

CITY OF AUBURN STANDARD SPECIFICATIONS

GENERAL CONDITIONS

SECTION 5

CONTROL OF WORK

5.01 AUTHORITY OF THE ENGINEER

To prevent misunderstandings, disputes, and litigation, the Engineer shall decide any and all questions that arise concerning the quality and acceptability of materials furnished and work performed, the manner of performance and rate of progress of the Work, interpretation of the Drawings and Specifications, and the acceptable fulfillment of the Contract on the part of the Contractor. The Engineer will determine the amount, quantity, character, classification, and quality of the several kinds of work performed and materials furnished which are to be paid for under the Contract and his decision and estimate shall be conclusive and binding on both parties thereto and such decision and estimate of the Engineer, in case any questions arise, shall be a condition precedent to the right of the Contractor to receive any money due him under the Contract. Explanations concerning the meaning of the Contract and all directions necessary to complete or make definite the Contract and to give them due effect, will be given by the Engineer and his findings shall be final and binding on both parties hereto. The Engineer shall have executive authority to enforce and make effective such decisions and orders. He shall decide upon disputes and mutual rights between Contractors under the Drawings and Specifications. The existence of a dispute shall not excuse the Contractor from performing under this Contract, and the Contractor shall diligently and consistently perform and prosecute the Work pending resolution of all disputes.

5.02 WORKING DRAWINGS

Drawings showing such details as are necessary to give a general intent of the construction contemplated will be included in the Contract. The Contractor shall be responsible for supplementing the Contract by such working drawings as are necessary to adequately control the Work. It is mutually agreed that all authorized alterations affecting the requirements and information given in the Contract shall be given by the Engineer in writing.

It is expressly understood that the approval by the Engineer of the Contractor's working drawings shall not constitute or authorize changed work, Extra Work or deviation from the Contract and that such approval relates solely to the requirements for strength and detail and such approval will not relieve the Contractor of any responsibility for accuracy of dimensions and details, or of mutual agreement of dimensions or details. It is mutually agreed that the Contractor shall be responsible for agreement and conformity of his working drawings with the Contract.

The Contractor shall furnish the Engineer with such blue print copies of the working drawings as may be required for approval and construction purposes and upon completion of the Work, the original tracings or satisfactory negatives thereof shall be supplied to the Engineer. Such drawings shall be furnished by the Contractor without additional compensation.

5.03 CONFORMITY WITH CONTRACT DOCUMENTS

Finished work in all cases shall conform to lines, grades, sections, details, and dimensions of the Work contemplated as shown on the approved Contract Documents except as modified by written orders of the Engineer. Any deviation from the Contract that may be required by the exigencies of the construction must be approved in advance by the Engineer and authorized in writing.

5.04 COORDINATION OF DRAWINGS, SPECIFICATIONS, AND SPECIAL PROVISION

The Specifications, the Supplemental Specifications, the Drawings, Special Conditions, and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete Work. In case of discrepancy, figured dimensions, unless obviously incorrect, shall govern over scaled dimensions. Supplemental Specifications shall govern over the Standard Specifications. Drawings shall govern over Specifications; Special Conditions shall govern over both Specifications and Drawings.

The Contractor shall take no advantage of, and shall promptly notify the Engineer, if he discovers any error or omission of dimensions in the Drawings, or of any discrepancy between the Drawings and Specifications. The Engineer will make such corrections and supply such omitted dimensions. The Engineer's interpretation shall be final.

5.05 COOPERATION OF THE CONTRACTOR

The Contractor will be supplied with two (2) copies of the Contract Documents, unless otherwise requested. In no instance shall any more than five (5) copies of the [contract] be given to the Contractor without additional cost being incurred. The Contractor shall have available on the work site, at all times, a copy of the contract. He shall give the Work the constant attention necessary to facilitate the progress thereof and shall cooperate with the Engineer or his representative and with other Contractors in every way possible.

The Contractor shall at all times have a competent Superintendent on the Work site, capable of reading and thoroughly understanding the contract, as his agent on the Work, with full authority to execute the orders or directions of the Engineer without delay and to supply promptly such materials, tools, equipment, and labor as may be required. Such Superintendent shall be furnished irrespective of the amount of work sub-let and shall have full authority over all sub-contract work.

The Contractor shall schedule and conduct his work and dispose of his material so as to avoid causing unnecessary inconvenience and delay to other Contractors engaged on adjacent work and so as to join his work to that of other Contractors in a proper manner, and in accordance with the spirit of the contract, and so as to perform his work in the proper sequence in relation to that of other adjacent work, all as may be directed by the Engineer. Each Contractor shall so conduct his operation and maintain the work in such condition that adequate drainage shall be provided at all times.

It is mutually agreed that in case of a dispute arising between two or more Contractors engaged on the same work, as to the respective rights of each under these contract the Engineer shall determine the matter at issue and shall cause completion of all parts of the Work and his decision shall be final and binding on all parties concerned and shall not in any way be a cause for claims for extra compensation by any of the parties.

5.06 REPRESENTATIVES

The Engineer may appoint such Representatives as he desires, and they shall be granted full access to the Work and to mills and factories in which material is being prepared for use under the Contract. They shall have authority to give directions pertaining to the Work, to approve or reject materials, to make measurements of quantities, to keep records of costs, and otherwise to represent the Engineer. The Contractor may appeal their decisions to the Engineer, pending settlement but no work shall be done in disregard of orders or instruction on items affected by such appeal. If the Contractor refuses to comply with instruction of the Representative to fulfill the requirements of the Contract, the Representative, shall if possible, immediately notify his immediate superior and obtain instructions, failing in this, if the Contractor refuses to suspend operations on verbal order, he shall issue a written order suspending the Work on the items affected, giving in detail the reasons for the suspension and immediately after placing the order in the hands of the person in charge for the Contractor, he shall report to his immediate superior, or in his absence to the Engineer, for further instructions.

Representatives shall not be authorized to revoke, alter, broaden, relax or release any requirements of the Contract, to approve or accept any portion of the Work nor to issue instructions contrary to the contract nor shall they act as foremen for the Contractor; or interfere with the management of the Work. Any advice, which they may give the Contractor, shall in no way be construed as binding the City in any way, nor releasing the Contractor from fulfilling all of the terms of the Contract.

5.07 REVIEW

The Contractor shall furnish the Engineer with every reasonable facility for ascertaining whether or not the Work performed and materials used are in accordance with the requirements and intent of the Contract Documents. At any time before final acceptance of the Work, the Contractor shall, if the Engineer requests remove and uncover such portions of the finished work as the Engineer may direct. After the examination, the Contractor shall restore said portion of the Work to the standard required by the Contract Documents. If the Work thus exposed or examined proves acceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed, shall be paid for as Extra Work, but, if the work so exposed or examined proves unacceptable no compensation will be allowed the Contractor for the uncovering, or removing and the replacing of the covering or making good of the parts removed. No work shall be done nor material used without suitable supervision by the Engineer, or his representative. Failure to reject any defective work or material shall in no way prevent later rejection when such defect be discovered, or obligate the Engineer to final acceptance.

5.08 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

All work, which has been rejected, shall be remedied, or else removed and replaced, in an acceptable manner by the Contractor at his own expense, and no compensation shall be allowed him for such removal or replacement. Any work done without the lines and grades shown on the Drawings or as given, except as herein provided, or any Extra Work done without written authority will be considered as unauthorized work and removed and replaced at the Contractor's expense.

Upon failure on the part of the Contractor to immediately comply with any order of the Engineer, the Engineer shall have authority to cause defective work to be remedied, or removed and replaced, to deduct the cost from any monies due or to become due to the Contractor. In case no such monies are available, the amount shall be charged against the Contractor's Surety.

5.09 CORRECTION OF WORK

The Contractor shall re-execute any work that fails to conform to the requirements of the Contract and that appears during the progress of the Work, and shall remedy any defects due to faulty materials or workmanship that appear within a period of one year from the date of completion of the Contract. The provisions of this article apply to work done by subcontractors as well as to work done by direct employees of the Contractor.

5.10 DISPUTE CLAIMS

In any case where the Contractor wishes to make claim to the City for extra compensation for work or materials not covered in the Contract, Contractor must notify the Engineer in writing of his intention to make claim for such extra compensation, before he begins the work on which he bases his claim. If such notice is not given, or if the notice is given and the Engineer is not afforded proper facilities for keeping strict account of the actual cost to the Contractor, then the Contractor thereby waives such claim for extra compensation. Such notice by the Contractor, and the fact that the Engineer has kept account of the cost, shall in no way be construed an admission of the validity of the claim. When the work has been completed, the Contractor shall immediately file his claim with the Engineer. The Engineer will review and decide the validity of the claim and his decision shall be final.

5.11 FINAL CONSTRUCTION REVIEW

Whenever the Engineer considers the Work provided and contemplated by the Contract is nearing completion, or within ten **(10)** days after being notified by the Contractor that the Work is completed, the Engineer will inspect all the Work included in the Contract. If the Engineer finds that the Work has not been satisfactorily completed at the time of such inspection, he shall advise the Contractor in writing as to the work to be done or the particular defects to be remedied. When these defects have been remedied and the work has been satisfactorily completed, the Engineer shall make a final review of the Work, and shall notify the Contractor in writing. If the project is funded with State and/or federal funds, following final review by the City of Auburn, a review will be conducted with the Alabama Department of Transportation. Any deficiencies noted during this review will be forwarded to the Contractor in writing. Following correction of these concerns and written notification of the same, the maintenance time will begin.

5.12 FINAL ACCEPTANCE

After the final review is made as outlined above, the Contractor shall maintain the work for a thirty **(30)** day maintenance period. Provided all work has been satisfactorily maintained during the **30**-day period, an extended warranty of one **(1)** year will begin, unless otherwise noted. During this one **(1)** year warranty period, the City will perform routine maintenance, but the Contractor will be responsible to restore to the City's satisfaction any portion of the Work that fails.

The Contractor, immediately after receiving the letter of final review, shall give notice of said completion of Work by an advertisement in a newspaper of general circulation published within

the City or County wherein the Work has been done for a period of four **(4)** consecutive weeks. ***The Contractor shall make proof of publication of said notice to the City by affidavit of the publisher and a printed copy of the notice published.*** If no newspaper is published in the County where the Work is done, the notice may be given by posting at the Court House for thirty **(30)** days and the Probate Judge or Sheriff and the Contractor shall make proof of same.

If the project is funded with State and/or federal funds, once the Contractor receives the letter of final review from the Alabama Department of Transportation, he shall give notice of said completion as outlined above. If other state or federal agencies are involved, appropriate approvals must also be granted prior to giving of said notice. Additionally, a certified letter including a list of final quantities shall be sent to the Contractor once work has been accepted. The Contractor, if in agreement, shall reply in writing stating his agreement. If the Contractor disagrees, he must notify the City in writing stating the nature of his disagreement. If the Contractor does not respond in writing after 45 days, this will be interpreted as the Contractor's agreement with the final quantities.

In no instance shall a final settlement be made upon the Contract until the expiration of the maintenance period and until the Contract is completed and project accepted by the City.