 TOXIC AND HAZARDOUS MATERIALS.

- (a) For the purposes of Applicable Environmental Laws related to toxic and Hazardous Materials, the Authority shall be deemed to have control and management of the Site with respect to existing conditions. Prior to the Contractor commencing the Work, the Authority shall take all reasonable steps to determine whether any toxic or hazardous substances are present at the Site, and provide the Engineer and the Contractor with a written list of any such substances that are known to exist and their locations. Unless the Contract expressly provides otherwise, the Authority shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the Site, to dispose of, store or otherwise render harmless toxic or Hazardous Materials which were present at the Site prior to the Contractor commencing the Work.
- (b) If the Contractor encounters toxic or Hazardous Materials at the Site, or has reasonable grounds to believe that toxic or Hazardous Materials are present at the Site, which were not brought to the Site by the Contractor or anyone for whom the Contractor is responsible and which were not disclosed by the Authority or which were disclosed but have not been dealt with as required under GCC-8.8(a), the Contractor shall: take all reasonable steps, including stopping the Work, to ensure that no person's exposure to any toxic or Hazardous Materials exceeds any applicable time weighted levels prescribed by applicable legislation at the Site, and immediately report the circumstances to the Engineer and the Authority in writing.
- (c) If the Authority and Contractor do not agree on the existence, significance of, or whether the toxic or Hazardous Materials were brought onto the Site by the Contractor or anyone for whom the Contractor is responsible, the Authority shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the Authority and the Contractor.

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- (d) If the Authority and Contractor agree or if the expert referred to in GCC-8.8(c) determines that the toxic or Hazardous Materials were not brought onto the Site by the Contractor or anyone for whom the Contractor is responsible, the Authority shall promptly at the Authority's own expense:
- (i) take all steps as required under GCC-8.8(a);
 - (ii) reimburse the Contractor for the costs of all steps taken pursuant to GCC-8.8(b);
 - (iii) extend the Contract time for such reasonable time as the Engineer may recommend in consultation with the Contractor and the expert referred to in GCC-8.8(c) and reimburse the Contractor for reasonable costs incurred as a result of the delay; and
 - (iv) indemnify the Contractor as required by GCC-11.1 – INDEMNIFICATION.
- (e) If the Authority and Contractor agree or if the expert referred to in GCC-8.8(c) determines that the toxic or Hazardous Materials were brought onto the Site by the Contractor or anyone for whom the Contractor is responsible, the Contractor shall promptly at the Contractor's own expense:
- (i) take all necessary steps, in accordance with applicable legislation in force at the Site, to safely remove and dispose the toxic or Hazardous Materials;
 - (ii) make good any damage to the Work, the Authority's property or property adjacent to the Site as provided in GCC-8- PROTECTION OF PEOPLE AND PROPERTY;
 - (iii) reimburse the Authority for reasonable costs incurred under GCC-8.8(c); and
 - (iv) indemnify the Authority as required by GCC-11.1 – INDEMNIFICATION.
- (f) If either party does not accept the expert's findings under GCC-8.8(c), the disagreement shall be settled in accordance with GCC-13- DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by GCC-8.8(d) or GCC-8.8(e)it being understood that by so doing, neither party will jeopardize any claim that party may have to be reimbursed as provided by GCC-8.8 - TOXIC AND HAZARDOUS SUBSTANCES.

GENERAL CONDITION 9 - SUSPENSION AND TERMINATION

GCC-9.1 SUSPENSION OR TERMINATION FOR CONTRACTOR DEFAULT.

- (a) The Contractor shall be considered in default under this Contract if:
- (i) the Contractor is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the Contractor's insolvency, or if a receiver is appointed because of the Contractor's insolvency;
 - (ii) breaches a material term of this Contract, or neglects to prosecute the Work properly or otherwise fails to comply with the requirements of the Contract to a material degree;
 - (iii) breaches any material representation or warranty set out in this Contract; or

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- (iv) fails to achieve or, in the reasonable opinion of the Authority, is likely to fail to achieve any Milestone by the Milestone date that forth in the Construction Schedule (a “**Schedule Default**”).
- (b) If the Contractor is in default under this Contract, the Authority may, without prejudice to any other right or remedy the Authority may have, suspend the Work or, subject to GCC-9.1(c), terminate the Contractor’s right to continue with the Work, by giving the Contractor or receiver or trustee in bankruptcy notice in writing to that effect.
- (c) If the Contractor is in default under GCC-9.1(a)(ii) or GCC-9.1(a)(iii), before exercising its right to terminate under GCC-9.1(b), the Authority may, without prejudice to any other right or remedy the Authority may have, give the Contractor notice in writing that the Contractor is in default of the Contractor’s contractual obligations and instruct the Contractor to correct the default in the 5 Working Days immediately following the receipt of such notice in writing. If the default cannot be corrected in the 5 Working Days specified or in such other time period as may be subsequently agreed in writing by the parties, the Contractor shall be in compliance with the Authority’s instructions if the Contractor:
 - (i) commences the correction of the default within the specified time, and
 - (ii) provides the Authority with an acceptable schedule for such correction, and
 - (iii) corrects the default in accordance with the Contract terms and with such schedule.

If the Contractor fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the Authority may have, the Authority may: correct such default and deduct the cost thereof from any payment then or thereafter due the Contractor provided the Engineer has certified such cost to the Authority and the Contractor, or terminate the Contractor’s right to continue with the Work in whole or in part or terminate the Contract pursuant to GCC-9.1(b).

- (d) If a Schedule Default occurs or is continuing the Authority may, without prejudice to any other right or remedy the Authority may have (including its right to claim Delay Liquidated Damages, Permanent Lane Closure Liquidated Damages or Temporary Lane Closure Liquidated Damages in accordance with GCC-5 – COMMENCEMENT AND COMPLETION OF WORK), give the Contractor notice in writing that a Schedule Default has occurred, is continuing or is likely to occur. Within 5 Working Days immediately following the receipt of such notice in writing, the Contractor shall prepare a plan (the “**Schedule Remediation Plan**”), setting out the Contractor’s plan to address and correct any delays in the Construction Schedule. Any Schedule Remediation Plan shall include:
 - (i) a report identifying the reasons for the delay;
 - (ii) any change to the Contractor’s plans and timing for any permanent or temporary Lane closures;
 - (iii) a report demonstrating that Substantial Completion will occur on or before the scheduled date for Substantial Completion notwithstanding such missed Milestones or delays, or a plan showing the steps that are to be taken by the Contractor to eliminate or reduce the delay and achieve subsequent Milestones; and
 - (iv) a detailed explanation of the measures to be implemented by the Contractor to

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either: (i) ensure that the progress of the Work is brought back on schedule and, to the extent necessary, a revised Construction Schedule to be approved by the Authority (such approval not to be unreasonably withheld or delayed); or (ii) mitigate the extent of the delay and/or schedule default.

If the Schedule Remediation Plan is not accepted by the Authority in writing, acting reasonably, the Contractor shall revise and resubmit the Schedule Remediation Plan. Once the Schedule Remediation Plan is accepted by the Authority in writing, then the Contractor perform the Work, and correct the Schedule Default, in accordance with the Schedule Remediation Plan. The Contractor's obligation under the Contract as to quality, correction and warranty of the work performed by the Contractor up to the time of termination shall continue after such termination of the Contract.

If the Schedule Default is not corrected in accordance with the Schedule Remediation Plan within 5 Working Days of its acceptance by the Authority, the default cannot be corrected in the 5 Working Days specified or in such other time period as may be subsequently agreed in writing by the parties, the Contractor shall be in compliance with the Authority's instructions if the Contractor:

- (i) commences the correction of the default within the specified time, and
- (ii) provides the Authority with an acceptable schedule for such correction, and
- (iii) corrects the default in accordance with the Contract terms and with such schedule.

If the Contractor fails to correct the Schedule Default or to perform the Work in accordance with the Schedule Remediation Plan, without prejudice to any other right or remedy the Authority may have (including its right to claim Delay Liquidated Damages, Permanent Lane Closure Liquidated Damages or Temporary Lane Closure Liquidated Damages in accordance with GCC-5 – COMMENCEMENT AND COMPLETION OF WORK), the Authority may:

- (iv) correct such default and deduct the cost thereof from any payment then or thereafter due the Contractor provided the Engineer has certified such cost to the Authority and the Contractor;
- (v) or terminate the Contractor's right to continue with the Work in whole or in part or terminate the Contract pursuant to GCC-9.1(b).

For greater clarity, nothing in this GCC 9.1(d) limits or affects the obligation of the Contractor to pay Delay Liquidated Damages, Permanent Lane Closure Liquidated Damages or Temporary Lane Closure Liquidated Damages in accordance with GCC-5 – COMMENCEMENT AND COMPLETION OF WORK unless the date scheduled for Substantial Completion is expressly changed by the Authority in writing and the payment of Liquidated Damages is waived by the Authority in writing with express reference to such General Conditions.

GCC-9.2 RIGHT TO SUSPEND WORK AND CANCEL CONTRACT. It is further mutually agreed that if at any time during the prosecution of the Work the Facilities Manager shall determine that the Work is not being performed according to the Contract or for the best interests of the Authority the execution of the Work by the Contractor may be temporarily suspended by the Facilities Manager, who may then proceed with the Work under its own direction in a manner which will be in accord with the Contract specifications and be for the best interests of the Authority, or it may terminate

the Contractor's employment under the Contract while it is in progress, and thereupon proceed with the Work, in affirmation of the Contract, by contract negotiated or publicly let, by the use of its own forces, by calling upon the surety to complete the Work in accordance with the plans and specifications or by a combination of any such methods; or it may cancel the Contract and either re-advertise or re-let or complete the Work under its own direction in a manner which will be in accord with the Contract specifications and be for the best interests of the Authority, any excess in the cost of completing the Contract beyond the Contract Price, as amended, shall be charged to and paid by the Contractor failing to perform the Work or its surety.

GCC-9.3

TERMINATION CLAUSE. The Authority may, by written notice, terminate the Contract or a portion thereof when the Contractor is prevented from proceeding with the Contract as a direct result of actions with respect to the prosecution of war or in the interest of national defense or with respect to a major catastrophe, critical fuel shortage, budgetary necessity or other overriding circumstances outside the reasonable control of the parties. The Contractor specifically agrees that the issuance of such written notice by the Authority shall be conclusive as to its necessity.

Where the Contractor is prevented from proceeding with the Contract as a direct or indirect result of court injunction or order binding the Contractor and/or the Authority, the Authority may, by written notice, terminate the Contract or any portion thereof.

When the Contract, or any portion thereof is terminated, for any of the above mentioned reasons, before completion of all items of work in the Contract, payment will be made for actual number of units or items of work completed at the Contract unit price, or as mutually agreed for items of work partially completed, but no claim for loss of anticipated profits on uncompleted work shall be made by the Contractor nor shall the Authority be liable for the loss of anticipated profits for such completed work.

In such cases of termination, reimbursement for organization of the Work (when not otherwise included in the Contract) and moving equipment to and from the job will be considered where the volume of work completed is too small to compensate the Contractor for these expenses under the Contract unit prices, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained by the Contractor for the Work, that have been inspected, tested and accepted by the Engineer, and that are not incorporated in the Work, may at the option of the Authority be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the Facilities Manager. Where such acceptable materials are, at the option of the Authority, not purchased from the Contractor, and where the Contractor thereupon returns such materials to its supplier or manufacturer, the Contractor may be paid the actual costs connected with returning such materials, documented as aforesaid, to the extent that such costs are reasonable.

Termination of a contract or a portion thereof shall not relieve the Contractor of its responsibilities for the completed work, nor shall it relieve its surety of its obligation for any claims arising out of the Work performed.

GCC-9.4

TERMINATION FOR CONVENIENCE. The Authority may, at any time, terminate this Contract in whole or in part. Any such termination shall be effected by delivering to the Contractor a notice of termination specifying the extent to which performance of Work under this Contract is terminated and the date upon which said termination becomes effective. Upon receipt of the notice of termination, the Contractor shall act promptly to minimize the expenses resulting from such termination. The Authority shall pay the Contractor the actual costs and expenses necessarily incurred by the Contractor in terminating this Contract, together with the pro-rated amount of the Contract Price, as the same has been modified by Change Orders, such pro ration to be based on the percentage of all Work completed at the effective time of termination, as certified by the Engineer

pursuant to a final Application for Payment submitted by the Contractor, less all progress payments previously made. In no event shall the Contractor be entitled to compensation in the aggregate in excess of the total consideration of this Contract. In the event of said termination, the Authority may take possession of and utilize such materials, appliances and plant as may be on the site and are necessary or useful in completing the Work.

GENERAL CONDITION 10 -CONTRACT SECURITY

GCC-10.1 INSURANCE. Without additional expense to the Authority, the Contractor shall provide at its own expense the respective insurance coverage set out in Schedule M (Insurance).

- (a) Requirements: Until Acceptance by the Authority of the Contractor's services covered by this Contract, insurance for liability for damages imposed by Applicable Laws, of the kinds and in the amounts set out in this Contract with insurance companies authorized to do such business in the Province of Ontario, covering all operations under this Contract performed by the Contractor or by any permitted Subcontractor hereof.
- (b) Certificates of Insurance: The Contractor shall provide to the Authority, certificates of insurance for each Subcontractor employed in the performance of the Work under this Contract, showing that said Subcontractors have complied with all the requirements of this Contract with reference to insurance to be furnished by such Subcontractor. These certificates and the insurance policies shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days' prior, written notice has been given to the Authority.
- (c) Cancellation Notice: Each insurance policy and certificate of insurance shall contain a provision providing that it shall not be canceled or changed by the Contractor or insurance company without thirty (30) calendar days of written notice to the Authority of intention to cancel or change.

GCC-10.2 BONDS. The Contractor shall procure and deliver to the Authority and maintain at its own expense and without expense to the Authority until Acceptance by the Authority of the Work covered by this Contract.

- (a) PERFORMANCE BOND. A bond in the form prescribed by the Authority with sufficient sureties, approved by the Authority, that the Contractor will perform the Work in accordance with the terms of the Contract and with the plans and specifications, and that it will commence and complete the Work within the time prescribed in the Contract, and that it will provide against direct or indirect damages that shall be suffered or claimed on account of such construction or improvement during the time thereof and until the project is accepted. The performance bond is required to cover all of the Contractor's obligations under this Contract, including liquidated damages.
- (b) LABOR AND MATERIAL BOND. A bond guaranteeing prompt payment of monies due all persons supplying the Contractor or a Subcontractor with Labor and materials employed and used in carrying out the Contract, which bond shall insure to the benefit of the persons supplying such Labor and materials.
- (c) AMOUNT OF BONDS. The amounts of Performance Bond and Labor and Materials Bond shall be 100% of the amount of the Contract Price.
- (d) COST. The cost of all bonds under this Contract is included in the Contract Price.

GCC-10.3 FORMS. The form of Bonds and other Bid Security, if given, shall be that provided by the Authority or as otherwise directed by the Authority.

GENERAL CONDITION 11 - INDEMNIFICATION

GCC-11.1 INDEMNIFICATION: To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the Authority, the Engineer, and the officers and employees of any of them (the “Indemnitees”) from and against any and all claims, damages, losses, expenses, suits, actions, liabilities, damages, fees, attorney’s fees, costs, court costs, or disbursements of any kind or nature in whole or in part arising out performance of this Contract by, or any act or omission of, the Contractor or its officers, agents, employees or anyone directly or indirectly employed by the Contractor for whom it may be liable. (including acts and omissions of the services of the Contractor under this Contract, breach of representations and warranties, and breach of the Contract), and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein so provided. Nothing in this Article or in this Contract shall create or give to third parties any claim or right of action against the Contractor or the Authority beyond such as may legally exist irrespective of this Article or this Contract.

Such obligation does not extend to those suits, actions, damages and costs of every type which arise out of the sole negligence of the Authority, its agents or employees relative to the construction, alteration, repairs or maintenance of a building, structure, appurtenances and appliances including moving, demolition and excavating connected therewith.

GCC-11.2 NO LOST PROFITS OR OPPORTUNITY COSTS. In no event shall the Contractor shall be compensated for lost opportunity costs or loss of anticipated profit on the value of services not performed or materials not provided.

GCC-11.3 NO CLAIM IN EQUITY. It is agreed that this Contract adequately addresses the rights and remedies of the parties hereto and provides adequate remedies as a matter of law. Accordingly, each party waives all rights to pursue an action in equity including an action for Quantum Merit or unjust enrichment.

GCC-11.4 NO RIGHT TO TOTAL COST CLAIM. The Contractor acknowledges that any recoverable costs that it may incur are subject to reasonable calculation employing normal cost tracking methodologies. The Contractor further acknowledges that it may suffer losses for which the Authority would not be responsible including: 1) losses resulting from the Contractor’s failure to negotiate an adequate level of compensation; or, 2) the Contractor’s failure to properly manage its own business affairs. The Contractor further acknowledges that the use of a Total Cost Method for calculating damages at law or in equity would entail damages that would not be the Authority’s responsibility and thus are not be recoverable from the Authority.

GCC-11.5 MAXIMUM LIABILITY.

- (a) Notwithstanding any other provision of this Agreement and subject only to GCC-11.5, the maximum aggregate liability of the Contractor to the Authority under this Agreement (including recoveries by the Authority under indemnity claims, and any set-off exercised by the Authority under this Agreement) will not in the aggregate exceed an amount equal to the Contract Price (the “Contractor Liability Cap”).
- (b) The limit set out in GCC-11.4(a) will exclude and will not apply to losses, claims, actions, indemnifications, or damages (“Losses”) for which the Contractor is responsible hereunder:
 - (i) to the extent covered by proceeds of insurance actually received by the Authority, or insurance proceeds that would have been received but for the failure of the Contractor to take all commercially reasonable steps to pursue recovery of such

- proceeds or to achieve such recovery as a result of the Contractor causing any insurance policy to become void or unenforceable;
- (ii) arising out of fraud, criminal conduct or intentional misconduct, or gross fault on the part of the Contractor or any Subcontractor;
 - (iii) arising out of a personal injury or death;
 - (iv) arising out of the abandonment of all or substantially all of the Work or any wrongful termination of the Agreement by the Contractor that is not in accordance with this Agreement;
 - (v) arising out of Delay Liquidated Damages, Permanent Lane Closure Liquidated Damages and Temporary Lane Closure Liquidated Damages owing by the Contractor to the Authority under this Agreement;
 - (vi) arising out of third party claims with respect to: (i) any property damage to the extent that such damage is caused by the negligence or intentional misconduct of the Contractor or any Subcontractor or any breach of this Agreement by the Contractor; (ii) any intellectual property rights; and (iii) any personal injury or death to any person; and
 - (vii) to the extent such Losses are interest on any amount payable to the Authority by the Contractor pursuant to this Agreement or a Contract Document.
- (c) For greater certainty, any actual cost overrun already incurred directly by the Contractor in the carrying out of its obligations under this Agreement shall not be included in the Contractor Liability Cap.

GENERAL CONDITION 12 - LAWS AND REGULATIONS

GCC-12.1 LAWS, PERMITS AND LICENSES. The Contractor shall observe all Applicable Laws. The Contractor agrees to procure, and pay for, all Contractor Permits and Approvals at its cost, other than the Authority Permits and Approvals.

The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the Applicable Laws. If the Contract Documents are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the Applicable Laws which require modification to the Contract Documents, the Contractor shall advise the Engineer in writing requesting direction immediately upon such variance or change becoming known. The Engineer will make the changes required to the Contract Documents as provided in General Condition 6 -CHANGES AND RELIEF EVENTS.

If the Contractor fails to advise the Engineer in writing, and fails to obtain direction as required in this General Condition, or performs Work knowing it to be contrary to any Applicable Laws, the Contractor shall be responsible for and shall correct the violations thereof, and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such Applicable Laws.

If, subsequent to the time of bid closing, changes are made to Applicable Laws which affect the cost of the Work, either party may submit a claim in accordance with the requirements of GCC-6.4 - CLAIMS FOR A CHANGE IN CONTRACT PRICE.

GCC-12.2 WORKERS' COMPENSATION. Prior to commencing the Work, again with the Contractor's application for payment of the holdback amount following Substantial Completion and again with the Contractor's application for final payment at Total Completion, the Contractor shall with respect to any portion of the Work to be performed in the province of Ontario provide evidence of compliance with workers' compensation legislation at the Site, including payments due thereunder and with respect to any portion of the Work to be performed in the State of New York provide evidence of statutorily required worker's compensation insurance. At any time during the Contract

Time, when requested by the Authority, the Contractor shall provide such evidence of compliance by the Contractor and Subcontractors.

GCC-12.3 PATENTED DEVICES, MATERIALS AND PROCESSES. It is understood and agreed that the Contract Price is to include all royalties and costs arising from patents, trademarks, and copyrights in any way involved in the Work. Whenever the Contractor is required or desires to use any design, device, material or process covered by letters, patent or copyright, the Contractor shall defend, indemnify and save harmless the Authority from any and all claims for infringement by reason of the use of any such patented design, device, material or process, to be performed under the Contract, and shall indemnify the said Authority for any costs, expenses and damages which it may be obliged to pay, by reason of any such infringement, at any time during the prosecution or after completion of the Work.

GCC-12.4 SANITARY CODE. The Contractor shall comply with the provisions of Applicable Laws relating to sanitation. Portable toilets must meet the requirements of Applicable Laws, and be cleaned at regular intervals. The Authority must approve the use and the location of any portable toilets. The Contractor shall provide and maintain, in a sanitary condition, approved temporary portable sanitary facilities in the United States or Canada , as applicable, for use by all workmen. When no longer required and when directed by the Engineer, the Contractor shall remove toilet facilities from the site. Temporary toilet facilities shall be located where they will not interfere with construction operations and as approved by the Engineer.

GCC-12.5 SAFETY AND HEALTH REQUIREMENTS.

(a) **GENERAL.** The Contractor shall perform all work in the Contract in a workmanlike manner with due regard to the safety of the employees and of the public. The Contractor shall have full responsibility for all health and safety at the Site in accordance with Applicable Safety Laws and good industry practices during the Contract Time. To the extent applicable, the Contractor shall register and undertake all of the roles, functions and obligations of a “constructor” under the OHSA for the Project.

The Contractor’s employees shall be required to wear protective helmets (hard hats) and other Personal Protective Equipment at all times when required under Applicable Laws, including CSA rules and Applicable Safety Laws, or as directed by the Engineer. Additionally, all employees working within an active highway right-of-way must wear protective helmets at all times. Helmets must meet current industry standards for impact, electrical shock and burn protection established by Applicable Laws. The Contractor’s employees will be considered to include everyone on the Contractor’s payroll, Subcontractors, material suppliers, and other personnel on the Site under the direction of the Contractor.

It shall be the responsibility of the Contractor to perform all necessary planning, supervision, and training activities to ensure that all of the requirements of Applicable Safety Laws are fully met for all workers employed in the construction of the Work. The Contractor shall provide a written Project Safety and Health Plan which documents the Contractor’s company policy relative to health and safety at the Site, and which identifies and addresses specific health and safety concerns to be encountered on the Project. Before the Work begins and periodically throughout the Contract Time, the Contractor’s Project supervision staff shall meet with the Engineer to review and discuss the status of health and safety issues on the Project. An appropriate notice shall be posted on the Site that the Project Safety Plan is available for examination by any worker employed on the Project. As a minimum this Project Safety Plan shall include the following items:

(i) Identification of the Project and company safety officers

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- (ii) Hazardous Materials Communications Plan
- (iii) Employee Safety Training Program
- (iv) Company safety policy
- (v) Procedures to address project health and safety concerns
- (vi) Procedures for compelling worker compliance with health and safety requirements.

Certain of these items may be submitted in the format of a Company Health and Safety Program, with the Project Safety and Health Plan limited to project-specific issues.

The Contractor shall be responsible to ensure that each Subcontractor employed on the Project complies with this requirement. The Contractor shall provide to the Authority a Project Safety and Health Plan covering all work to be done by the Subcontractor prior to starting work. As an alternate, the Contractor may provide a certification that all activities performed by and workers employed by the Subcontractor will be subject to the Contractor's Project Safety and Health Plan.

Submission of the required Project Safety Plan by the Contractor and its acceptance by the Authority shall not be construed to imply approval of any particular method or sequence for addressing health and safety concerns, or to relieve the Contractor from the responsibility to adequately protect the health and safety of all workers involved in the project as well as any members of the public who are affected by the project.

The Contractor shall notify the Engineer of any inspections to be conducted on the Project by health and safety authorities, including the Ministry of Labour, OSHA and the New York State Department of Labor and of any resulting closing conference, and provide the Engineer with the opportunity to be present at such inspections and closing conference. The Contractor shall notify the Authority in writing of the results of any health and safety inspections conducted on the Project by any health and safety authorities, including the Ministry of Labour, OSHA and the New York State Department of Labor, within one Working Day of the completion of the closing conference resulting from such inspections. If any citations or charges are issued for alleged violations of Applicable Safety Laws, a copy shall be provided to the Engineer within one Working Day of their receipt by the Contractor, and a copy of the final disposition of such citations or charge shall also be provided to the Engineer within one Working Day of their receipt by the Contractor. In addition, the Contractor shall notify the Authority in writing within 24 hours, with the details relative to any accident or incident occurring at the Site involving any worker employed on the Project or delivering materials, equipment or supplies to the Site, provided (a) the accident or incident occurs within the confines of the Project and (b) the accident or incident results in the death of the worker, or requires that the worker is hospitalized overnight for treatment of the injury, or (c) the accident otherwise meets the notification requirements of Applicable Safety Laws.

Where a difference exists between the requirements of the appropriate Industrial Code for Construction or OSHA regulations, the more stringent requirements shall apply for all contracts.

- (b) **DRILLING AND BLASTING.** A project meeting relative to the method, manner and procedure of blasting operations shall be held at the Site with the Engineer, the Contractor

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and representatives of all relevant governmental authorities prior to the commencement of drilling and blasting operations.

Whenever explosives are used, they shall be of such character and strength and in such amounts as is permitted by Applicable Laws. In special cases the right is reserved for the Engineer and those agencies to specify the maximum size of the charges.

Blasting shall be done only at such times as the Engineer and those agencies shall approve and under such restrictions as they may impose.

The Contractor shall employ only experienced supervisors and workmen in handling, loading and firing of the explosives.

(c) **EXPLOSIVES IN DEMOLITION.** Demolition work shall not be performed by the use of explosives unless approved by the Facilities Manager and permitted in accordance with Applicable Laws. A specific variation for such use must be granted to the Contractor by the appropriate governmental authorities.

(d) **EXCAVATION OR BLASTING NEAR COMBUSTIBLE GAS PIPES.**

(6) No person shall discharge explosives in the ground, nor shall any person other than an employee of a governmental authority or municipality regularly engaged in the maintenance and repair thereof excavate in any then existing street, highway or public place, unless notice thereof in writing shall have been given at least seventy two (72) hours in advance to the person, corporation or municipality engaged in the distribution of gas, electricity, steam or water, or the provision of telephone or telegraph service in such territory. The person having direction or control of such works shall give such notice and further it shall ascertain whether there is within one hundred (100) feet in such street, highway or public place, or in the case of a proposed discharge, any pipe of any person, corporation or municipality conveying combustible gas, and if there be any such pipe it shall also give such notice to any such other person, corporation or municipality. Provided, however, that in any emergency involving danger to life, health or property it shall be lawful to excavate without using explosives if the notices prescribed herein are given as soon as reasonably possible, and to discharge explosives to protect a person or persons from an immediate and substantial danger of death or serious personal injury if such notices are given before any such discharge is undertaken. Any such work shall be performed in such manner as to avoid damage to any utility facilities.

(7) If in the course of any such excavation, blasting or other work, damage or the potential thereof is occasioned to any utility facility used in the transmission or distribution of gas, electricity, water, steam, telephone or telegraph, whether by direct contact, undermining of soil or other support thereof or otherwise the person having direction or control of such work shall promptly take all reasonable measures necessary to protect individuals and the public from loss or the potential thereof and shall immediately notify the person corporation or municipality owning or operating such utility of such damage or potential damage to its facilities. Neglect on the part of the person having direction or control of such work, responsible for any damage or potential damage to such facilities (a) to take such safety precautionary measures as are necessary or reasonably required promptly or (b) to immediately notify the owner or operator of the utility facility, involved of damage or potential damage to its facilities, occasioned by such person or under his direction or control, shall be a violation of this section and

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constitute a misdemeanor. Nothing herein contained shall preclude or prevent recovery of monetary damages by the owner or operator of the utility facility involved or by any other person suffering damage from the disruption of utility services occasioned by excavation, blasting or other work in the vicinity thereof.

- (e) **SAFETY WIRE FENCE.** The Contractor shall completely enclose, by safety wire fences, all potentially hazardous locations as required by Applicable Safety Laws and Applicable Environmental Laws. Fencing shall not be less than five (5) feet in height, mounted on steel angles, wood or other satisfactory means of support spaced at intervals of not more than ten (10) feet. Fabric shall be .083” diameter (No. 14 B.W.G.) iron wire both directions of an electrically welded rectangular mesh, with openings no greater than two (2) inches wide by four (4) inches high or as required by Applicable Laws, whichever is more stringent. Warning signs reading “DANGER” “KEEP OUT” shall be mounted on the fence as required by the Engineer in Charge but at no more than one hundred (100) foot intervals unless otherwise required by Applicable Safety Laws. The Contractor will be responsible for ensuring all signs and fencing complies with all Applicable Laws. Safety wire fencing shall be furnished, erected, relocated, maintained and removed, as required.

GENERAL CONDITION 13 - DISPUTE RESOLUTION

GCC-13.1 **DISPUTED WORK.** If the Contractor is of the opinion that any Work ordered by the Engineer in Charge to be done as part of the Work is Extra Work and not part of the Work, or that any order of the Engineer in Charge violates the provisions of the Contract, the Contractor shall promptly notify the Facilities Manager of its contentions thereto, and then progress the Work as subsequently required and ordered. In the meantime the Contractor, if it considers the issue unresolved, shall promptly notify the Engineer in writing of its position relative to the dispute. If the Engineer does not resolve the dispute to the satisfaction of the Contractor, the Engineer shall notify the Facilities Manager. The Authority shall make a finding thereon and notify the Contractor.

During the progress of such disputed Work, the Contractor and the Engineer shall keep daily records and make reports of all Labor, material and equipment used in connection with such Work and the cost thereof as specified in Force Account Reports.

If the Authority determines that the Work in question is Contract Work and not extra work, or that the order complained of is proper, it shall direct the Contractor to continue the disputed work and the Contractor must promptly comply. The Contractor’s right to file a claim for extra compensation or damages will not be affected in any way in complying with the direction of the Authority, provided the Contractor continues to keep and furnish the Engineer with Force Account Reports.

If the Authority determines that such work is extra work, not Contract Work, or that the order complained of is not proper, then the Authority shall have prepared, if necessary, an Order on Contract covering such work as soon after the determination is made as is practical. Adjustments of Contract Items or the addition of new items to the Contract necessitated by such determination may be made up until the time the final agreement is submitted for payment provided that all the requirements of this subsection “**Disputed Work**” and GCC-6.1 of General Conditions of Contract - CONTINGENCIES, EXTRA WORK, DEDUCTIONS are complied with.

In the event the Contractor fails to furnish Force Account Reports, such failure shall constitute a waiver of any claim for payment for disputed work other than for payment of contract unit prices for the Work performed, to the extent permitted by Applicable Laws.

GCC-13.2 **DISPUTE RESOLUTION PROCESS.** Differences between the parties to the Contract as to the interpretation, application or administration of the Contract or any failure to agree where agreement

between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by findings of the Engineer, shall be settled in accordance with the requirements of this General Condition 12 - DISPUTE RESOLUTION. If a dispute is not resolved promptly, the Engineer will give such instructions as in the Engineer's opinion are necessary for the proper performance of the Work and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or at variance with the Contract Documents, the Authority shall pay the Contractor costs incurred by the Contractor in carrying out such instructions which the Contractor was required to do beyond what the Contract Documents correctly understood and interpreted would have required, including costs resulting from interruption of the Work. Either party may, at any time, commence the dispute resolution procedures set out in Schedule F (Dispute Resolution Procedures).

GCC-13.3 RETENTION OF RIGHTS. It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the notice in writing required under General Condition 12 -DISPUTE RESOLUTION and has carried out the instructions as provided in GCC-13.2. Nothing in General Condition 12 - DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the Site and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under Schedule F (Dispute Resolution Procedures) to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

GENERAL CONDITION 14 - CONDUCT AND ETHICS POLICIES

GCC-14.1 ACCESS TO INFORMATION.

The Contractor acknowledges and accepts the following:

- (a) In fulfilling its public service responsibilities, the Authority adopted a policy and procedure (the "**FOIL/AIA Policy**") for responding to requests for information, including requests made pursuant to the New York or Federal Freedom of Information Law ("**FOIL**") and the Canadian Access to Information Act ("**AIA**"). While the Authority is not subject to either FOIL or the AIA, the Authority does voluntarily respond to requests for information and gives effect to the principle that the public has a right to know.
- (b) In accordance with the FOIL/AIA Policy, the Authority will make available for public inspection and copying all records except those that the Authority denies access to or portions thereof that:
 - (1) are rendered confidential or privileged or are exempted from disclosure by federal or state law in the United States or provincial or federal laws of Canada;
 - (2) if disclosed, would constitute an unwarranted invasion of personal privacy (including as this concept is given effect in the *Personal Protection Privacy Act* (Canada) and the *Personal Information and Electronic Documents Act* (Canada)) as more particular set out in the FOIL/AIA Policy;
 - (3) if disclosed, would impair present or future contract awards or collective bargaining or negotiations of leases, permits, contracts or other agreements;
 - (4) are confidential trade secrets or financial, commercial, scientific or technical information of the Authority or a third party (including a governmental entity)

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- that if disclosed could cause substantial injury to the competitive position of the Authority or such party;
- (5) are compiled for public safety, law enforcement or official investigatory purposes (internal and external) and which, if disclosed, may affect public safety, interfere with proceedings, or deny or prejudice a right to a fair trial or impartial negotiation, or identify a confidential source or disclose confidential information relating to an audit or a civil, criminal, or internal or external disciplinary investigation;
 - (6) if disclosed, would endanger the life or safety of any person;
 - (7) are in any way related to the security of the Bridge or property associated with federal government functions;
 - (8) if disclosed, would jeopardize the Authority's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures;
 - (9) are materials of any governmental agency (state, local, municipality, region, public authority) other than statistical or factual tabulations of data, specific instructions given to staff, final approved policies and all external audits where these materials or instructions are not exempted;
 - (10) are photographs, microphotographs, videotape or other recorded images that could impact upon personal privacy;
 - (11) that contains information that was obtained in confidence from the government of a foreign state or institution thereof, an international organization of states or institution thereof, the government of a province, municipality or region or institutions thereof or an aboriginal government (as defined in Nisga'a Final Agreement Act);
 - (12) is subject to a solicitor-client or attorney-client privilege;
 - (13) if disclosed, could affect, impact or be expected to prejudice the competitive position of a government institution (which may include the Authority) or specific business entities with which government institutions (which may include the Authority) deals.
- (c) In submitting any document, information or other record to the Authority, including the Response, each Contractor acknowledges and accepts the FOIL/AIA Policy. Except as expressly set out in this RFPQ or the FOIL/AIA Policy, all documents, information and other records submitted in response to this RFPQ will be considered confidential. However, such information or parts thereof may be released pursuant to FOIL/AIA Policy. Contractors are also advised that FOIL/AIA Policy may provide protection for confidential and proprietary business information. Contractors are advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their Responses.
- (d) Subject to the provisions of the FOIL/AIA Policy, the Authority will use reasonable efforts to safeguard the confidentiality of any information identified by the Contractor as

confidential but the Authority shall not be liable in any way whatsoever to any Contractor or Contractor Member if such information is disclosed pursuant to the FOIL/AIA Policy.

GCC-14.2 CONFLICTS OF INTEREST.

(a) For the purposes of this Contract, the term “conflict of interest” includes any situation or circumstance which is a conflict of interest under the Authority’s Ethics Policy or where a Contractor, a Contractor Team Member, their respective Representatives and affiliates and/or a key individual of a Contractor Team Member, has, could be perceived to have or could possibly acquire:

- contractual or other obligations to the Authority or any the Authority Party that could or could be seen to have been compromised or impaired as a result of its signing the Contract, its participation in the RFPQ process, the Invitation to Bid process, or its performance of the Work; or
- knowledge or information (other than information disclosed by the Authority in the normal course of the RFPQ and Bid process and the performance of the Work) of strategic and/or material relevance to the RFPQ and Bid process or to the performance of the Work that is not available to other Contractors and that could or could be seen to give the Contractor an unfair competitive advantage.
- commitments, relationships, financial interests or involvement in ongoing litigation:
 - that could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the Authority’s independent judgment;
 - that could or could be seen to compromise, impair, challenge, be in opposition to or be incompatible with the Project or the effective performance of the Authority's obligations under this RFPQ, the Invitation to Bid or the Construction Contract; or
 - in which the Authority is an adverse party.

In determining conflict of interest, the Authority may consider and have regard to relevant codifications in Canada and the U.S. such as, in Canada, the Code of Conduct for Procurement (2014-11-27) of Public Works and Government Services Canada (referenced later in this Contract).

(b) Each Contractor must use its best efforts to avoid any conflict of interest in relation to the Project, and comply with any requirements prescribed by the Authority to mitigate or resolve any conflict of interest which may arise.

(c) Throughout the Contract Time and the performance of the Work, each Contractor shall and it shall ensure that its Contractor Team Members and their respective representatives and affiliates and key individuals, promptly disclose to the Authority in writing any conflict of interest. At the time of such disclosure, the Contractor shall include any information and documentation that demonstrates appropriate measures have been or will be implemented to mitigate, minimize or eliminate the conflict of interest. The Contractor shall provide such additional information and documentation and implement such additional measures

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as the Authority may require in connection with the Authority's consideration of the conflict of interest and proposed measures.

- (d) The Authority may waive any and all conflicts of interest. A waiver must be in writing and may be upon such terms and conditions as the Authority requires to ensure that the conflict of interest has been appropriately managed, mitigated and minimized including requiring the Contractor and/or its Contractor Members to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the Authority to manage, mitigate and minimize the impact of such conflict of interest.
- (e) The Authority may immediately disqualify a Contractor or require a Contractor to remove and/or replace a Contractor Team Member and/or key individual, if, in each case as determined by the Authority, the Contractor fails to disclose a conflict of interest, the Contractor fails to comply with any requirements prescribed by the Authority to mitigate or resolve a conflict of interest, or the conflict of interest issue cannot be mitigated or otherwise resolved.
- (f) The determination of the Authority as to whether a conflict of interest exists shall be final and binding.

GCC-14.3 NON-DISCRIMINATION AND EQUAL OPPORTUNITY

During the performance of this Contract, the Contractor agrees to comply with all Applicable Laws relating to non-discrimination, equal opportunity employment and the protection of human rights. In addition, all Contractors and Subcontractors that are subject to the laws of the State of New York shall comply with the following in accordance with Section 9 A and B of Chapter 149 of the New York State Unconsolidated Laws:

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will undertake or continue affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (b) At the Authority's request, the Contractor will request a written statement from each of its Subcontractors confirming that each such Subcontractor shall not discriminate and that each such Subcontractor will cooperate with the Contractor's obligations regarding non-discrimination and equal employment opportunity.
- (c) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will be afforded equal employment opportunity without discrimination and will receive considerations for employment without regard to race, color, religion, sex or national origin.
- (d) The Contractor will include the provisions of paragraphs GCC-14.3(a) through GCC-14.3(d) in every Subcontract so that such provisions will be binding on each Subcontractor.

GCC-14.4 BUY USA/CANADA POLICY

- (a) NOT REQUIRED FOR THIS PROJECT.

- (b) NOT REQUIRED FOR THIS PROJECT.
- (c) NOT REQUIRED FOR THIS PROJECT.
- (d) NOT REQUIRED FOR THIS PROJECT.

GCC-14.5 SECURITY REQUIREMENTS.

- (a) The Site is located within an area secured by both U.S. Customs and Border Protection, and Canada Border Services Agency, and as such, all individuals accessing the Site may be subject to examination as determined by such agencies.
- (b) All individuals accessing the Site must have on their person at minimum one of the following identification documents, and may be required to present such documentation while within or while leaving the Work Site: passport; NEXUS card; enhanced driver's license; permanent resident card (where applicable).
- (c) All individuals performing Work within Canada must be admissible to Canada. All individuals performing Work within the United States of America must be admissible to the United States of America.
 - (i) The Contractor must submit to the Authority in advance of any Work the name, date of birth, citizenship, and telephone number of all contractor personnel whom may perform Work in Canada, including management. This information will be forwarded to Canada Border Services Agency to ensure admissibility.
 - (ii) The Contractor must submit to the Authority in advance of any Work *CBP Form 3078 – Application for Identification Card* (see Appendix 1a) for all contractor personnel whom may perform Work in the United States of America, including management. This information will be forwarded to U.S. Customs and Border Protection to ensure admissibility.
 - (iii) Members of the management team, performing Work in both Canada and the United States of America, who are not citizens of or do not have status in the United States of America, must obtain a B-1 visa (temporary visitor for business) from U.S. Customs and Border Protection prior to commencing any Work.

GENERAL CONDITION 15 - WARRANTY

GCC-15.1 WARRANTY.

- (a) The Contractor warrants to the Authority and the Engineer that materials and equipment furnished under the Form of Agreement will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements will be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance by persons other than the Contractor or its Subcontractors, improper operation by persons other than the Contractor or its Subcontractors, normal wear and tear, and normal usage. If required by the Engineer, the Contractor shall furnish satisfactory evidence to the Authority as to the kind and quality of materials and equipment

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provided for the Work. The Contractor, at its expense, shall remove and replace materials not meeting specifications or failing to meet warranties by manufacturers, regardless of whether incorporated into the Work. The Contractor shall promptly replace or correct any of the Work the Engineer rejects as failing to conform to the requirements of the Contract Documents. The foregoing warranty obligations are not limited by the provisions GCC-15.1(d), and are in addition to and not in limitation of any other warranty set forth in the Contract Documents or required by law.

- (b) The Contractor warrants the Work and its performance to the Authority unconditionally. The Contractor shall perform all warranty obligations and responsibilities for the Work under the Contract Documents. Except for extended warranties as described in the General Conditions and the Specifications, the Contractor, at its own expense, shall remedy defects due to improper and/or defective workmanship or materials appearing within one year of the Contractor completing the Work or such longer period as may be set forth in the Contract Documents (the “**Warranty Period**”). Upon completion of the Work, the Contractor shall assign and provide to the Authority all written warranties and guarantees from Subcontractors, suppliers, and material or equipment manufacturers. The Contractor shall fully cooperate with the Authority in the event the Authority pursues remedies under any warranties or guarantees assigned to the Authority. The Contractor acknowledges that its obligations to the Authority under this GCC-15.1(b) are joint and several during the Warranty Period with its Subcontractors, suppliers, vendors and manufacturers of all materials and equipment supplied on account of the Work. Any notice given to the Contractor by the Authority, Engineer, or Construction Manager regarding any deficiency in the Work covered by this GCC-15.1(b) will delay the Warranty Period until all corrections or remedial actions necessary are taken with respect to such deficiency. The Contractor is responsible for all harm caused by its failure to maintain equipment and materials installed through the Contractor’s completion of its Work. The requirements of this GCC-15.1(b) will continue notwithstanding termination of the Contractor for any reason. The foregoing warranty obligations are not limited by the provisions of GCC-15.1(d), and are in addition to and not in limitation of any other warranty set forth in the Contract Documents or required by law.
- (c) No warranties or guarantees by the Contractor will deprive the Authority of any cause of action, right, or remedy otherwise available for breach of any of the provisions of the Contract Documents. The Warranty Period does not limit the time in which the Authority may pursue any such action, right, or remedy.
- (d) Uncovering and Correction of Work
 - (i) If a portion of the Work is covered contrary to the Construction Manager’s or Engineer’s request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their observation and be replaced at the Contractor’s expense without change in the Contract Time.
 - (ii) If a portion of the Work is covered that the Construction Manager or Engineer did not specifically request to observe prior to its being covered, the Construction Manager or Engineer may request to see such Work and it will be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement will, by appropriate Change Order, be at the Authority’s expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction will be at the Contractor’s expense unless the condition was caused by the Authority or one of the other contractors, in which event the Authority is responsible for payment of such costs.

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- (iii) The Contractor shall promptly correct Work rejected by the Construction Manager or Engineer or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Construction Manager's or Engineer's services and expenses made necessary by the rejection, will be at the Contractor's expense.
- (iv) In addition to the Contractor's obligations under GCC-15.1(a) and (b), if, within one year after the date of Substantial Completion of the Work or a designated portion of the Work, or the date of acceptance of a portion of the Work that is subject to correction or completion after the date of Substantial Completion of the Work, whichever is later, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Authority to do so unless the Authority previously gave the Contractor a written acceptance of such condition. The Authority shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Authority fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Authority waives the right to require correction by the Contractor and to make a claim for breach of this GCC-15.1(d)(iv). If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Authority or Engineer, the Authority may correct such nonconforming Work. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Authority's expenses and compensation for the Engineer's additional services made necessary by such default, neglect or failure. Such action by the Authority and amounts charged to the Contractor are both subject to prior approval of the Engineer. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Authority.
- (v) The one-year period will be extended with respect to portions of the Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.
- (vi) The one-year period for correction of Work will not be extended by corrective Work performed by the Contractor pursuant to this GCC-15.1(d).
- (vii) The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Authority.
- (viii) The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Authority, separate contractors, or other Multiple Prime Contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents, or in consequence of work performed in fulfilling warranties or guarantees.
- (ix) Nothing contained in this GCC-15.1(d) establishes a period of limitation with respect to other obligations the Contractor has under the Contract Documents.

Establishment of the one-year period for correction of Work as described in GCC-15.1(d) relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

- (x) If the Authority prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Authority may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable. Such adjustment will be effected whether or not final payment has been made.

GENERAL CONDITION 16 - WORK AFFECTING RAILWAYS

GCC-16.1 WORK AFFECTING RAILWAYS. If applicable to the Work, as set out in the Bid Documents, the following provisions apply to railways and railway companies:

- (a) **SUPERVISION.** All work on any project affecting a Railway Company's property, Right of Way facilities, including temporary track detour, shall be carried out under the joint supervision of the Authority and the Railway Company or Companies in a manner satisfactory to both these agencies.
- (b) **RAILWAY APPROVAL.** The Contractor shall obtain the written approval of the Chief Engineer of the railway company or companies affected in respect to the details and methods to be employed in constructing any structures, track detours, falsework, removal of structures, allowable track clearances, and any and all other details that may in any manner affect the operation or maintenance of any or all railway facilities. Equipment used for the erection, or removal, of structures over railway facilities, shall have a minimum lifting capacity of one hundred fifty percent (150%) of the lift weight (Operational capacity limited to sixty six and two thirds (66 2/3%) of the tipping load). The requirement that written approval shall be obtained from the Chief Engineer, of the railway company, shall be complied with before the Contractor begins actual construction work. The Contractor shall include in its unit prices Bid for this work all the costs of these requirements including permits and any expense occasioned by delay or interruption of his work by reason of the operation or maintenance of the railway facilities. Approval by the Chief Engineer of the railway company or companies affected does not absolve the Contractor from any liability resulting from his contractual operations.
- (c) **RAILWAY CLEARANCES.** No temporary bridge, falsework, staging or obstructions shall be erected over the track or tracks where the vertical underclearance is less than 22 feet over top of rail until the existing bridge warnings have been relocated or new or temporary bridge warnings are installed by the railway company or companies affected and are in service.

The Contractor shall so conduct its work and handle its equipment that no part of any material or equipment shall foul an operated track or wire lines without written permission of the Chief Engineer of the railway company or companies affected at least eight days notice, in writing, or its intention so that proper protection can be arranged for. An operated track is fouled when any object is brought closer than eight feet from the center line of the track unless it is lower than the top of the rail. Absolute minimum temporary underclearance above top of high rail shall be indicated on the plan or in the Bid. Cranes, shovels and any other equipment shall be considered to be fouling the track when located

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in such a position that failure of same with or when located in such a position that failure of same with or without load brings the equipment within the fouling limit. A power line wire is fouled when any object is brought to a point less than six (6) feet therefrom.

- (d) **RAILWAY EMPLOYEES.** When in the opinion of the Chief Engineer of the Railway Company or Companies the Contractor's normal operations in progressing his contract are such that an operated track is or might be fouled or railway traffic endangered, the Railway Company or Companies will employ protective Labor, when found necessary for railway operations. Payment for the services described above shall be made to the Railway Company directly by the Authority or through a change order agreement with the Contractor.

The Contractor shall, at his own expense, carry compensation and other insurance for protective Labor furnished by the Railway Company or Companies.

It is agreed that the furnishing of any protective Labor shall not relieve the Contractor from any liability of payment for any damage caused by his operations.

- (e) **FOUNDATIONS.** Foundations may be extended or lowered if deemed necessary by the Authority and the Chief Engineer of the Railway Company or Companies affected only if such change is ordered by the Authority. Any and all increases in quantities caused by changes of this character will be paid for at the unit prices Bid for the respective items involved.
- (f) **CONTRACTOR'S PRIVATE GRADE CROSSING.** If the Contractor elects, and the railway company or companies approve, to have installed for its own use, a private grade crossing at the Site of the Work, it shall make a formal request to the Railway Company or Companies for such a crossing. After it has entered into an agreement with the Railway Company or Companies pertaining to the size and type of crossing, the payment of the cost for installing, and removing the crossing, the obtaining of the necessary insurance for the protection of the Railway Company or Companies, and the agreement as to the required protection to railway traffic when the crossing is in use, the Railway Company or Companies will install and remove the temporary crossing at the sole expense of the Contractor.
- (g) **SIDETRACK FACILITIES.** When sidetrack facilities are required by the Contractor, it shall at its sole cost and expense, make the necessary arrangements for the use of existing sidings, tracks not in service or the construction of new sidings. The Contractor shall, at its sole cost and expense, restore any and all existing sidings and tracks used for sidetrack facilities to the condition existing prior to the use by the Contractor. The construction location and use of all sidetrack facilities are to be subject to the approval of the Chief Engineer of the Railway Company or Companies affected.

It shall be understood that the Railway Company may move the Contractor's cars, placed on existing sidings, at any time, to permit the placing of cars for said Railway Company's business.

When any turnouts from the main tracks are approved by the railway company such turnouts will be furnished, installed and removed by the Railway Company at the expense of the Contractor. Any signal work and derails necessary for sidetrack facilities will be furnished, installed and removed by the Railway Company at the Contractor's expense.

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When available from railway stock, the Railway Company may furnish on the request of the Contractor, at its current prices plus its usual overhead for Labor and materials, such materials as may be required for the restoring of existing sidings used for sidetrack facilities and for the construction of additional sidetracks.

- (h) **USE OF EXPLOSIVES.** Blasting shall be conducted in such a manner as not to endanger the public or obstruct highways or endanger facilities or operation of the railway. The Contractor shall furnish, while blasting, at its own cost and expense, watchman and other protection necessary to protect the public and railway.

The Contractor's attention is directed to GCC-12.5 SAFETY AND HEALTH REQUIREMENTS, with regard to blasting.

- (i) **RAILWAY USE OF COMPLETED WORK.** The Contractor agrees that the railway company affected may, prior to the completion of the Work to be performed under contract and the acceptance thereof, enter upon and use any portion of said Work without any compensation whatsoever to the Contractor for such use, and without any compensation or payment whatsoever to the Contractor for any delay in the Work caused by such use. The taking possession and use shall not be deemed an acceptance of the Work so taken and used or any part thereof.

- (j) **PROTECTION OF RAILWAY SERVICE AND FACILITIES.** The Contractor shall take special care and vigilance to avoid injury to the trains, tracks or other facilities of the railway company and shall conduct its work so as not to interfere with the movement of trains or other operations of the railway company. Whenever the Work may affect the safety or movement of trains, the method of doing the Work shall first be submitted to the Chief Engineer of the railway company affected for his approval, and no work affecting such safety or movement of trains shall be commenced or prosecuted until written approval of the Chief Engineer of the railway is received. It is understood that the approval of the Chief Engineer of the railway will not release the Contractor from any responsibility for any damages to the railway company caused by the acts of the Contractor or his employees and Subcontractors. If, during the carrying out of the Work, the trains, tracks or other facilities of the railway company are endangered, the Contractor shall immediately do such work as directed by the Facilities Manager to restore safety and, upon failure of the Contractor to carry out such orders immediately, the railway company may, with the approval of the Facilities Manager, take whatever steps are necessary to restore safe conditions. The cost and expense to the railway company of restoring safe conditions or of any damage to the railway company's safe conditions or of any damage to the railway company's trains, tracks or other facilities caused by the Contractor's operations shall when approved by the Authority, be considered a charge against the Contractor and shall be paid for by it, or upon its failure or refusal to pay such charge within a reasonable time after the railway company submits the bill to it, the amount thereof may be deducted from any monies due or that may become due to it under his contract, and any such sum so deducted may be paid to the railway company after an audit by the Authority of the items of such cost expense.

In performing construction of operations both on and off Railway Right of Way areas, the Contractor shall prevent the fouling of railway track ballast with earth, mud, silt, or other foreign matter. To prevent fouling of the ballast, it may be necessary for the Contractor to construct temporary earth dikes, sheeting or tie cribbing or provide other precautionary measures that are required.

Where, in the opinion of the Railway Company, demolition work, concreting or hauling along or across tracks will result in ballast becoming fouled, the Contractor shall take

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preventive measures or protect ballast section by nailing canvas, plywood or similar material to the ties in the entire area to be affected. The protective material shall remain in place until there is not further possibility of fouling the ballast and then removed by the Contractor.

The work required to protect the railway track ballast shall be performed by and at the expense of the Contractor and under the supervision of and to the satisfaction of the Chief Engineer of the Railway Company or his authorized representative. The Railway Company will assume no responsibility for the adequacy of the Work.

In the event that the railway track ballast does become fouled after the aforementioned protective measures are taken, the Railway Company, with its own forces, shall remove and replace the fouled ballast with clean ballast. The charges for this work will be billed by the Railway Company against the Contractor.

- (k) **COORDINATOR OF WORK.** The Contractor shall be responsible for the coordination of the Work of his various Subcontractors. The Contractor shall coordinate with the railway company or railway companies in carrying out railway force account work. When the Work of the Contractor or Subcontractor dovetails with the railway force account work, the materials shall be delivered and the operations conducted so as to carry on the Work continuously in an efficient and workmanlike order. Delays or oversights on the part of the Contractor or Subcontractors in getting any or all of their work done in the proper way, thereby causing cutting, removing and replacing of work already in place shall not be the basis for a claim for extra compensation. Such work shall be done at the cost and expense of the offending Contractor or Subcontractor.
- (l) **RAILWAY EQUIPMENT.** It is agreed that if the Contractor elects to use work trains or any railway equipment which operates on the tracks of the railway company, the operations of such trains and equipment is subject to any requirements determined upon by the Chief Engineer of the railway company or companies affected. It is understood that the cost of the services of any railway employees required by the railway company to operate such trains or equipment is to be paid by the Contractor. This shall include the cost of necessary flagmen.
- (m) **OPERATION OF THE RAILWAY.** The Contractor shall make every possible effort to reduce to a minimum the length of time that the Railway Company will have to operate over any track detour, and to this end it shall continue full operation throughout the winter months, if directed by the Facilities Manager on any and all works necessary to permit the Railway Company to restore its tracks in their permanent location as soon as possible.
- (n) **TELEPHONE, TELEGRAPH SIGNALS.** The cost of all changes in telegraph, telephone and signal lines made for the convenience of the Contractor shall be paid for by the Contractor as part of its construction costs.

SCHEDULE E TO THE FORM OF AGREEMENT
SPECIFICATIONS AND DRAWINGS

[Note to Bidders: The Specifications and Drawings set out or listed in the Bidding Documents will be incorporated into Schedule E of the Agreement.]

SCHEDULE F TO THE FORM OF AGREEMENT
DISPUTE RESOLUTION PROCEDURES

1. DISPUTES

1.1 Differences between the parties to the Contract as to the interpretation, application or administration of the Contract or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by findings or interpretations of the Engineer, shall be settled in accordance with the requirements of this Schedule F – DISPUTE RESOLUTION PROCEDURES.

1.2 If a dispute arises under the Contract in respect of a matter in which the Engineer has no authority under the Contract to make a finding or interpretation, the procedures set out in paragraph 1.3 and paragraphs 2.3 to 2.8 apply to that dispute with the necessary changes to detail as may be required.

1.3 If a dispute is not resolved promptly, the Engineer will give such instructions as in the Engineer's opinion are necessary for the proper performance of the Work and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or at variance with the Contract Documents, the Authority shall pay the Contractor costs incurred by the Contractor in carrying out such instructions which the Contractor was required to do beyond what the Contract Documents correctly understood and interpreted would have required, including costs resulting from interruption of the Work.

1.4 In this Schedule F, "AAA" means the American Arbitration Association, and the Rules for Mediation of Construction Disputes and the Rules for Arbitration of Construction Disputes mean the Rules for Mediation of Construction Disputes and the Rules for Arbitration of Construction Disputes as published from time to time by the AAA.

2. NEGOTIATION, MEDIATION AND ARBITRATION

2.1 In accordance with the Rules for Mediation of Construction Disputes in effect at the time of bid closing, the parties shall appoint a Project Mediator:

2.1.1 within 20 Working Days after the Contract was awarded, or

2.1.2 if the parties neglected to make an appointment within the 20 Working Days, within 10 Working Days after either party by notice in writing requests that the Project Mediator be appointed.

2.2 A party shall be conclusively deemed to have accepted a finding of first interpretation of the Contract Documents by the Engineer under the Contract and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 Working Days after receipt of that finding, the party sends a notice in writing of dispute to the other party and to the Engineer, which contains the particulars of the matter in dispute and the relevant provisions of the Contract Documents. The responding party shall send a notice in writing of reply to the dispute within 10 Working Days after receipt of such notice in writing setting out particulars of this response and any relevant provisions of the Contract Documents.

2.3 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid, and timely disclosure of relevant facts, information and documents to facilitate these negotiations.

2.4 After a period of 10 Working Days following receipt of a responding party's notice in writing of reply under paragraph 2.2, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes in effect at the time of Bid closing.

2.5 If the dispute has not been resolved within 10 Working Days after the Project Mediator was requested under paragraph 2.4 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving notice in writing to the Authority, the Contractor and the Engineer.

2.6 By giving a notice in writing to the other party and the Engineer, not later than 10 Working Days after the date of termination of the mediated negotiations under paragraph 2.5, either party may refer the dispute to be finally resolved by arbitration administered by the AAA under its Construction Industry Arbitration Rules in effect on the date of the Form of Agreement, which notice shall also be filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all disputes then known to that party on which arbitration is permitted to be demanded. A demand for arbitration shall not be made after the date when the institution of legal or equitable proceedings based on the dispute would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the dispute. The award rendered by the arbitrator or arbitrators shall be final and binding on the Parties, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Form of Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof, and any arbitration conducted under the foregoing shall be venued in Buffalo, New York.

2.7 On expiration of the 10 Working Days, the arbitration agreement under paragraph 2.6 is not binding on the parties and, if a notice in writing is not given under paragraph 2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.

2.8 If neither party, by notice in writing given within 10 Working Days of the date of notice in writing requesting arbitration in paragraph 2.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 2.6 shall be

2.8.1 held in abeyance until

- (1) Substantial Completion of the Work.
- (2) the Contract has been terminated, or
- (3) the Contractor has abandoned the Work,

whichever is earlier, and

2.8.2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 2.6.

SCHEDULE G TO THE FORM OF AGREEMENT
CONSTRUCTION SCHEDULE

[Note to Bidders: The Construction Schedule, once prepared and approved in accordance with GCC-5.2(a), will be inserted as this Schedule G.]

SCHEDULE H TO THE FORM OF AGREEMENT
FORM OF APPLICATION FOR PAYMENT

[Note to Bidders: The Form of Application for Payment, once prepared and approved in accordance with GCC 7 - PAYMENT, will be inserted as this Schedule H]

SCHEDULE I TO THE FORM OF AGREEMENT
REQUIRED REPORTS

Monthly Work Status Reports

The Contractor shall prepare and deliver a monthly report by the 10th Business Day of each month commencing one month following the start of the Work which report shall show the progress of such Work during the prior 30 days.

The reports for all Work shall contain the following information for Work performed in the preceding month:

- (i) a procurement/manufacturing/fabrication progress versus plan (monthly, cumulative and estimate at completion (“EAC”));
- (ii) an overall Work/construction progress versus plan (monthly, cumulative and EAC);
- (iii) a summary of quality assurance issues and resolutions;
- (iv) a Subcontract summary (including progress report, status and key issues);
- (v) Change Order and Change Directive reports;
- (vi) safety statistics (monthly and cumulative) for the Work;
- (vii) reporting on actual cost (reporting shall be in dollar format);
- (viii) an updated schedule for the Work;
- (ix) updated cost report to include a performance invoice showing accrual amount, broken down by design package; and
- (x) a Contractor’s statement as to the status of the Work including areas of concern.

SCHEDULE J TO THE FORM OF AGREEMENT
PERMITS AND APPROVALS

SCHEDULE K TO THE FORM OF AGREEMENT
SPECIAL CONDITIONS

[Note to Bidders: The Special Conditions set out or listed in the Bidding Documents will be incorporated into Schedule K of the Agreement.]

**SCHEDULE L TO THE FORM OF AGREEMENT
LIQUIDATED DAMAGES**

1. DELAY Liquidated Damages

Delay Liquidated Damages shall be assessed in accordance with this Section 1 of Schedule L.

If the Contractor does not achieve Substantial Completion on or before the date scheduled on or before the scheduled date for Substantial Completion as set out in Article 5 of the Agreement – DATE OF COMPLETION, then the Contractor shall pay the following amounts to Authority as liquidated damages:

Liquidated damages for each calendar day (or part thereof) which shall elapse between the scheduled date for Substantial Completion set out in Article 5 of the Agreement and the date of Acceptance	\$5,000 per day
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Contractor shall report to Authority on a daily basis any delays which give rise to Delay Liquidated Damages

2. PERMANENT LANE CLOSURE Liquidated Damages

PERMANENT LANE CLOSURE Liquidated Damages shall be assessed in accordance with this Section 2 of Schedule L.

Liquidated Damages for PERMANENT LANE CLOSURES shall be assessed for any PERMANENT LANE CLOSURES that occur on the Bridge or highways leading up to the Bridge in connection with the performance of the Work as follows (assessed on every calendar day or part thereof for each Lane so closed):

	Liquidated Damages Per Day	
	Peak Season	Off-Peak Season
Less Than Three Lanes	\$30,000	\$30,000 (as per GCC 5.8(c)(iii))
Less Than Two Lanes	\$30,000 per Lane	\$30,000 (as per GCC 5.8(c)(ii))

Contractor shall report to Authority on a daily basis any PERMANENT LANE CLOSURES which give rise to PERMANENT LANE CLOSURES Liquidated Damages.

3. TEMPORARY LANE CLOSURES Liquidated Damages

TEMPORARY LANE CLOSURES Liquidated Damages shall be assessed in accordance with this Section 3 of Schedule L.

TEMPORARY LANE CLOSURES Liquidated Damages shall be assessed for any TEMPORARY LANE CLOSURES that occur in connection with the performance of the Work as follows:

	Liquidated Damages per 30 minute interval (or part thereof) for TEMPORARY LANE CLOSURES without Authority Consent or in Excess of Agreed Temporary Lane Closures Periods
	Peak Season or Off-Peak Season
One Lane Closed	\$1,000
Two Lanes Closed	\$2,000
Three Lanes Closed	\$3,000

Contractor shall report to Authority on a daily basis any TEMPORARY LANE CLOSURES which give rise to TEMPORARY LANE CLOSURES Liquidated Damages.

SCHEDULE M TO THE FORM OF AGREEMENT
INSURANCE

1 INSURANCE TO BE MAINTAINED BY CONTRACTOR

Prior to commencing work under this Agreement, the Contractor, at its own cost and expense, shall procure and maintain (or cause to be procured and maintained) insurance for the coverages listed below, written for not less than the limits specified for each coverage or required by law, whichever is greater (except that if Contractor procures any policy limits greater than the amounts required herein, then the higher limits shall apply as though stated and required herein), and including the provisions enumerated below:

1.1. Commercial General Liability (per ISO Form CG 00 01 or equivalent)

Bodily Injury and Property Damage Limit	\$ 1,000,000 each occurrence
Products/Completed Operations Limit	1,000,000 aggregate
Personal Injury & Advertising Injury Limit	1,000,000 each person or organization
General Aggregate	2,000,000 per project

Coverage is to apply on an occurrence basis only. No endorsement or modification of this policy limiting the scope of coverage for Contractual Liability, Products/Completed Operations, Personal Injury, explosion, collapse and underground hazards, pollution, mold, or fungus shall be permitted. In addition, no designated Premises/Operations limitation shall be permitted. The Commercial General Liability coverage is to be maintained for a period of six (6) years after final acceptance of the Work. For Contractors involved with services or activities with potential Environmental Risks that do not maintain separate Contractor's Pollution Liability coverage, this policy must not contain any exclusions or limitations that would, in any way, limit or restrict coverage for the Contractor's environmental services or activities.

1.2. Automobile Liability (per ISO Form CA 00 01 or equivalent)

Owned, Hired and Non-Owned Autos

Combined Single Limit for Bodily Injury & Property Damage	\$1,000,000 each accident
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If transportation of pollutants, is involved, and if coverage is not afforded under other policies required herein, this insurance (if purchased in the U.S.) shall be endorsed to delete the Pollution exclusion and to add the Motor Carrier Act endorsement (MCS-90).

1.3. U.S. Workers' Compensation & Employers' Liability

Statutory coverage complying with New York Law with Employers' Liability limits of not less than \$1,000,000 Each Accident and \$1,000,000 Each Employee for Disease and \$1,000,000 Policy Limit for Disease, or the minimum level required by the Contractor's Excess Umbrella Liability insurance company, whichever is greater. The Workers' Compensation coverage must contain a specific waiver of subrogation against Buffalo and Fort Erie Public Bridge Authority and CSX Transportation, Inc. and their respective affiliates (if permitted by State Law). In addition, if there is an exposure of injury to Contractor's employees under the U.S. Longshore and Harbor Workers Compensation Act, the Jones Act, or under laws regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

1.4. Excess "Umbrella" Liability

Combined Single Limit for Bodily Injury & Property Damage	\$5,000,000 each occurrence
	5,000,000 aggregate

Coverage is to apply on an occurrence basis only, in excess of the other Liability coverages required in 1.1, 1.2, and 1.3 above and shall be no more restrictive than such scheduled underlying insurance. This coverage is to be maintained for a period of six years after final acceptance of the Work. For Contractors involved with services or activities involving potential Environmental Risks that do not maintain separate Contractor's Pollution Liability, this policy must not contain any exclusions or limitations that would, in any way, limit or restrict coverage for the Contractor's environmental services or activities.

1.5. Contractor's Pollution Liability (for Contractors involved with services or activities involving potential Environmental Risks)

Bodily Injury and Property Damage Limit	\$10,000,000	each occurrence
Products/Completed Operations Limit	10,000,000	aggregate
Personal Injury & Advertising Injury Limit	10,000,000	each person
General Aggregate	10,000,000	per project

If protection is not afforded under the Commercial General and Excess "Umbrella" Liability Coverage, (and the work performed or services provided involve potential Environmental Risks) this insurance shall be maintained on an occurrence basis unless otherwise agreed by the Authority and shall be maintained for a period of six (6) years after final acceptance of the Work. No endorsement or modification of this policy limiting the scope of coverage for Contractual Liability, Products/Completed Operations, explosion, collapse and underground hazards, or Personal Injury shall be permitted. In addition, no exclusions or limitations that would, in any way, limit or restrict coverage for the Contractor's environmental services or activities shall be permitted. Also, no designated Premises/Operations limitation shall be permitted.

1.6. Professional (Errors & Omissions) Liability (for Contractors providing any professional services including, but not limited to, design, surveying, engineering, testing.)

Insurance shall apply to claims arising out of the Contractor's rendering or failure to render professional services for or on behalf of the Authority.

\$5,000,000	each occurrence
5,000,000	aggregate

1.6.1 Coverage shall include (a) bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; (b) property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof; and the loss of use of tangible property that has not been physically damaged or destroyed and the property damage coverage shall include damage to the Work or Project; (c) the cost to correct any errors or omissions in the performance of professional services; (d) damage caused by mold, fungus or bacteria; (e) damage caused by pollutants including any solid, liquid, gaseous or thermal irritant or contaminant, smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste or materials to be recycled, reconditioned or reclaimed; (f) natural resource damage; (h) damage to electronic data; (i) damage to or loss of use to property that cannot be used or is less useful because of errors or omissions in providing professional services including diminution in property value.

1.6.2 Unless a Project Specific policy is provided solely for the benefit of the Authority, Contractor must (a) disclose to the Authority prior to execution of this Agreement, the extent to which the aggregate limit is impaired or exhausted by paid or reserved claims, (b) give prompt written notice to the Authority of any and all claims made against Contractor's Professional Liability policy during the policy period(s) in which this policy is required to be maintained pursuant to this contract, (c) throughout the time the coverage is required to be maintained, advise the Authority if the aggregate

limit becomes impaired by more than 25% and, subsequently, by more than 50% and 75%, and (d) at such time as Contractor's aggregate limit is likely to be impaired by more than 75%, Contractor agrees to secure a reinstatement of such aggregate limit at Contractor's own cost and expense.

1.7. Rigger's Liability

Property Damage Limit	\$1,000,000 each occurrence
General Aggregate	\$1,000,000

If work performed or provided by Contractor or its Subcontractor(s) required by these Contract Documents includes or involves the use of a crane or any other device or piece of equipment by which materials or equipment are rigged, hoisted, lowered, elevated, raised, or the movement of property, materials or equipment, loaded or unloaded, then Contractor or its Sub-contractor(s) shall (unless coverage is expressly included in the Commercial General Liability and Excess Umbrella Liability policies) purchase and maintain in force Riggers Liability for the rigging, hoisting, lowering, elevating, raising or moving of property, materials or equipment, loaded or unloaded; such insurance shall cover damage or loss to such property, materials, or equipment, and such coverage shall include coverage for any consequential or indirect losses including without limitation, any delay or loss of use claim.

1.8. Contractors' Equipment

Contractors will be responsible to insure, at their own expense, all of their equipment used in the performance of the work that will not become part of the Project, whether owned, rented or leased.

1.9. Railroad Protective Liability (for the benefit of CSX Transportation, Inc.)

NOT REQUIRED FOR THIS PROJECT.

1.10. Additional Insureds

Buffalo and Fort Erie Public Bridge Authority and its board members, officers, employees and agents, the Design Engineer, the Resident Engineer (as well as such other person(s) or organization(s) as designated by the Authority in writing) shall be named as Additional Insureds under the policies required in 1.1 and 1.4 (and 1.5 if such coverage is maintained) providing coverage for both ongoing and completed operations as well as under the policy required in 1.2. The insurance protection afforded to the Authority and its board members, officers, employees and agents, the Design Engineer and the Resident Engineer under such policies shall apply on a primary basis and any insurance (or self-insurance program) maintained by the Authority shall not contribute with the insurance afforded to the Authority, the Design Engineer or the Resident Engineer as an Additional Insured.

1.10.1 **Blanket Additional Insured Endorsements will not be permitted.** The required primary and non-contributory Additional Insured status must be provided by specific endorsement(s) for the required Additional Insureds.

1.10.2 The Contractor's Excess "Umbrella" Liability (all layers) must clearly provide primary Additional Insured status for the required Additional Insureds to ensure that all of the Contractor's required Liability insurance (including the required Excess Liability) is exhausted (*i.e.*, **vertical exhaustion**) prior to the insurance or self-insurance directly maintained by the required Additional Insureds being called upon. An amendment to the Excess Liability policy's (policies') *Other Insurance* provision may be necessary to accomplish this.

1.11. Financial Rating of Insurers

The insurance companies providing the required coverages shall be licensed to do so in New York State (for U.S. Contractors) or the Province of Ontario (for Canadian Contractors), and shall be rated no lower than "A" by the most recent Best's Key Rating Guide, and shall have a Best's Financial Size Category of not less than

X, unless otherwise agreed to by the Authority.

1.12. Notice of Cancellation, etc.

Contractor is hereby obligated to send by e-mail or fax to the Authority a copy of any cancellation, material reduction in coverage or non-renewal notice received from the insurer for any policy affording the coverages required herein within five (5) days of Contractor's receipt of same. Contractor further agrees to provide the Authority with 30 days advance written notice of cancellation, non-renewal or material reduction in coverage initiated by the Contractor with respect to any of the required insurance coverages. For the purpose of this provision, material reduction in coverage shall mean any change or reduction in the scope of insurance coverage that adversely affects the protection that would otherwise be available to the Authority. **Notices to the Authority hereunder must be sent by e-mail to dem@peacebridge.com or faxed to 716-884-2089 or 905-871-1608.**

1.13. Deductibles or Self-Insured Retentions

Deductibles or self-insured retentions of up to \$100,000 in the aggregate shall be permitted with the understanding that Contractor (and not the Authority) shall be responsible for such deductible or self-insured retention. Deductibles or self-insured retentions greater than \$100,000 shall require the Authority's prior written approval.

1.14. General Provisions

1.14.1 Cross-Liability. If the Contractor's liability policies do not contain the standard ISO Separation of Insureds provision, or an equivalent clause, such policies shall be amended to provide cross-liability coverage.

1.14.2 Claims-Made Coverage. For any liability coverages maintained on a claims-made basis, including any liability coverages that become claims-made during the period which such coverages are required to be maintained by the terms of this Agreement, the following provisions apply unless otherwise agreed to by the Authority:

1.14.2.1 If the claims-made coverage terms designate a specific retroactive date, Contractor shall maintain a retroactive date which is not later than the earlier of (a) the date of the commencement of the term of this Agreement, or (b) the original coverage retroactive date for Contractor's first claims-made policy for each and every coverage provided on a claims-made basis (with the understanding that if coverage is switched from an occurrence basis to a claims-made basis during the period which such coverage is required to be maintained by the terms of this Agreement, the retroactive date must be the same as or earlier than the effective date of such new claims-made coverage);

1.14.2.2 For the duration of this Agreement, or any subsequent renewals, if the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed, Contractor shall purchase, at its own expense, an extended reporting period endorsement. This endorsement must provide an extended reporting period ("tail" coverage) of three years or the minimum as prescribed by the New York State Department of Financial Services or the Financial Services Commission of Ontario, whichever is greater;

1.14.2.3 Upon termination of the services provided to the Authority by Contractor,

Contractor shall maintain such claims-made coverage without interruption for three years or a period of time equal to the length of any extended reporting period requirement as specified above, whichever is greater (the extended term of protection). If the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed during this period of time, Contractor shall purchase, at its own expense, an extended reporting period endorsement covering a term of three years or the minimum as prescribed by the New York State Department of Financial Services or the Financial Services Commission of Ontario, whichever is greater. It is understood that the length of this extended reporting period endorsement may be reduced to coincide with any time remaining in the extended term of protection.

- 1.14.3 If the Contractor fails to provide or maintain insurance as required by the Contract Documents, then the Authority shall have the right to provide and maintain such insurance and give evidence to the Contractor. The Contractor shall pay the cost thereof to the Authority on demand or the Authority may deduct the cost from the amount which is due or may become due to the Contractor.
- 1.14.4 It understood that insurance purchased and maintained by the Contractor or any subcontractors (of any tier) will in no way serve to limit or otherwise affect the Contractor's obligations under General Condition 11, Indemnification under this Agreement.
- 1.14.5 If a revised version of INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the Contractor's insurance policy becoming due for renewal, and record any agreement in a Change Order.
- 1.14.6 If a revised version of INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the Owner may request the increased coverage from the Contractor by way of a Change Order.
- 1.14.7 Change Directive shall not be used to direct a change in the insurance requirements in response to the revision of INSURANCE REQUIREMENTS.
- 1.14.8 It is recognized that not all coverages or specifically referenced coverage forms may be available in Ontario, Canada. Canadian Contractors are, however, required to comply with all Provincial laws with respect to Workers' Compensation, Employer's Liability and Commercial Auto Liability and, wherever possible, purchase and maintain coverage that meets the requirements stated herein.

1.15. Waiver of Rights of Recovery

It is understood that with respect to the insurance policies required herein under 1.1, 1.2, 1.4, 1.5 and 1.7., the Contractor hereby agrees to waive rights of recovery against the Authority.

1.16. Evidence of Insurance

The Contractor shall deliver to the Authority, ten (10) days prior to commencement of the work, Certificates of Insurance acceptable to the Authority certifying that policies of insurance for the required coverages have been issued and are in effect and comply with the requirements herein. Upon expiration or cancellation of any policy during the period the coverages under such policy are required to be maintained, the

Contractor shall immediately deliver to the Authority a Certificate of Insurance evidencing proper renewal or replacement of the policy.

- 1.16.1 The NAIC or AM Best Identification Number must be shown on the certificate after the name of each insurance company to allow accurate identification of the insurer(s).
- 1.16.2 Certificates evidencing Liability coverage under which the Authority is required to be named as an Additional Insured must state that "Buffalo and Fort Erie Public Bridge Authority and its respective board members, officers, employees and agents, the Design Engineer, and the Resident Engineer are included as Additional Insureds on a primary basis with respect to any other insurance or self-insurance programs afforded to, or maintained by, such Additional Insureds in accordance with terms and conditions of the policies designated on this certificate." The certificate must then specify the policies under which such Additional Insured status has been granted and a copy of the Additional Insured Endorsement(s) and/or Policy Provision(s) that grant(s) the required Additional Insured status must be attached to the certificate.
- 1.16.3 The Project Name must be clearly stated on the Certificate of Insurance.
- 1.16.4 Certificates must specify the applicable retroactive date of any claims-made coverage being evidenced or state "full prior acts coverage applies" if there is no retroactive date.
- 1.16.5 If the required Commercial General and Excess "Umbrella" Liability policies include the coverage specified in 1.5 and (thereby eliminating the need for such separate policy) then a copy of the coverage provision or endorsement affording such coverage under the Commercial General and Excess "Umbrella" Liability policies must be attached to the certificate.
- 1.16.6 Failure of the Authority to demand such Certificate of Insurance or failure of the Authority to identify a deficiency in a certificate that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.
- 1.16.7 The Authority shall have the right, but not the obligation, to prohibit the Contractor from entering the Project Site until such certificate indicating full compliance with the requirements herein has been received and approved by the Authority.
- 1.16.8 Certificates of Insurance with appropriate attachments shall be sent by e-mail to dem@peacebridge.com or faxed to 716-884-2089 or 905-871-1608.
- 1.16.9 Ten (10) Days prior to commencement of the work, Contractor shall provide further confirmation of the required coverages to the Authority in the form of a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the Work. Upon the, renewal, amendment, or extension of all or any part of the insurance, the Contractor shall promptly provide the Authority with confirmation of coverage in the form of a binder of insurance and, within sixty (60) days immediately thereafter, a certified true copy of the policies and/or endorsement certified by an authorized representative of the insurer shall be provided to the Authority.

1.17. Adequacy of Insurance

The Authority does not in any way represent that the insurance specified herein, whether in scope of coverage or limits of coverage, is adequate or sufficient to protect the business or interest of the Contractor.

2. SUB-CONTRACTORS OF ANY TIER

Use of sub-contractors must be approved by the Authority and such approval will not be unreasonably withheld. In the event that the Authority permits the use of sub-contractors, the Contractor's General Liability policy must not exclude damage to its work if the work was performed (in whole or in part) by a sub-contractor or if a sub-contractor's work causes damage to other elements of the Work.

All primary sub-contractors shall maintain the insurance coverages outlined above and comply with all requirements set forth above, including the furnishing of separate insurance certificates and endorsements prior to said sub-contractors entering the premises or commencing work, unless otherwise agreed to by the Authority. It is recognized that the nature of some work performed by sub-contractors may warrant a waiver or adjustment of some of the insurance requirements outlined above or the imposition of additional requirements beyond those required above. Such changes in the requirements are subject to review and approval by the Authority's representative. Sub-Contractors whose contract cost is less than 25% of the overall Project cost will be required to maintain an Excess Umbrella Liability Limit of no less than \$5,000,000 per occurrence and aggregate, but must otherwise comply with all other requirements specified in this Schedule M.

In order to comply with the Additional Insured requirements herein, all sub-contractors' policies must be specifically endorsed to include the required Additional Insureds.

The Contractor is responsible to ensure that all sub-contractors at every tier provide the insurance as outlined in the foregoing insurance requirements. Failure to do so and to present evidence of the same to the Authority shall not relieve Contractor or any sub-contractor from its respective obligations under this Agreement. Failure to maintain the proper insurance shall be grounds for the Contractor's and sub-contractors' (at every tier) suspension or contract dismissal at the Authority's discretion.

3. BUILDER'S RISK

NOT APPLICABLE.

4. WAIVERS OF SUBROGATION – PROPERTY LOSSES

The Authority and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, and (2) the Design Engineer, the Resident Engineer, and any of their subcontractors and sub-subcontractors for damages caused by fire or other causes of loss to the extent covered by the Builder's Risk insurance or other property insurance applicable to the Work. The Authority or Contractor, as appropriate shall require of the consultants, separate contractors and the subcontractors, sub-subcontractors, agents, and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

SPECIFICATION AND BID DOCUMENTS

R.F. WILLSON BUILDING MECHANICAL AND ELECTRICAL UPGRADE PROJECT

*The Buffalo and Fort Erie
Public Bridge Authority*

Invitation for Bids

Part II – Detailed Specifications



CROSSING PATHS  BUILDING FUTURES
THE PEACE BRIDGE

SECTION 1

SPECIAL CONDITIONS

SECTION 1

SPECIAL CONDITIONS

SC-1 DURATION OF THE WORK:

The Successful Bidder shall commence the Work within five (5) calendar days from the date of the delivery of the Notice to Proceed by the Authority.

The Work shall commence and continue except for interruptions due to circumstances beyond the control of the Authority, and the Authority or its representative shall be the sole and exclusive judge as to such commencement, continuity and interruptions. The Contractor shall recognize the foregoing provisions and shall make no claim against the Authority because of such provision.

The Contractor acknowledges the terms of SC-8 – LIMITATIONS ON CONTRACTOR’S OPERATIONS concerning permissible temporary lane closure periods.

All Work under this Contract shall be Substantially Completed on or before the date as set out in Article 5 of the Agreement – CONTRACT TIME. “Substantial Completion” is defined in Schedule A of the Form of Agreement – CONTRACT DEFINITIONS, and, for this Project, includes the completion of all construction activities and removal of all maintenance and protection of traffic devices as required to completely reopen the road approach to public traffic permanently any lanes closed during construction.

SC-2 SAFETY CODES AND REGULATIONS:

The Contractor shall be solely and completely responsible for complying with any and all Applicable Laws relating to health and safety at all times and in whatever circumstances as may be prescribed by any such agencies, including those outlined in GCC-12.5 SAFETY AND HEALTH REQUIREMENTS. All equipment and appliances of whatever nature whether furnished by the Contractor or furnished by the Authority and accepted for use by the Contractor shall be in complete conformance with the applicable rules and regulations.

The Contractor is required to develop and maintain a comprehensive safety plan prior to commencement of work. The safety plan shall be delivered to the Authority and Engineer in Charge no later than 5 business days before work commences on Site.

The Authority assumes no responsibility or liability, expressed or implied for any owned equipment or appliances accepted for use on the work by the Contractor.

SC-3 PLANS:

The Successful Bidder will be provided upon award of Contract with Plans and Specifications in electronic format only. The Authority will not be responsible for providing paper records of documentation to any parties prior to or during construction Reference drawings of pertinent details from previous construction, if included, are for information only.

SC-4 REFERENCE TO STANDARD SPECIFICATIONS:

[NOT USED]

SC-5 WORKING HOURS:

The Contractor shall be required to work such hours, and to adequately provide equipment, material, and labour to complete the Work under this Contract within the specified time periods as indicated in SC-1 of the Special Conditions - DURATION OF THE WORK. This may require more than a single shift, five-days per week, work schedule. The Bid Prices of the Contractor in the "Itemized Proposal" shall be based upon the completing the Work by the scheduled Substantial Completion date. All costs associated with premium and overtime rates shall be included in the Bid Prices for respective items of the Work.

Special consideration shall be given to scheduling work shifts as required to complete all Work under the Contract in compliance with the dates set forth in the SC-1 of the Special Conditions - DURATION OF THE WORK and SC-8 of the Special Conditions - LIMITATIONS ON CONTRACTOR'S OPERATIONS.

The Contractor shall provide any extra workers and equipment deemed necessary by the Engineer whenever, in the Engineer's opinion, any item or phase of the Contract appears likely to fall behind the specified scheduled date of Substantial Completion. The Engineer will notify the Contractor in writing of any such requirement.

The Contractor shall furnish and maintain, at the Contractor's expense, any auxiliary lighting, as approved by the Engineer, in addition to the existing lighting as required for effective completion of night work.

The Contractor shall notify the Engineer of all Work to be performed outside normal working hours, (being Monday to Friday between 7:00 a.m. and 5:00 p.m.) in writing in sufficient time to allow arrangements for the Engineer's required inspection staff.

SC-6 PLANNING AND SCHEDULING:

Within five days after the Notice of Award of the Contract, the Contractor will prepare and provide to the Authority the progress schedule contemplated in GCC-5.2 of the General Conditions of Contract – COMMENCEMENT AND PROGRESS OF WORK, which progress schedule will be prepared with the participation and approval of its principal Subcontractors, and with the coordination of all other contractors performing adjacent contracts on the Peace Bridge, and will be submit to the Engineer, for its review the Construction Progress Schedule in quadruplicate.

In addition to the requirements of GCC-5.2 of the General Conditions of Contract – COMMENCEMENT AND PROGRESS OF WORK, the Construction Progress Schedule will include the requirements set out in this Special Condition. The Contractor will ensure that the Construction Progress Schedule consists of a graphic network (bar chart) and tabulation of activities and their associated times. It shall clearly depict and describe the sequence of all activities of the Contractor, all subcontractors and materials suppliers, and their interdependence, in turn, with other significant activities of the Authority.

The Construction Progress Schedule will be broken down so that no single activity or definable portion of a major activity exceeds an estimated duration of 10 working days. Minimum duration

assigned to any one activity shall not be shown in increments of less than one day. Duration times shall be expressed as working days and shown on the Schedule.

The Contractor shall submit a Weekly Progress Report to the Engineer on approved forms prepared by the Contractor. These reports shall be completed in all respects. This form shall be related to the tabulation of activities and shall include:

1. The Work and Project activities that has been worked on or completed during the week;
2. Estimated working days required to complete activities in progress;
3. The Work and Project activities to be started or continued the following week;
4. Proposed revisions to Work and Project activities not yet underway.

The report shall also include written explanations on the Work and Project activities which are overrunning estimated time and the corrective action that will be taken to bring them back on schedule.

The approved Construction Progress Schedule shall become the accepted basis of the Contractor's work schedule. The Contractor's performance shall be measured by it, and the Contractor shall be held responsible for conforming to it. It is a mandatory condition of the Contract that the Contractor binds all subcontractors and suppliers of materials to use and follow the approved schedule. All Work and Project activities that, for any reason, indicate in the reasonable opinion of the Engineer a lack of satisfactory progress during the course of the Work, shall be worked on a maximum accelerated "crash" basis at no extra cost to the Authority until such a time as the Engineer determines them to be back "on schedule."

Approval by the Engineer of the Contractor's Construction Progress Schedule shall not relieve the Contractor of any duties and responsibilities under the terms of the Contract.

In the event that the Contractor does not provide a Construction Progress Schedule as specified, the Authority shall have a right, at its discretion, to withhold any or all payments for Work performed until such schedule has been submitted and approved.

The Contractor shall be required to attend weekly progress meetings in order to coordinate its activities with the Authority and other contractors on the Site or on the Authority's property adjacent to the Site.

SC-7 CONSTRUCTION OPERATIONS:

The Contractor shall be responsible for coordination of all construction and operations with the Authority and the completion dates as specified and the maintenance and protection of traffic during this Contract.

Adequate measures shall be taken by the Contractor to prevent new and existing construction materials, tools, equipment, and debris from entering into adjacent roadway lanes, into waterways, or dropping to areas below the Bridge. All materials, tools, equipment, and debris resulting from the Contractor's operations shall be promptly cleaned up and removed from the Site following use.

The Contractor shall be responsible for ensuring that Work under the Contract shall not result in damage to any permanent construction (new or existing) or to adjoining property. If damage does

occur, such damage shall be repaired by the Contractor to the satisfaction of the Engineer at no additional cost to the Authority.

SC-8 LIMITATIONS ON CONTRACTOR'S OPERATIONS:

The Work under the Contract shall be performed as indicated on the Plans and Specifications and the Contract Documents, and as directed by the Engineer. Any deviation from the proposed traffic control schemes shown on the Plans and Specifications shall be approved in writing by the Authority prior to their use.

The Contractor shall maintain traffic on the Bridge and surrounding roadways as per GCC-3.1 WORK REQUIRED. The closing of lanes is to be avoided unless absolutely necessary, as determined by the Authority in writing.

Temporary lane closures will be allowed only after approval by the Authority. All requests for temporary lane closures are to be submitted to and approved by the Authority in real-time. All temporary lane closures approved by the Authority will include the time of day a closure is best suited based on traffic volumes and the length of time the temporary closure may be in place.

The Contractor shall comply with the following requirements:

1. General
 - a. The Contractor shall maintain and protect traffic by conducting Work operations so that the public is subjected to a minimum of delay and hazard.
 - b. The Contractor will not be allowed to interfere or stop roadway, railway or marine traffic travelling on the facilities below the Peace Bridge.
 - c. The Contractor shall construct and maintain protective construction barriers around all areas of construction at all times. The Authority and the Engineer will be the sole judge of the effectiveness of the Contractor's efforts towards protection of traffic and personnel. This judgment by the Authority and Engineer shall not relieve the Contractor of the full responsibility for all protective barriers.
 - d. The Contractor will make no claims whatsoever for any damage or change in the Work or Extra Work caused to it as a result of any such Work restrictions.
2. Instructions to Employees
 - a. It is the Supervisor's duty to see that all Work performed within the Contract limits is being accomplished in as safe a manner as possible. This can be done efficiently if the Supervisor will plan the work ahead carefully, and instruct all of his or her foremen, operators and labourers on the precise procedures that must be followed. They, in turn, will be responsible for seeing that all Work carried out under their supervision complies with the provisions of the Plans and Specifications.

- b. The Supervisor also must personally observe the working habits of his or her workers. If he or she should find that any of the Work is being done in an unsafe manner, he or she must take steps immediately to remedy the situation.
- c. Intoxicants
 - 1. The use of any kind of intoxicating beverage or pharmaceuticals while performing the Work or at any time while on the Site is absolutely forbidden.
 - 2. Any employee of the Contractor or any of its subcontractors reporting for duty or attending at the Site while under the influence of intoxicants will not be permitted to perform any part of the Work, and will be removed from the Site immediately. The Authority reserves the right to require the Contractor to ensure any such employee cease performing any part of the Work or attending at the Site.
- d. Equipment Operator Instructions
 - 1. The Contractor will ensure that only competent equipment operators, properly licensed and in good standing under Applicable Laws by the appropriate governing authority, will be permitted to operate any of the Contractor's motorized equipment.
 - 2. The Contractor will require its supervisors and foremen to be responsible for the observance of these provisions by all employees under their supervision.
- e. The following operating rules apply to all of Contractor's vehicles travelling at, on, through or over the Site:
 - 1. All motorized equipment will travel to the right, except as otherwise permitted herein, and be under full control of a competent, licensed equipment operator.
 - 2. No equipment will be operated in a reckless manner.
 - 3. All Contractor's vehicles not equipped with red radial lights and double amber flashing lights that must travel on the pavement and are not capable of maintaining a speed in excess of twenty (20) MPH must be followed by a vehicle using a flashing red radial light and simultaneous flashing amber lights.
 - 4. No equipment operator will pull up beside another vehicle to talk with the operator of the other vehicle. If construction vehicles must stop, the operator of such vehicle must pull onto the work area away from the pavement either in front of or behind the other vehicle. If the Contractor talks with the other operator, conversation should be held on the right-hand side of the stopped vehicles, away from the driving pavement.
 - 5. When equipment operators have parked their vehicles, they shall not leave the door opened so that it projects onto the traveled lanes.

6. Tailgates of trucks shall be kept closed when not in use. The tailgate may be flat but may never be hanging down below the horizontal position. If any obstruction to locking the gate is found, it shall be removed only with a bar or pick and never by hand.
7. Unless absolutely necessary, the Contractor shall ensure that vehicles are never backed onto the traveled lane from the work area. If, however, operations require such a procedure, it will be done only when a flagman is available and used.

f. Truck Operations

1. All vehicle light lenses and reflectors will be cleaned as often as necessary during operation to keep them visible and safe. Truck tailgates must be kept as clean as practical at all times to keep them visible and safe.
2. Each equipment operator should familiarize himself or herself with the use of the fire extinguishers provided on his or her vehicle and assure himself or herself that they are in good working order at all times.
3. U-turns will be permitted only at the plaza areas at each end of the bridge. Such U-turns must be maneuvered in a very careful manner.
4. No vehicle will be allowed to stop partially or entirely on the pavement other than in the work area of a stationary maintenance operation.

g. Operation of Equipment

1. No loading and unloading of equipment, material, or workers shall be permitted except in work areas.
2. The final responsibility for the installation of adequate safety precautions and for the protection of the travelling public and its own personnel shall rest with the Contractor.
3. If the Engineer, Authority, the police or other public safety authority notify the Contractor or its Superintendent of any hazardous construction practice, all operations in that area shall be summarily discontinued and immediate remedial action shall be taken to the satisfaction of the Engineer, Authority, police, other public safety authority, or any or all of the foregoing before work is resumed.

Location of Equipment/ Noise Reduction

1. The Contractor shall take preventative measures to limit noise being carried to the adjacent neighbourhoods by work operations such as removing existing pavement.
2. The Contractor shall locate its air compressors, generators, away from residential areas. Depending on the effectiveness of the Contractor's noise reduction measures, the Authority reserves the right to stop the

Work. The Engineer shall be the sole judge of the effectiveness of the Contractor's provisions to limit construction noise. The Contractor shall include the costs associated with noise reduction in the Bid Prices and the various items of the Contract, and no separate payment will be made to the Contractor by the Authority for same.

3. Entering and Leaving Work Zones

- a. To minimize the hazard to the travelling public, the Contractor's operations shall be governed by the following requirements:
 - 1. Every truck operator when approaching a work area shall reduce the speed of the vehicle and indicate by directional signals his or her intent to drive out of the traffic stream and into the work area. He or she shall keep directional or other flashing signals on while parked within the work area. All trucks when re-entering the traffic stream from the work areas shall also have the assistance of a flagman. A truck shall never be parked on the pavement unless it is within the confines of an established and properly protected work area.
 - 2. Any additional flagmen or other protective measures considered by the Engineer or the Authority necessary to insure the safety of the travelling public shall be provided for by the Contractor. The cost of furnishing such flagmen shall be included in the Contractor's Bid Prices for the various items of the Contract.
 - 3. The Contractor shall maintain traffic in accordance with the provisions of governing Provincial or State laws, rules and regulations.

SC-8.1 EQUIPMENT/SYSTEM INTERRUPTION RESTRICTIONS

1. Mechanical/Plumbing Systems

The Contractor shall ensure that either the existing system or the replacement system is fully operational during the 'System Interruption Restrictions' period(s) within the contract dates, as indicated below. The Contractor shall also minimize system interruption durations to the best of their ability.

System	System Interruption Restrictions
RTU#1/SF#1 ^[1]	June 1 - Sept 15; Oct 1 - Feb 16
Boiler System (Glycol)	June 1 - Sept 15; Dec 1 - Feb 16
Fan Coil Units / Boiler System (Water)	June 1 - Sept 15; Dec 1 - Feb 16
Chiller System	June 1 - Sept 15
CBP Server Rm Unit 1 & 2 (Split Systems) ^[2]	One at a time
PBA Server Rm HVAC (Package Unit)	N/A
Training Rm and Conference Rm (Split Systems)	N/A
Hot Water Heaters (A and B) ^[2]	One at a time

[1] STU#1/SF#1 system interruption shall only be performed during the hours of 11PM and 5AM, and shall not exceed 6 hours in duration.

[2] At least one unit must be operational during the entire project schedule.

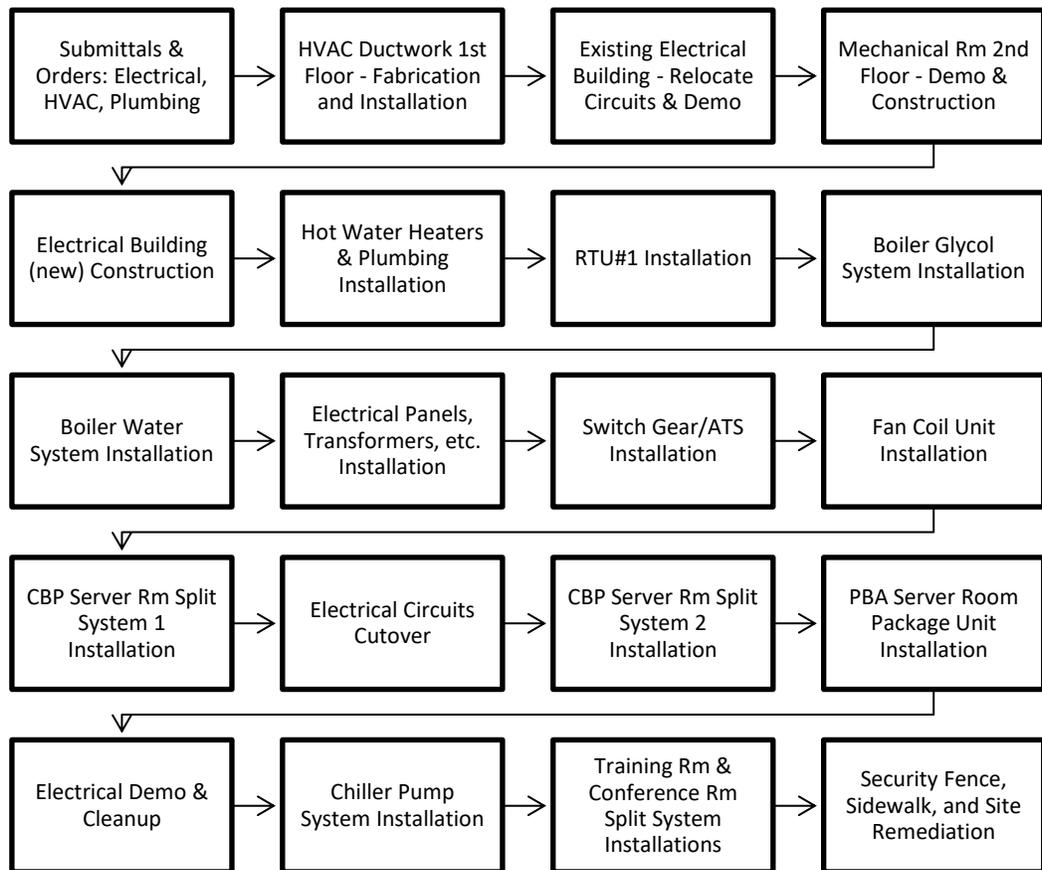
2. Electrical Systems

The Contractor shall ensure that any Work that causes a power interruption to any of the below areas/operations will only be performed during the hours of 11PM through 5AM, for a maximum of 2 hours of interrupted power.

- Processing Area, 1st Floor Willson Building
- Cargo (Truck) and Auto (Car) Inspection Lanes and associated equipment
- Bridge gantry systems in U.S. Bridge Vault.
- CBP Server Room, 2nd Floor Willson Building
- PBA Server Room, 2nd Floor Willson Building

SC-8.2 SAMPLE SCHEDULE OF EVENTS

The following general sequence of key events is given here for information purposes only, to assist the Bidder in understanding the Work. The Contractor may choose to approach the Work in an alternate sequence, providing it satisfies all requirements of the Contract, including SC-8.1 above.



SC-9 UTILITIES:

The Contractor shall be responsible for the protection of existing utilities not included in the Work for the duration of the Contract Time.

SC-10 SIGNS:

The only signs permitted are those as required by the Plans and for traffic protection and control and as approved by the Engineer. No signs for advertisement purposes will be permitted.

SC-11 PARKING:

Parking shall be within the Contractor's work zone or on Busti Avenue and as approved by the Authority. The Contractor may provide pavement or fencing as it may require. Upon completion of the Work, the Contractor shall restore the areas to their original condition. The Authority assumes no responsibility for Contractor's storage area, equipment, cars or property of any kind.

SC-12 ENVIRONMENTAL POLICY:

The Chairman and the Board of the Authority recognize an obligation to conduct construction, reconstruction, rehabilitation, repair and maintenance work with full regard to the protection and preservation of the environment. In these efforts, the Authority is committed to adherence to all Applicable Environmental Laws. The activities of the Contractor, therefore, will be continually monitored and evaluated to assure full compliance with all Applicable Environmental Laws. Further, to the extent feasible and practical, the Contractor shall make every effort to anticipate environmental issues and shall assure environmentally sound construction and operation practices are utilized for the Work performed under the Contract.

SC-13 SUBSURFACE INFORMATION:

The location of utilities or other underground man made features ascertained with reasonable care and recorded in good faith from various sources, including the records of municipal and other public service corporations, and therefore the location of known utilities may only be approximate.

Boring logs and other subsurface information if made available for the inspection of Bidders were obtained with reasonable care and recorded in good faith by the Authority.

The soil and rock descriptions shown are as determined by a visual inspection of the samples from the various explorations unless otherwise noted. The observed water levels and/or water conditions indicated thereon are as recorded at the time of the exploration. These levels and/or conditions may vary considerably, with time, according to the prevailing climate, rainfall and other factors.

Subsurface information is made available to Bidders in good faith so that they may be aware of the information utilized by the Authority for design and estimating purposes. By doing so, the Authority and the Contractor mutually agree and understand that the same is a voluntary act and not in compliance with any legal or moral obligation on the part of the Authority. Furthermore, insofar as such disclosure is made the Authority makes no representations or warranties, express or implied as to the completeness or accuracy of this information or date, nor is such disclosure intended as a substitute for personal investigations, interpretations, and judgment of the Bidder.

SC-14 BRIDGE INSPECTION REPORTS:

[NOT USED]

SC-15 SUBCONTRACTOR QUALIFICATIONS:

All subcontractors performing Work shall be approved by the Authority. Resumes may be requested for specific personnel, at the discretion of the Authority. At a minimum, electrical and HVAC contractors must satisfy the following minimum qualifications:

1. Electrical Contractor
 - a. All electricians performing work on site must have a minimum of five (5) years' experience in the installation, repair, and service of industrial/commercial equipment (unless an apprentice under direct supervision of someone with the above experience).
 - b. All electricians performing work on site shall be certified as one of the following: journeyman, licensed electrician, or master electrician, or be an apprentice to any of the former on site.
 - c. Electrical contractor shall have documented experience with the installation of the following equipment and devices: 5KV switch gear; medium voltage cable (4160V); electrical panels; distribution panels; transformers; and transfer switches.

2. HVAC Contractor
 - a. All HVAC technicians performing work on site must have a minimum of five (5) years' experience in the installation, repair, and service of industrial/commercial equipment (unless an apprentice under direct supervision of someone with the above experience).
 - b. All HVAC technicians performing work on site must have the following certificates: EPA Section 608 HVAC Technician Certificate or HVAC certificate from an accredited trade or program, or completion of accredited apprenticeship program; and certificate or documented training in pipe welding and brazing procedures for HVAC systems.
 - c. HVAC contractor shall have documented experience with pipefitting (natural gas, water, low pressure steam, etc.)
 - d. HVAC contractor shall have HVAC control system experience including training in ladder logic or block computer programming, electronics and signaling, and networking.
 - e. HVAC contractor shall have documented experience with the installation of the following equipment: boilers up to 1.5 Mbtu; hydronic systems (hot and chilled water) including pumps, heat exchangers, control valves, water treatment systems, unit ventilators, etc.; roof top units and air handling units; split systems and heat pumps; data center or server room HVAC equipment.

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CROSSING PATHS  BUILDING FUTURES
THE PEACE BRIDGE

SECTION 2

SUPPLEMENTAL SPECIFICATIONS

[Bound Separately]

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THE PEACE BRIDGE

SECTION 3

DRAWINGS

[Bound Separately]