

BID DOCUMENTS

FOR

**ROCK CRUSHING
AT**

WASCO COUNTY

STATE OF OREGON

COUNTY COURT:

SHERRY HOLIDAY, COUNTY COMMISSIONER

ROD RUYON, COUNTY COMMISSIONER

SCOTT HAGE, COUNTY COMMISSIONER

NOTICE INVITING BIDS

FOR ROCK CRUSHING AT

Sealed bids will be received in the office of the Wasco County Clerk, Wasco County Courthouse, 511 Washington Street, The Dalles, Oregon, 97058, until __:__ a.m., _____, 200__ for the furnishing and stockpiling of approximately _____ cubic yards of crushed material for use by the Wasco County Public Works.

The work will consist of approximately the following:

_____ CY 3/4"-0" oil rock; _____ CY 1/2"-1/4" oil rock; and _____ CY 3/8" - 10 oil rock.

The said bids will be opened and declared at the aforementioned time and date in room 202 of the Wasco County Courthouse.

Each proposal shall be enclosed in a sealed envelope and delivered to the aforementioned address. The outside of the envelope shall be plainly marked as follows:

ROCK CRUSHING AT

To Be Opened

__ : __ a.m., _____, 200__

The bids will be received on the county furnished proposal forms only, and each bid shall be accompanied by a certified or cashier's check, or bid bond for the amount of not less than 5% of the total amount of the bid, drawn payable to Wasco County, and no bid shall be considered without such surety.

Specifications may be examined and obtained at the office of the Wasco County Public Works 2705 East 2nd Street, The Dalles, Oregon 97058. (541) 296-2214.

Bidders will be required to prequalify as to equipment, financial responsibility, experience, and ability to furnish bond and insurance. The county accepts certification of current prequalification with the Oregon State Highway Commission as meeting prequalification requirements.

Prequalification application shall be submitted on State of Oregon Public Contract Review Board forms or equivalent.

Prequalification shall be made through the Wasco County Public Works office, and must be made prior to the bid opening.

No bid may be withdrawn after the hour set for bid opening, nor before award of the contract, unless said award is delayed for a period exceeding thirty (30) days. The successful bidder will be required to furnish a 100% performance bond and satisfactory evidence of liability insurance.

Wasco County intends to award the bid to the lowest responsible bidder who complies with the bid requirements, but reserves the right to reject any bids not in compliance with all prescribed public bidding procedures and requirements.

The Wasco County Court reserves the right to reject for good cause any or all bids, to waive any and all irregularities and informalities not affecting substantial rights, and to award the bid according to the public's best interest.

WASCO COUNTY COURT

by _____
LINDA BROWN, County Clerk

PROPOSAL

FOR

**ROCK CRUSHING
AT**

_____, 200__

Wasco County Court
Wasco County Courthouse
The Dalles, Oregon 97058

Gentlemen:

I/We have checked the plans and specifications and visited the site of the proposed work and are thoroughly familiar with the work to be performed, the material, equipment, etc., to be furnished, and the conditions that exist. Being familiar with the times as expressed above, I/We submit the following proposal, and will furnish all the labor, materials, equipment, tools, bonds, and insurance, etc., and will perform the work in strict accordance with the county plans and specifications and in a good workmanlike manner and according to good engineering and construction standards, all to the satisfaction of the county, for the following prices:

SCHEDULE OF CONTRACT PRICES

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1)	3/4"-0" oil rock	_____ CY	\$ _____	\$ _____
2)	1/2"-1/4" oil rock	_____ CY	\$ _____	\$ _____
3)	3/8" - 10 oil rock	_____ CY	\$ _____	\$ _____

TOTAL AMOUNT OF BID: \$ _____

It is understood that Wasco County reserves the right to reject any and all bids, to waive any and all irregularities and informalities not affecting substantial rights, and to award the bid according to its best interests.

Accompanying this proposal is _____, (proposal bond, cash, or certified check), in

the amount of _____, which amount is not less than 5% of the total amount of the proposal.

Notice of award of contract shall be mailed, telegraphed, or delivered to the undersigned at the following address:

Contractor _____

Address _____

City & State _____

By/Title _____

Date _____

Telephone _____

SPECIFICATIONS

SECTION I - INFORMATION FOR BIDDERS

1.01 INTERPRETATION OF PROPOSED CONTRACT DOCUMENTS

If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, he may submit to the owner a written request for an interpretation thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretations of the proposed documents will be made only by addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of such documents. Neither the owner, nor any employees or officials of the owner, will be responsible for any other explanations of the proposed documents.

1.02 EXAMINATION OF PLANS, SPECIFICATIONS, SITE, ETC.

Bidders shall examine the plans, specifications, contract form, information for bidders, and other forms, and shall visit the site and satisfy themselves by personal investigation as to the work to be done and all the conditions to be encountered. Failure of a bidder to visit the site or to thoroughly familiarize himself with the labor, equipment, and material required, or the difficult conditions involved, shall not relieve the bidder of his obligation under his bid.

1.03 FILLING IN PROPOSAL FORMS

The bidder shall submit his bid on the proposal schedule furnished herein. All blank spaces in the proposal shall be properly filled. If the proposal is made by a partnership, it shall contain the name of each partner and shall be signed in ink in the firm name, followed by the signature of the person signing. If the proposal is made by a corporation, it shall be signed by the name of the corporation followed by the written signature of the officer signing and the printed or typewritten designation of the office he holds in the corporation. The address of the bidder shall be typed or printed on the proposal.

1.04 SUBMISSION OF PROPOSAL

Each proposal, intact and bound with the specifications shall be completely sealed in a separate package, properly addressed to the owner as indicated in the official advertisement at the address named in the advertisement, with the name of the bidder, bid opening date and time, and the name of the project plainly written on the outside of the package. Bids will be received at the time and place in the advertisement for bids.

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1.05 MODIFICATION OF PROPOSAL

Modification of proposals already received will be considered only if the request for the privilege of making such modifications is made with the owner as indicated in the official advertisement at the address named in the advertisement, and the modification filed with him prior to the scheduled closing time for receipt of the proposals. No telegraphic modifications will be considered.

1.06 WITHDRAWAL OF PROPOSAL

Any time prior to the scheduled closing time for receipt of proposals, any bidder may withdraw his proposal, either personally or by telegraphic or written request, by application to the owner as indicated in the official advertisement at the address named in the advertisement. If withdrawal is made personally, proper receipt shall be given therefor.

After the scheduled closing time for the receipt of proposals or before award of contract, no bidder will be allowed to withdraw his proposal unless said award is delayed for a period exceeding thirty (30) days. Any bids received after the scheduled closing time for receipt of bids shall be returned to the bidders unopened.

1.07 SECURITY TO BE FURNISHED BY EACH BIDDER

A certified check, cashier's check or bid bond made payable to the owner for an amount equal to at least 5% of the total amount bid shall accompany each bid as evidence of good faith and as a guarantee that, if awarded the contract, the bidder will execute the contract

and give performance bond as required. The successful bidder's check or bid bond will be retained until he has entered into a satisfactory contract and furnished a 100% performance bond. The owner reserves the right to hold the certified checks, cashier's checks or bid bonds of the three lowest bidders until the successful bidder has entered into a contract and furnished a 100% performance bond.

1.08 OPENING OF PROPOSAL

At the time and place set for the opening and reading of proposals, each proposal (except those that may have been withdrawn in accordance with above "Withdrawal of Proposal") received prior to the scheduled closing time for receipt of proposals will be publicly opened and read aloud, irrespective of any irregularities or informalities in such proposals.

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1.09 INTERPRETATION OF PROPOSAL

Should there be a discrepancy between the words and figures in the proposal, the words hold. Should there be a discrepancy between unit prices and extensions, total, etc., the unit prices hold.

1.10 REJECTION OF PROPOSALS

The owner reserves the right to reject any or all proposals. It also reserves the right to waive any informalities in connection with said proposals or bids.

1.11 ACCEPTANCE OF THE PROPOSAL

Within thirty (30) days after the opening of the proposals, the owner will act upon them.

The acceptance of a proposal will be a notice in writing by a duly authorized representative of the owner, and no other act of the owner shall constitute the acceptance of a proposal. The acceptance of a proposal shall bind the successful bidder to furnish liability insurance and a performance bond as required, to execute the contract and be responsible for liquidated damages as provided below.

1.12 SUCCESSFUL BIDDER TO FILE PERFORMANCE BOND

The successful bidder will be required to file a performance bond in the full amount of the contract price, and the bond shall be furnished by a surety company acceptable to the owner.

1.13 EXECUTION OF CONTRACT

The successful bidder will be required within ten (10) days after receiving from the owner the contract documents, to execute said contract in triplicate and to furnish performance and other required bonds. In lieu of posting the foregoing performance bond, the successful bidder may deposit cash in the full amount of the contract price.

Before commencing work, the contractor shall furnish the attorney for the owner with satisfactory proof of the carriage of insurance in a company acceptable to the attorney, covering all hazards as follows:

PUBLIC LIABILITY - Not less than **\$1,000,000.00** for injuries to any one person including accidental death; not less than **\$1,000,000.00** for any one accident.

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PROPERTY DAMAGE - Not less than **\$250,000.00**

This applies to all work under this contract, including work performed by subcontractors.

1.14 FAILURE TO EXECUTE CONTRACT

In the event the successful bidder fails to execute the contract or furnish performance bond and insurance as required, within the allotted time after receiving the contract documents, the bid bond or deposit will **BE FORFEITED TO THE OWNER** as liquidated damages for time delay not to exceed five (5%) percent of the amount of the bid, and the owner may then negotiate the contract with the bidder of the next best proposal or re-advertise for bids, or obtain a construction contract by any other lawful means.

1.15 LAWS AND REGULATIONS

The bidder's attention is directed to the fact that all applicable state, county, and local laws and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

1.16 TIME OF COMPLETION

Upon execution of the contract and filing of the satisfactory bond and certificate of insurance, the successful contractor will be issued a written notice to proceed. The contractor will start work upon receipt of such notice and fully complete the project within ____ days, weather permitting.

1.17 LIQUIDATED DAMAGES

Liquidated damages in the amount of \$500.00 per day for each and every calendar day by which the completion of the work or the performance of this contract is delayed beyond the time fixed for completion thereof, or the extension thereof, shall be deducted from the monies then due or to become due under this contract. Should such money not be sufficient to cover such damages, the owner shall have the right to recover the balance from the contractor or his surety.

SECTION II - GENERAL PROVISIONS

2.01 DEFINITIONS

- a. **Contract Documents:** The written agreement covering the performance of the work and the furnishing of the labor and materials therefor. The contract documents shall include the Proposal, Contract Documents, Insurance, Plans and Specifications.
- b. **Owner:** The owner of the completed work, as indicated in the official advertisement and named in the contract agreement.
- c. **Contractor:** The person or persons, firm, or organization to perform work under these specifications.
- d. **Inspector:** Any individual assigned by the Public Works Director to inspect the product to be supplied under this contract agreement, with authority limited to that entrusted to him by the Public Works Director.
- e. **Specifications:** The General Provisions, Technical Provisions and Special Provisions herein contained, which define and describe the materials to be furnished.
- f. **Plans:** All drawings, maps, and plans approved by the Public Works Director that pertain to the product provided for in the contract documents.
- g. **Work:** The work shall include items of structures, equipment, materials, and appurtenances along with the act, on the part of the contractor, for furnishing said items all according to the contract documents.
- h. **Material or Materials:** These words shall be construed to embrace machinery,

manufactured articles, materials of construction (fabricated or otherwise), and any other class of material, new or unused, or otherwise designed to be furnished in connection with the contract agreement.

Whenever words such as "Directed," "Required," "Proper," "Acceptable," "Satisfactory," "Approved," or words of like import are used, these words shall mean directed by, approved by, or satisfactory to the Public Works Director, as the case may be.

- I. **Proposal:** The written document signed by the bidder containing the statement of price or prices to be paid by the owner for the performance required.

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- j. **Director:** The Wasco County Public Works Director, whose office is located at 2705 E. 2nd Street, The Dalles, Oregon, 97058.
- k. **State Standard Specifications:** The State of Oregon Standard Specifications (1991 edition) for Highway Construction.

2.02 SCOPE OF WORK

The product to be supplied under this agreement consists of the furnishing of all labor, equipment, material, supplies, tools, plans, power, fuel, water, insurance and bonds, and performing all work required, in strict accordance with the plans, specifications, and other documents, all of which are by reference made a part hereof, including any detail or other drawings as may be furnished by the Director and those required to be furnished by the contractor.

By entering into this agreement, the contractor acknowledges the foregoing and agrees that the terms of the contract agreement are just, legal, and fair.

2.03 PLANS AND SPECIFICATIONS

The plans and specifications are intended to be cooperative and explanatory of each other, and anything shown or called for in one and omitted in the other is as binding as though called for in both. Should there be any discrepancy or misunderstanding concerning anything in either, the decision of the Director shall be considered final in every detail, notwithstanding that every item necessarily involved is not particularly mentioned as the construction of this work has been described as much as considered necessary by the plans, specifications, and the different items of the bid. It is the intent and meaning of these plans and specifications that all labor, materials, equipment, tools, insurance, public protection, and every other item, all incidentals and actions required to construct a complete and finished product shall be included and performed by the contractor for the price bid in the proposal, including all other work and material as may seem to have been omitted, but should be furnished to make a completely satisfactory finished job. Wherever special provisions are incorporated in the contract documents or

attached to the plans, they take precedence over these general provisions and govern in that particular operation mentioned.

2.04 EXAMINATION OF GROUND

Bidders must examine and judge for themselves as to the location of the proposed work, existing structures and conditions, and the work to be done to supply the product.

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The plans and other drawings will show conditions as they are or as near to the actual conditions as the existing records and other available information permits. The contractor shall call the Director's attention to any error in plans or difference in conditions. Failure to do so shall make the contractor liable to repair, change, or otherwise correct the work at no expense to the owner.

Neither the owner nor any of his agents will be liable for any loss sustained by the contractor because of any variance between conditions revealed during the progress of the work.

2.05 CHANGES AND OMISSIONS

The owner reserves the right to make any reasonable changes to grade, location, or other part of the improvement to meet unusual conditions.

2.06 EXTRA WORK

Extra work is that which is necessary to make a complete job, and not included in the intent and meaning of the plans and specifications for the particular piece of work to be done.

The contractor shall not be entitled to demand payment for extra work, or for any work where there is no bid, unless ordered in writing by the Director to do such work, and at a price fixed by him previous to its commencement. Providing no price is fixed, all extra work will be paid for at actual cost of labor and material plus 15%.

2.07 CARE OF PUBLIC OR PRIVATE PROPERTY

The contractor shall, at his own expense, carefully protect from injury adjoining property and structures, utilities, trees, buildings, telephone or light poles, water or gas pipe, conduits, or any other structures, public or private, which are encountered or affected by the work, shall repair any damage done to said works and/or structures, leaving them in as good conditions as they were prior to this interference, and the contractor shall be liable for any damages or claim arising from his interference with the operation, care or maintenance of any such works and/or structures encountered during the progress of the

work.

The contractor shall, at his own expense, except as otherwise provided in this contract, carefully replace and repair any damage to sidewalks, curbs, gutters, roadways, paved or graded streets, other private or public access ways, leaving the same in as good condition as they were prior to the commencement of the work.

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2.08 INSPECTION

- a. **General:** The Contractor shall not begin work on this contract agreement until he has notified the Director (at least 24 hours in advance of any work to be done) and an inspector has been placed in charge of the work. The Director or his duly authorized representative shall at all times have access to all parts of the work and to the shops in which the work is in preparation, for the purpose of inspection, and the contractor shall at all times maintain proper facilities and provide safe access for such inspection. The contractor shall furnish at his own expense such labor as may be required to enable the Director to make a thorough inspection and culling of the materials. The Director's decision shall be final and binding on all parties to this contract.

- a. **Material and Workmanship:** The Director shall have the right to reject materials and workmanship that are defective, or to require their correction. Rejected workmanship shall be satisfactorily corrected, and rejected materials shall be removed from the work without charge. If the contractor does not correct such rejected work within a reasonable time, fixed by written notice, the owner may correct the same and charge the expense to the contractor. No material of any kind shall be used on any part of this work until inspected or approved by the Director or his duly authorized representative, and all rejected or condemned material shall be removed from the work at once.

- c. **Instructions:** Instructions given by the inspector shall be respected and executed by the contractor, but no inspector shall have the power to waive the obligation of the contractor to furnish good material or to perform sound and reliable work as herein specified; and failure or omission of the inspector or Director to condemn any defective material or work shall not release the contractor of the obligation to at once tear out, remove and properly reconstruct the same at his own cost at any time upon the discovery of the defect, and upon receipt of the notice of the Director to do so.

- d. **Access to Completed Work:** Should it be considered necessary or advisable by the Director at any time before final acceptance of the entire work to make an examination of the work already completed by removing or tearing out any portion thereof, the contractor shall on request promptly furnish all necessary facilities, labor, and materials. If such work is found to be defective in any respect he shall defray all the expense of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the additional cost of labor and materials necessarily involved in such examination and replacement, and 15% for overhead and profit, shall be

allowed to the contractor.

- e. **Rebuilding Work:** Upon the failure of the contractor to reconstruct work rejected by the Director within 24 hours after the receipt of written notice, the same may be removed and reconstructed under the direction of the Director at the expense of the contractor.

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2.09 PARTIAL PAYMENTS AND RETAINED AMOUNTS

At a regular period each month, the Director will make an estimate of the amount of work completed and of the value of such completed work. He will also make an estimate of the amount and value of acceptable material to be incorporated in the completed work. The sum of these values will after this be collectively referred to in this subsection as the "value of the completed work." With these estimates as a base, a partial payment will be made to the contractor, which partial payment shall be equal to the value of completed work, less such amounts as may have been previously paid, less such other amounts as may be deductible or as may be owing and due to the county for any cause, and less an amount to be retained in protection of the county's interests.

The amount to be retained in protection of the county's interest is not to include any percentage of the value of force account work, it being understood that partial payments to the contractor are to include the full amounts earned under force account work performed during the period covered by the respective partial payments.

The amount to be retained from any given partial payment will be such that when added to the sum of amounts previously retained will bring the total of amounts retained to an amount equal to 5% of the value of completed work, except that upon substantial completion of the work under the contract which shall be understood to be not less than 97-1/2% of the work, the Director may, at his discretion, reduce the retained amount to an amount equivalent to not less than 200% of the contract value or estimated value, or estimated cost, whichever is greater, of the work remaining to be done.

The amount to be retained in protection of the county's interest as above set forth will be reduced in conformance with the following:

1. If the contractor deposits with the county, or an approved depository, bonds and securities of a value equal to at least 5% of the amount of the contract at the time he signs a contract for the project, no amount will be retained from partial payments.
2. If the contractor deposits bonds and securities with the county, or an approved depository, during the life of the contract, any retained amount will be reduced by an amount equal to the value of the bonds and securities. This reduction in retainage will be made in the partial payment subsequent to the time the contractor deposits the bonds and securities with the county.

3. The value of the bonds and securities will be periodically determined by the County and the amount retained on partial payments will be adjusted accordingly.

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The bonds and securities deposited by the contractor shall be of a kind approved by the state treasurer and including, but not limited to the following:

1. Bills, certificates, notes or bonds of the United States
2. Other obligations of the United States or its agencies
3. Obligations of any corporation wholly owned by the Federal Government
4. Indebtedness of the Federal National Mortgage Association
5. Time certificates of deposit issued by an Oregon bank
6. Corporation bonds rated A or better by a recognized rating service

At the time the Director determines that all requirements for the protection of the county's interest have been fulfilled all bonds and securities deposited with the county as above provided will be returned to the contractor.

If the amount due the contractor under the estimate for any given month is less than \$500.00, no payment will be made for that month.

Partial payments shall not be construed as an acceptance or approval of any part of the work covered thereby, and they shall in no manner relieve the contractor of responsibility for defective workmanship or material.

The estimates upon which partial payments are based are not represented to be accurate estimates, and all quantities shown herein are subject to correction in the final estimate. If the contractor uses such estimates as a basis for making payments to subcontractors, he does so at his own risk, and he shall bear all losses that may result.

2.10 FINAL PAYMENT

Within thirty (30) days after satisfactory completion of the project to the satisfaction of the Director, the contractor shall submit to the owner a satisfactory release of liens against the project by all persons who furnished labor or material for the project, in order to receive final payment for the work. The acceptance of final payment by the contractor constitutes his full waiver of claims against the owner under this contract.

2.11 TERMINATION OF CONTRACT

In the event that the contract is terminated as provided therein, then the owner may take over the work under the contract and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the contractor, and his surety shall be liable to the owner for any excess cost or other damages occasioned the owner thereby, and in such events, the owner may, without liability for so doing, take possession of and use in completing the contract, such materials, appliances, plant, and other property belonging to the contractor as may be on the site of the project and necessary therefor.

The foregoing provisions are in addition to, and not in limitation of, any other rights or remedies available to the owner.

2.12 OWNERS RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF

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In addition to the amount that the owner may otherwise retain under this contract, the owner may also withhold a sufficient amount or amounts of any payment or payments otherwise due to the contractor, as in its judgement may be necessary to cover defective work not remedied.

2.13 ASSIGNMENT OF CONTRACT

Neither party to the contract shall assign the contract nor sublet it as a whole without the written consent of the other, nor shall the contractor assign any moneys due or to become due to him hereunder without the previous written consent of the owner.

2.14 SUBCONTRACTORS

Specialty subcontractors shall be used for the performance of such parts of the work under this contract as, under normal contract practices, are performed by specialty subcontractors, unless the owner determines that the contractor has heretofore customarily performed such specialty work with his own organization and is equipped to do so, or unless the owner determines that performance of the specialty work by specialty subcontractors will result in increasing costs or inordinate delays.

The owner's consent to, or approval of, any subcontract under this contract shall not in any way relieve the General Contractor of his obligations under this contract and no such consent or approval shall be deemed to waive any provision of this contract. The contractor shall bind the subcontractor to the terms and conditions of the contract documents insofar as the terms thereof may control the work included in this subcontract.

No award of a subcontract to any subcontractor who, in the judgement of the Director, is incompetent or unfit, will be approved by the owner.

2.15 TESTS AND MATERIALS

The Director shall have the right to inspect and test all material used on the project. As a yardstick for such inspection and testing, when not otherwise provided for in the contract documents, the owner will use the Standard and Tentative Standards of the American Society for Testing Materials (A.S.T.M.), or the standards as promulgated by the American Association of State Highway Officials (AASHO). The Director shall have the right to repeat such inspections and tests as frequently as may be necessary to insure the rejection of all materials that fail to comply with the aforesaid yardstick. The cost of any inspections and test of materials made by or at the request of the Director will be borne by the owner.

In all cases not specifically covered in the specifications, materials furnished by the contractor shall be of the highest-grade commercial material or product. Any and all materials shall be of new, unused stock, free from excessive rust or scale or other objectionable defects. Substitution of size of sections and materials for that shown on the drawings or required in the specifications shall not be made except on written approval of the Director, and provided that no additional cost to the owner will result from the substitution.

2.16 SUPERINTENDENCE

The contractor shall provide at all times during the progress of the work, competent and necessary supervision. During the contractor's absence, the contractor shall have a competent representative on the work at all times authorized to receive and execute orders of the Director. Orders for changes in the work will not be valid unless confirmed in writing to the contractor.

2.17 GENERAL GUARANTEE

Neither the final certificate of payment nor any provision in the contract nor partial or entire use of occupancy of the premises by the owner shall constitute an acceptance of work not done in accordance with the contract or relieve the contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The contractor shall remedy any defects in the work and pay for any damage to other work resulting from this appearing within a period of one (1) year from the date of final acceptance of the work.

2.18 PATENTS

The contractor shall hold and save harmless the owner, his agents and employees from liability of any nature or kind, including all costs and legal expenses, for or on account of any patented or un-patented invention, process, article, or appliance, manufactured for or used in the performance of the contract, including its use unless otherwise specifically stipulated in the contract.

2.19 MATERIALS, SERVICES, AND FACILITIES

It is understood that except as otherwise specifically stated in the contract, the contractor shall provide and pay for all materials, labor, tools, paint, equipment, superintendence, temporary construction of every nature, and all other services and facilities of every nature, necessary to execute and complete the contract within the specified time.

2.20 WARRANTY OF TITLE

No material, supplies, or equipment for the work under this contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The contractor warrants good title to all materials, supplies, and equipment installed or incorporated in the work and agrees upon completion of all work to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by him, to the owner free from any claims, liens, or charges, and further agrees that neither he nor any person, firm or corporation furnishing any materials or labor for any work covered by this contract shall have any right to a lien upon the premises or any improvements or appurtenances thereon. The provisions of this article shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials.

2.21 CARE OF WORK

The contractor shall be responsible for all damages to persons or properties that occur in connection with the prosecution of the contract, and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the owner.

The contractor shall provide such heat, covering, and enclosures as are necessary to protect all work and materials against damage by weather conditions.

In an emergency affecting the safety of life or property, including adjoining property, the contractor, without special instructions or authorization from the owner, is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act, if instructed to do so by the owner.

2.22 INSURANCE

The contractor shall hold and save harmless the owner, his agents, and employees from liability of any nature or kind, including all costs and legal expenses, for or on account of any act, process or action by the contractor, or lack of the same, to provide adequate protection during the performance of the contract.

In addition to such insurance that may be required under this contract, the contractor shall provide adequate workmen's compensation insurance for all employees employed under this contract on the project who may come within the protection of workmen's compensation laws, and shall provide, where practicable, employers' general liability insurance for the benefit of his employees not protected by such compensation laws, and proof of such insurance shall be given to the owner.

All insurance required to be carried under this contract shall be written with such company as may be acceptable to the attorney for the owner. Satisfactory certificates of said insurance shall be filed with the owner in triplicate prior to the commencement of operations by the contractor.

The contractor will be charged with the responsibility for proper and adequate workmen's compensation coverage for all subcontract operations, and in the event the contractor's insurance issued on policies by companies that may be acceptable to the owner covering each and every subcontractor shall be filed with the owner prior to the commencement of such subcontract operations.

Public Liability and Property Damage Insurance. The contractor shall take out and maintain during the life of his contract such public liability and property damage insurance as shall protect him and any subcontractor performing work covered by this contract from claims for damages for personal injury or property damage that may arise from operations under this contract, whether such operations are by himself or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall be public liability and property damage in the amounts stipulated in Paragraph 1.13 of the Information for Bidders.

Cancellation. The policy or certificate of insurance shall include a statement that the amount of the insurance shall not be subject to cancellation or reduction until the owner has received written notice then (10) days in advance of the date of cancellation.

2.23 ACCIDENT PREVENTION

Precaution shall be exercised at all times for the protection of persons (including employees) and property, and hazardous conditions shall be guarded against or eliminated.

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The contractor shall erect and maintain sufficient guards, barricades and flares, at all unsafe places at or near the work, and shall in all cases maintain safe passageways at all road crossings, highways, driveways, crosswalks, existing stands, street intersections, etc.

The contractor shall comply with all pertinent provisions of the "Manual of Accident Prevention in Construction," prepared by the Associated General Contractors of America, and shall comply with city, county and state codes to the extent that they are applicable.

2.24 SANITATION

The Director may establish sanitary and policy rules and regulations for all persons employed under this contract, and if the contractor fails to enforce these rules, the Director may enforce them at the expense of the contractor. Buildings for the sanitary necessities of all persons employed shall be constructed and maintained by the contractor in the number, manner, and places approved or ordered by the Director. The sanitation laws of the state and any applicable city or county laws or ordinances shall be complied with.

2.25 QUALIFICATIONS FOR EMPLOYMENT

Preference shall be given to qualified local residents in the employment of laborers and mechanics for work on the project under this contract. No person whose age or physical condition is such as to make his employment dangerous to his health or safety or to the health or safety of others shall be employed on the project under this contract, provided that this shall not operate against the employment of physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform. No person currently serving sentence in a penal or correctional institution and no inmate of an institution for mental defectives shall be employed on the project under this contract.

2.26 DECISION OF DIRECTOR FINAL

Any question of difference of controversies that may arise between the owner and the contractor with reference to the performance or nonperformance of the work, or with reference to delays or penalties or relating to plans, profile specifications, or technical sufficiency of material furnished, or the work done under his contract shall be referred to the Director whose decision shall be final and binding on both parties.

The Director shall assume a position with neither the owner nor the contractor, but shall sue his powers herein contained to enforce faithful performance by both parties.

The Director shall have authority to stop work whenever such stoppage may be necessary to insure the proper execution of the contract.

2.27 CLAIMS FOR DAMAGES AND EXTENSIONS OF TIME

The contractor will not be entitled to any claim for damages because of hindrances or delays but he will not be charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond his control and without his

fault or negligence, including but not restricted to acts of God, or of the public enemy, acts of another contractor in the performance of a contract with the owner, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes, provided that the contractor shall give notice in writing of the causes of any such act, hindrance or delay within ten (10) days after its occurrence.

2.28 CLEANING UP

From time to time or as may be ordered by the Director, and in any event, immediately after completion of the work, the contractor shall at his own expense, clean up and remove all refuse and unused materials of any kind resulting from the work, and upon failure to do so within twenty-four (24) hours after having been notified by the Director, the work may be done by the owner and the cost thereof charged to the contractor. The contractor shall remove all equipment provided for the work, leave the structures and premises in a neat and clean condition, and perform all clean up and washing required to complete the work in a competent manner ready for use.

2.29 ORDER OF EXECUTING WORK

The contractor shall commence work at such points as the Director may direct and shall conform to his directions as to the time and order in which various parts of the work shall be done.

2.30 NOTICE AND SERVICE THEREOF

Any notice from one party to the other under the contract shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in the following manner, namely: (a) If the notice is given to the owner, by personal delivery thereof to the individual duly authorized to direct and supervise the project for the owner or be depositing the same in the United States mails enclosed in a sealed envelope address to the owner for the attention of said individual, postage prepaid and registered; (b) if the notice is given to the contractor, by personal delivery thereof to said contractor or to his foremen or superintendent at the site of the project, or by depositing the same in the United States mails enclosed in a sealed envelope, addressed to the contractor at his regular place of business, or at such other address as may have

been established for the conduct of the work under this contract, postage prepaid and registered, or (c) if the notice is given to the Surety or any other person, by personal delivery to such Surety or other person, or by depositing the same in the United States mails, enclosed in a sealed envelope, addressed to such Surety or other person, at the address of such Surety or other person last communicated by him to the party giving the notice, postage prepaid and registered.

2.31 APPROVED EQUALS

Whenever a material or article required is specified or shown on the plans by using the name of the proprietary product or of a particular manufacturer or vendor, any material or article that will perform adequately the duties imposed by the general design will be considered equal and satisfactory providing the material or article so proposed is of equal substance and function in the Director's opinion. It shall not be purchased or installed without his written approval.

2.32 EQUAL OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of his nondiscrimination clause."

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin."

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advertising the labor union or workers' representative of the contractors commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment."

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"(4) The contractor will comply with all provisions of executive order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor."

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the files, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will allow access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders."

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 as invoked and provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law."

"(7) The contractor will include the provisions of paragraphs One (1) through Seven (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."