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SUPPLEMENTARY CONDITIONS

101 DEFINITIONS OF TERMS

Access. Any facility by means of which vehicles can enter or leave a roadway.

Addendum. Written interpretation or modification of any of the Contract Documents which will be mailed or delivered to prospective Bidders prior to the opening of bids.

Business Day. Any day on which Metra's offices are open to the public.

Calendar Day. Every day shown on the calendar, Sundays and holidays included.

Change Order. A written order to the Contractor, signed by the Director, ordering changes in The Work resulting in increases or decreases in the quantity of or cancellations of any one or more of the unit price or lump sum items.

Completion Date. The calendar date of completion of The Work as designated by Metra in the Bid Documents.

Consultant. The Consultant is the person or entity identified as such in the Metra-Contractor Agreement. The Consultant is the registered A/E firm that has, under a separate contract with Metra, prepared the detailed plans and specifications which are incorporated into the Contract Documents. The Consultant will be referred to throughout the Contract Documents as if singular in number and masculine in gender. The Consultant shall provide assistance and interpretations to the Project Manager during The Work and shall also provide other services as detailed in the Contract Documents. The term "Consultant" means the Consultant or his authorized representative.

Contract. The written agreement executed between Metra and the successful Bidder and any supplemental agreements duly executed, establishing the terms and conditions for the performance and construction of The Work and the furnishing of labor, materials and equipment by which the Contractor is bound to perform The Work and to furnish labor, equipment and materials, and by which Metra is obligated to compensate the Contractor therefor at the established rate or price. The Contract also includes the conditions of the Contract (General, Supplementary, and other conditions), the Proposal, the Standard Specifications, Bonds, the Drawings, the Special Provisions, the Plans, the Specifications and all addenda and any extra Work Order, Change Order or Supplemental Agreement after execution of the Agreement. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Consultant and the Contractor. Nothing contained in the Contract Documents shall create any contractual relationship between Metra and any Subcontractor or Sub-subcontractor.

Contract Documents. All the documents mentioned under the definition of "Contract". The Contract Documents do not include Bidding Documents such as the Advertisement or Invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid or portions of Addenda relating to any of these, or any other documents, unless specifically enumerated in the Metra-Contractor Agreement.

Contract Time. The period from the date of commencement of The Work as established in the Notice to Proceed to, and including, the Completion Date.

Contractor. The Contractor is the person or entity identified as such in the Metra-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

Day. The word "day" means Calendar Day unless otherwise specified.

Director. The Director of Technical Services for Metra.

Director of Technical Services. The representative of Metra under whose direction the terms of the Contract shall be executed. The Director of Technical Services will be referred to throughout the Contract Documents as if singular in number and masculine in gender.

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.

Extra Work. An item of construction and/or performance not provided for in the Contract but determined by the Project Manager and approved by Metra to be essential to the satisfactory completion of The Work. This may include deletion of portions of The Work.

Extra Work Order. A written agreement entered into by and between Metra and the Contractor for the performance of Extra Work.

Inspector. The Inspector is a person identified throughout the Contract Documents who is a duly appointed representative for the Director of the Technical Services Division of Metra. The Inspector will perform all duties as set forth in the Contract Documents that are specifically assigned to him. The Inspector will be referred to throughout the Contract Documents as if singular in number and masculine in gender. The Project Manager and Inspector may or may not be the same individual, this decision being at the sole discretion of Metra.

Laboratory. A laboratory engaged by Metra for testing the materials to be used in The Work.

Material. Any substance specified for use in the construction of The Work and its appurtenances.

Metra. The term "Metra" as set forth in the Contract Documents represents the Northeast Illinois Railroad Corporation (NIRC), the Commuter Rail Division of the Regional Transportation Authority. Metra will be referred to throughout the Contract Documents as if singular in number and masculine in gender.

Notice of Award. A written notice from Metra to the apparent successful Bidder that Metra is planning to award the Contract to that Bidder. This notice will also establish the times and dates for contract signing and the pre-construction conference.

Notice to Proceed. A written notice from the Director to the Contractor that will be issued after the Board has approved the Contract, which designates the date for commencement of The Work by the Contractor pursuant to the terms and conditions of the Contract.

Pay Item. An item of work specifically described in any one or more of the Contract Documents for which a price, either a unit or lump sum, is therein provided including, but not limited to, all labor, equipment, and materials therein described.

The Project. The Project is the total construction, of which The Work performed under the Contract Documents may be the whole or a part.

Plans. The plans or exact reproductions thereof bearing a stamp and signature of the Consultant which show the location, character, dimensions, and details of The Work including shop drawings, which are considered as a part of the Contract.

Project Manager. The Project Manager is a person identified throughout the Contract Documents who is a duly appointed representative for the Director of the Technical Services Division at Metra. The Project

Manager will perform all duties as set forth in the Contract Documents that are specifically assigned to him. The Project Manager will be referred to throughout the Contract Documents as if singular in number and masculine in gender.

Public Agency. Any public body whether local, state or federal, charged by law with the responsibility of administering and/or controlling public facilities which may be affected by the construction or reconstruction of the facilities and appurtenances of Metra.

Railroad. The Railroad or Railway Company whose property is involved in The Work.

Railroad Engineer. The Superintendent of the Railroad, or authorized representative, limited by the particular duties entrusted to him/her.

Resident Engineer. The Resident Engineer is the registered A/E Firm engaged by Metra under a separate contract to administer the project. The Resident Engineer will perform all duties as set forth in the Contract Documents that are specifically assigned to him. The Resident Engineer will be referred to throughout the Contract Documents as if singular in number and masculine in gender.

Right of Way. A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Sidewalk. That portion of the roadway or parking lot primarily constructed for the use of pedestrians.

Special Provisions. Special clauses, directions, and requirements supplemental to these Supplementary Conditions, setting forth requirements, peculiar to The Work included in the Bid Documents.

Structure. Unless otherwise defined in the Specifications, structures shall comprise all objects constructed of materials, other than earth, required by the Contract to be built or to be removed, but not including surfacing and base courses, gutters, curbs, sidewalks and driveway pavement.

Subcontractor. A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of The Work or to provide any of the material at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative. The term Subcontractor does not include any separate contractor or his subcontractors.

Substantial Completion. The point at which the project, or any portion thereof if addressed as such, can be utilized to its full intents by Metra.

Superintendent. The English-speaking representative of the Contractor, present on The Work at all times during its progress, capable of reading and thoroughly understanding the Plans and Specifications, authorized to receive and fulfill instructions from the Project Manager, and who shall supervise and direct construction.

Time.

- a). Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Final Completion of The Work as defined in Section 118.01, including authorized adjustments thereto. The Contract Time shall begin with the date of final execution of the Contract by Metra and shall extend to the date of Final Completion.
- b). The date of commencement of the Contract is the date of final execution of the Contract by Metra. The date of commencement of The Work shall be established in a "Notice to Proceed". If there is no "Notice to Proceed", it shall be the date of the Metra-Contractor Agreement or such other date as may be established therein.
- c). The term Day as used in the Contract Documents shall mean Calendar Day unless otherwise specifically designated.

The Work. The improvement(s) described in the Bid Documents and Contract Documents including all authorized Change Orders, Extra Work Orders, and supplemental agreements.

Utility. The privately, publicly or cooperatively owned lines, facilities and systems for transporting persons or property, for producing, transmitting or distributing communications, electric power, light, heat, gas, oil, crude

products, water, steam, waste, sewerage, storm water, and other similar commodities, including publicly owned fire and police signal systems and street lighting systems, which directly or indirectly serve the public or any part thereof. The term "utility" shall also mean the utility company, inclusive of any wholly owned or controlled subsidiary.

102 SCOPE OF THE WORK

102.01 INTENT OF PLANS AND SPECIFICATIONS

The intent of the plans and the specifications is to describe the work for which the contractor is responsible. It is understood that the Contractor will furnish, unless otherwise provided in the contract, all materials, implements, machinery, equipment, tools, supplies, transportation, labor, and all other incidentals necessary to the satisfactory prosecution and completion of the

work, and shall include the cost of these items in the unit prices bid for the several units of work, when applicable.

When portions of the work are specified to be completed by Railroad employees, it shall remain the responsibility of the Contractor to supply the railroad employees with all materials that are necessary for the completion of that portion of The Work when specified in the Contract.

102.02 COORDINATION OF CONTRACT DOCUMENTS

In the event that one or more provisions in any of the Contract Documents conflicts with provision(s) in any of the other Contract Documents, the provision(s) in the Contract Documents first enumerated below shall govern over provisions contained in any of the other Contract Documents which follow it. The remaining provisions in the Contract Documents which follow and which are not rendered meaningless by the conflict shall remain in force and effect and be binding on the parties.

- a. The executed agreement and any supplements thereto
- b. The Contract Bonds
- c. The Addenda
- d. The Proposal
- e. The Special Provisions
- f. The Plans
- g. The Supplementary Conditions
- h. The General Conditions

In the event of discrepancies between dimensions shown in figures and those in scaled dimensions, dimensions shown in figures shall govern.

The contractor shall take no advantage of any error or omission in the Plans or of any discrepancy between Contract Documents. In the event the Contractor discovers any error or discrepancy, the Contractor shall immediately call upon the Project Manager or Resident Engineer for resolution, and the Contractor shall perform the work in accordance with such resolution within the times and for prices provided in the Contract.

The Contractor shall perform no portion of The Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data, or Samples for such portion of The Work.

102.03 ACCEPTANCE OF PRECEDING WORK

Before starting any operation, the Contractor shall examine work performed by others to which his Work adjoins or is applied and shall remedy or report to the Project Manger in writing of deficiencies or faults in preceding work. The starting of The Work on or adjoining preceding work will constitute acceptance thereof and will waive any and all claims of its unsuitability.

102.04 PERMITS, FEES, AND NOTICES

Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for all permits and governmental fees, licenses, and inspections necessary for the proper execution and completion of The Work which are customarily secured after execution of the Contract and which are legally required at the time the bids are received.

The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of The Work.

It is not the responsibility of the Contractor to make certain that the Contract Documents are in accordance with applicable laws, statutes, building codes, and regulations. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, he shall promptly notify the Project Manager in writing, and any necessary changes shall be accomplished by appropriate Modification.

If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Project Manager, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

102.05 SUPERINTENDENT

The Contractor shall employ a competent Superintendent and necessary assistants who shall be in attendance at the Project site during the progress of The Work. The Superintendent shall represent the Contractor and all communications given to the Superintendent shall be as binding as if given to the Contractor. Important communications will be confirmed in writing. Other communications will be confirmed on written request in each case.

102.06 CUTTING AND PATCHING OF WORK

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

The Contractor shall not damage or endanger any portion of The Work or the work of Metra or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of Metra or any separate contractor except with the written consent of Metra and of such separate contractor. The Contractor shall not unreasonably withhold from Metra or any separate contractor his consent to cutting or otherwise altering The Work.

102.07 FIELD TRAILER

The Contractor shall provide office space for the Resident Engineer and/or Metra Inspector and shall permit his presence in the production and/or construction area at all reasonable times. Such office space shall be adequate, in the opinion of Metra, for the intended purpose, and shall be equipped, utilities supplied, furnished, maintained, cleaned and security protected as necessary, by the Contractor in a manner equivalent to that provided by the Contractor for performing similar functions within his own shop and office facilities.

103 CONTROL OF THE WORK

103.01 AUTHORITY AND DUTIES OF THE PROJECT MANAGER

As the direct representative of the Director, the Project Manager has immediate charge of the engineering details of each construction project.

The Project Manager shall have the right to determine and decide all questions which may arise as to the quality and acceptability of materials furnished and work performed; the manner of performance and the rate of progress of The Work; all questions which may arise as to the interpretation of the Contract Documents relating to The Work; all questions as to the acceptable fulfillment of the Contract on the part of the Contractor; and to determine the amount and quantity of the several kinds of work performed and materials which are supplied which are to be paid for under the Contract.

The Project Manager shall have the power to direct Contractor compliance with the Contract. Failure of the Contractor to comply with such directives of the Project Manager shall be sufficient grounds for the Director to impose sanctions against the Contractor, including, but not limited to, the suspension of Progress Payments, suspension of Work without entitlement to extra compensation or time completing The Work and declaration of default.

The Contractor shall forward all communications to Metra through the Project Manager.

103.02 AUTHORITY AND DUTIES OF THE INSPECTOR

Inspectors employed by Metra will be authorized to inspect all Work done and materials furnished. Such inspection may extend to all or any part of The Work and to the preparation, fabrication or manufacture of the materials to be used. On projects which are not assigned a Resident Engineer, the Inspector shall assume the authority and duties of a Resident Engineer as a direct representative of the Director.

103.03 COORDINATION OF THE WORK

The Contractor and all subcontractors shall cooperate with and assist each other in conformance with trade jurisdictional rulings and shall perform The Work which properly comes under jurisdiction of the trade that each represents. Where jurisdictional rules require assistance of mechanics or that trade, in handling of equipment furnished by others, or in The Work of other trades, the Contractor shall provide such assistance.

The Contractor shall be responsible to Metra for all acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of The Work under a contract with the Contractor.

The Contractor shall not be relieved from his obligation to perform The Work in accordance with the Contract Documents either by the activities or duties of the Project Manager in His administration of the Contract, or by inspections, tests, or approvals required or performed under Section 115 by persons other than the Contractor.

The Contractor shall coordinate The Work to achieve a complete, workmanlike installation for each condition and shall consult the Contract Documents to determine the extent that the work of all trades affects The Work. Costs of repairs or alterations of Work in place made necessary by failure to observe this requirement shall be paid by the Contractor.

103.04 COOPERATION WITH UTILITIES

All known existing utilities (underground and overhead) are indicated on the Plans.

The Contractor shall take precaution not to disturb these lines or any other lines that may be encountered, until arrangements for rerouting these services are completed. The Contractor shall cooperate with Municipalities and Public Utility Companies performing work in connection with rerouting these services or maintaining them if they are to remain in place.

Specific responsibilities of the Contractor for work on or in connection with existing utilities other than general stipulations of this article, are set forth in appropriate sections of the specifications.

It is the responsibility of the Contractor to report to the Project Manager immediately if a utility line or service of any kind is encountered unexpectedly, and to protect and maintain it until instructions for its disposition can be issued.

103.05 REFERENCE TO STANDARDS

Where materials or devices are specified herein, by reference to Government, manufacturer's association or professional society standards, the latest edition of such standards/specifications shall have the same force and effect as if set forth in full in these Conditions. Such agencies may be identified in Specifications by initials, such as ASTM (American Society for Testing and Materials), etc.

103.06 SAFETY

The Contractor shall coordinate all safety precautions and programs of each subcontractor. He shall have sole responsibility for providing a safe place to work and for full compliance with all applicable statutory provisions. The Contractor at all times, shall keep the premises free from accumulation of waste materials or rubbish caused by his operations.

The Inspector shall mandate hard hat areas if the Contractor fails to indicate those areas on the construction site.

The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on The Work any unfit person or anyone not skilled in the task assigned to him.

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with The Work.

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- 1) all employees on The Work and all other persons who may be affected thereby;
- 2) all The Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors;
- 3) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavement, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
- 4) the public using the open portion of the Project Site.

The Contractor shall comply with all applicable laws, ordinances, rules, regulations and order of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain, as required by existing conditions and progress of The Work, all reasonable safeguards for safety and protection, including posting danger signs and other warning against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

All damage or loss to any property referred to in this section caused in whole or in part by the Contractor, any Subcontractor or anyone directly or indirectly employed by any one of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, except damage or loss attributable to faulty Drawings or Specifications or to the acts or omissions of Metra or by anyone employed by them or for whose acts they may be liable, and not attributable to the fault or negligence of the Contractor.

The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents.

The Contractor shall not load or permit any part of a structure to be loaded so as to endanger its safety.

103.07 PRODUCT OPTIONS

Where the phrase "or approved equal" appears, the Contractor may offer products of other manufacturers for consideration. Submittals shall be made to the Project Manager within thirty (30) days after the Notice-to-

Proceed or date of Contract, whichever is earlier. Requests for approval of a substitute shall state the amount to be added or subtracted from the Base Proposal including all cost changes caused to other trades, contractors or subcontractors by substitution.

The Contractor shall submit all data necessary to evaluate substitutions offered for approval.

Delay in delivery of substituted items shall not be cause for change of Operations Schedule.

103.08 RAILROAD COORDINATION

A. Railroad Flagman Requirements

Railroad Flagmen are generally personnel from the Railroad who act as warning devices for the approach of trains. They can not authorize any deviations to the plans and specifications, or approve or inspect work. Railroad Flagmen will not be used as on-street flagmen. On-street flagmen are the responsibility of the Contractor.

Railroad flagmen may work a maximum of twelve (12) hours a day, although in most cases in the Suburban territory, curfews exist that do not allow work during rush hour periods. The length of the working day must be established with the Railroad before work is started. (See Work Curfew below).

At no time will machinery be allowed to cross the tracks or set up on the tracks without prior permission from the Railroad's authorized representative. This type of work will require special protection and should be avoided.

Railroad flagmen must be ordered with a two (2) working day notice to the Railroad. When notice is given, the following information must be provided:

Contractor's Name	Billing Address
Project Name	Location of Work
Starting Time	Number of Days Needed
Phone Number	Grant Number

Any time work is performed within 25 feet of the center of the nearest set of rails, flagmen will be necessary. Railroad flagmen may also be required as the Railroad deems necessary.

There are a limited number of flagmen available. Every reasonable effort will be made to provide the Contractor with a railroad flagman, however, if the railroad flagman is not present as requested, the appropriate railroad official must be notified BEFORE WORK IS TO BEGIN. AT NO TIME MAY THE CONTRACTOR WORK WITHIN 25 FEET OF THE TRACK WITHOUT A FLAGMAN.

When a railroad flagman informs the Contractor's foreman that a train is approaching, ALL WORK MUST CEASE AND OPERATORS CLEAR THE TRACKS and dismount machines. If this is not done, the flagman will not allow the train to pass. Any train delays of this type will not be tolerated. Damages may be assessed the Contractor for train delays of this type.

Railroad flagmen will be provided to the job at no cost to the Contractor. However, if a railroad flagman is requested and supplied and the contractor does not work, then the contractor shall be responsible for paying for the flagman's time.

B. Work Curfew

No work will be done during morning and evening rush hours. These no work hours are generally between 6:00 AM to 9:00 AM and 3:00 PM to 7:30 PM, Monday through Saturday. These restrictions MAY BE MORE SEVERE depending on the station or line where the Contractor is working. The exact curfew for each location MUST be established with the Railroad/Operating Department before The Work is started. More severe work hours may be established in the contract specifications.

C. Passenger/Pedestrian Protection

All work must be protected by a barricade system and proper signage, as required by the Railroad/Authorized representative. No barricading can be placed closer than 8'-6" to the centerline of the nearest track. Excavations will be covered and/or completely surrounded with a positive barrier.

D. Work Scheduling and Notification

Work must be scheduled and progress in such a manner as to reduce the impact on the commuting public. All requests to close a portion of the platform must be scheduled in advance and permission granted by the Railroad/Authorized representative. A copy of the weekly schedule of activities must be presented to the Railroad/Authorized representative prior to the week's activities. A clear understanding of the contractor's activities and permission to proceed with construction work that impacts commuters must be obtained. Only a portion of the platform may be taken out of service at any time for reconstruction.

E. Failure to Comply

Should there be any violation of these restriction, a stop work order will be issued and all work will cease until the Railroad and Metra are satisfied that all problems are resolved and the requirements of this condition are met. No costs of a work stoppage may be passed on to the Railroad or Metra.

F. Weekend, Holiday and Night Work

The Contractor may be allowed to work weekends, holidays, or after hours at night. All arrangements must be made two (2) days in advance for site access, station security and lock-up. All work must be approved in advance and coordinated with the Railroad operations.

103.09 ADMINISTRATION OF THE CONTRACT

The Resident Engineer will provide administration of the Contract under the direction of the Project Manager as hereinafter described.

The Project Manager will be Metra's representative during construction and until final payment is due. The Resident Engineer will advise and consult with the Project Manager. Metra's instructions to the Contractor shall be forwarded through the Project Manager. The Resident Engineer will have authority to act on behalf of Metra only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance as outlined below.

The Project Manager, Inspector and Resident Engineer will visit the site at intervals appropriate to the stage of construction to familiarize themselves generally with the progress and quality of The Work and to determine in general if The Work is proceeding in accordance with the Contract Documents. However, these parties will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of The Work. On the basis of their on-site observations, they will keep Metra informed of the progress of The Work, and will endeavor to guard Metra against defects and deficiencies in The Work of the Contractor.

Neither the Project Manager, Inspector, nor Resident Engineer will be responsible for and will not have control or charge of construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with The Work, and will not be responsible for the Contractor's failure to carry out The Work in accordance with the Contract Documents. They will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of The Work.

The Project Manager, Inspector, and Resident Engineer shall at all times have access to The Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so that they may perform their functions under the Contract Documents.

Based on the Inspector's observations and an evaluation of the Contractor's Applications for Payment, the Project Manager will determine the amounts owing to the Contractor and will approve his Applications for Payment in such amounts, as provided in Section 117.03.

The Project Manager will be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by the Contractor.

The Resident Engineer will render interpretations necessary for the proper execution or progress of The Work, with reasonable promptness and in accordance with any time limit agreed upon. The Contractor may make written request to the Resident Engineer for such interpretations.

All interpretations and decisions of the Resident Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

The Inspector shall have the authority to reject work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he shall have the authority to require special inspection or testing of The Work in accordance with Section 115, whether or not such Work be then fabricated, installed, or completed. However, neither the Inspector's authority to act under Section 115, nor any decision made by him in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Inspector to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of The Work.

The Consultant will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for conformance with the design concept of The Work and with the information given in the Contract Documents. Such action will be taken with reasonable promptness so as to cause no delay. The Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

The Project Manager will prepare Change Orders in accordance with Section 119.01, and will have authority to order minor changes in The Work as provided for in Section 119.02.

The Project Manager, Resident Engineer and the Inspector together will conduct inspections to determine the dates of Substantial Completion and Final Completion, will receive and forward to Metra for Metra's review written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a Final Certificate for Payment upon compliance with the requirements of Section 118.02.

The duties, responsibilities, and limitations of authority of the Project Manager and Inspector as Metra's representatives during construction as set forth in the Contract Documents will not be modified or extended without written consent of Metra.

103.10 INFORMATION AND SERVICES REQUIRED OF METRA

Metra shall secure and pay for easements for permanent structures or permanent changes in existing facilities. Information or services under Metra's control shall be furnished by Metra with reasonable promptness to avoid delay in the orderly progress of The Work.

103.11 USE OF SITE

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

The Contractor shall stage and carry out The Work in such a fashion as to keep the project site available for continuous operation as a commuter train station throughout the course of The Work.

During the course of The Work, the Contractor shall provide and maintain all necessary barricades, detours, signage, temporary lighting and other temporary utilities under the direction of the Project Manager that will allow for the continuous safe and timely usage of the site as a commuter train station.

104 BIDDER'S EXPENSE

All costs and expenses incurred by bidders in connection with submitting bids for work and materials covered by the accompanying drawings and specifications shall be paid by the Contractor submitting the bid, no such cost nor expense shall be paid for by Metra.

105 CONTRACTOR'S SUBMITTAL REQUIREMENTS

105.01 NOTIFICATION OF SUBCONTRACTS

The Contractor shall notify Metra of his/her intention to subcontract a portion of the work which the Contractor is responsible for, no less than two (2) weeks prior to the start of The Work that is to be subcontracted. The Contractor shall submit to the Project Manager a completed "Notification of Intent to Subcontract" form for each subcontract. (See Attachment "A")

The Contractor shall not contract with any such proposed person or entity to whom Metra has made reasonable objection. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.

If Metra has a reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom Metra has no reasonable objection, however, no increase in the Contract Sum shall be allowed for any such substitution.

The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if Metra makes reasonable objection to such substitution.

105.02 PROGRESS SCHEDULES

Prior to the start of construction, the Contractor shall submit a satisfactory progress schedule or critical path schedule which shall show the proposed sequence of work for Metra's review and approval. The schedule shall include the dates of all milestone submittals. The Contractor shall be responsible for maintaining and keeping current this schedule for referral during weekly progress meetings, any deviations from, or revisions to, this schedule must be submitted to the Project Manager for approval.

105.03 AS-BUILT PLANS

The Contractor shall maintain a record set of drawings, showing all changes made to the original plans, on site at all times at the disposal of the Project Manager and for reference at all progress meetings. Upon completion of the project, prior to project closeout, one (1) set of marked-up prints for as-built plans, reflecting all changes to the original plans, shall be submitted to Metra for their records as directed in Section 109.03.

105.04 SCHEDULE OF VALUES

The Contractor shall submit a schedule of values to Metra for approval prior to the start of The Work. No payments will be made until a schedule of values has been approved.

105.05 SHOP DRAWINGS

As part of the Contract Documents, the Contractor shall be supplied with a list of shop drawings that he is required to submit for each project. This list will be a form that must be completed by the Contractor prior to the start of The Work, that will indicate the date that the Contractor will submit each shop drawing.

The Contractor is required to submit six (6) sets of original copies of each shop drawing for Metra's review.

Metra requires a minimum of two (2) weeks for shop drawing review.

106 MEASUREMENT

106.01 MEASUREMENT OF QUANTITIES

All work completed under the Contract will be measured by the Project Manager or Inspector according to the United States standard measures. No deduction will be made for fixtures in the pavement having an area of 9 square feet or less. For all transverse measurements for areas of base courses, surface courses, pavements and shoulders, the dimensions used in calculating the pay areas shall be the exact horizontal dimensions shown on the plans, or the dimensions ordered in writing by the Project Manager.

106.02 DIMENSIONS

The Contractor shall verify dimensions at the site for built-in Work and for Work adjoining that of other traces and for dimensions shown to existing structures or installations. The Contractor shall promptly notify the Project Manager of any discrepancies.

107 LAYOUTS AND LEVELS

The Contractor shall engage the services of a Licensed Surveyor to establish corners and to establish or verify a permanent bench mark. The Surveyor shall be required to advise the Contractor in writing of all errors in survey which may in any way affect The Work and the Contractor shall transmit notices of such errors to the Project Manager in writing.

The Contractor shall establish principal lines, grades, level and corners and shall set and maintain adequate batter boards and reference points thereof. The Contractor shall lay out his Work to dimension from principal lines and shall be responsible for layout of his Subcontractor's Work.

108 TEMPORARY FACILITIES AND CONTROLS

108.01 BARRICADES AND LANTERNS

The Contractor shall provide barricades, lanterns and other temporary protection required by codes, ordinances and authorities having lawful jurisdiction, or by considerations of general safety around openings in floors, walls and open pits or trenches of the structure except as other contractors provide as a part of their contracts.

108.02 WATER CONTROL

The Contractor shall at all times protect excavation, trenches and buildings from damage by precipitation, spring water, ground water, backing up of drains or sewers and all other water. The Contractor shall construct and maintain temporary facilities necessary to divert water away from excavations and do pumping necessary to keep excavations and floors free of water at all times.

108.03 WEATHER

The Contractor shall at all times prevent injury or damage to his Work, materials, apparatus and fixtures due to precipitation, wind, storm, cold or heat.

At the end of each working day, all Work subject to damage by weather and all points where water or cold may enter any structures shall be covered and protected.

All Work damaged by failure to provide or maintain protection shall be removed and replaced with new Work at no expense to Metra.

The Contractor shall protect materials stored at the site to prevent damage from the elements.

108.04 PROTECTION AGAINST DAMAGE

The Contractor shall provide and maintain protection of The Work in place or materials stored at the site, including that of other contractors, against damage from his operations, and he shall be responsible for the repair or replacement of work so damaged. The Contractor shall be responsible for protection of all materials stored at the site and shall be responsible for any losses from theft of material in place or stored at the site. The Contractor may choose to insure the risk from theft, self-insure or employ watchmen or a watch service.

108.05 TEMPORARY TOILETS

The Contractor shall provide from the start of The Work, until completion, a chemical type temporary toilet and shall maintain and service same and provide tissue.

108.06 TEMPORARY HEAT AND BUILDING PROTECTION

The Contractor shall expedite The Work so that construction of exterior walls and roof will be completed at the earliest possible date. The Contractor shall expedite the completion of the roofing and close openings in exterior walls if necessary to provide proper working conditions during cold or inclement weather, and to protect the building and The Work installed therein.

Closures shall consist of the specified construction for each opening, or may be temporary closures of transparent plastic equal to polyethylene not less than six units in thickness, or other similar and approved protective materials.

Once the building or any part thereof is enclosed and installation of finished Work is started, it shall be so maintained that temperatures for the entire area will not fall below 60 degrees or become excessively humid, until all Work has been completed, turned over and accepted by Metra.

The Contractor shall pay all costs of fuel, utilities and supplies and all costs of setting and removing any temporary heating devices.

108.07 TEMPORARY WATER SUPPLY

The Contractor shall provide and maintain water service at all times for construction operations.

108.08 TEMPORARY ELECTRIC SERVICE

The Contractor shall arrange with the local utilities company for 220 volt, three phase electrical service of adequate capacity for his own use and the use of all subcontractors on The Work during the construction period. The Contractor shall pay all costs of wiring for temporary service, including connectors to source and the running of three phase wiring of adequate size from the location designated by the utilities company to a centrally located spot on the construction site.

The Contractor shall provide a meter and fused main cutoff switch at the building and shall run temporary electric lines with branch switches to provide lighting and taps for electric tools, pumps and other equipment used on The Work.

The Contractor shall remove all temporary wiring upon completion of The Work.

108.09 CONSTRUCTION HOISTS, STAIRS AND LADDERS

The Contractor shall provide and erect all hoists, derricks, special tools and machinery necessary to install all materials and equipment and shall properly maintain them during construction.

108.10 SCAFFOLDING AND RUNWAYS

The Contractor shall furnish and maintain all scaffolding and runways necessary for completion of The Work. Scaffolding and runways shall conform to all applicable laws, ordinances and codes. The Contractor shall be responsible for the strength and safety of his scaffolds.

108.11 PEDESTRIAN CONTROL

The Contractor shall provide pedestrian control as described in the plans which may include, but not be limited to, temporary sidewalks, fences, access points, lighting, signs, shelter, and overhead protection. The Contractor, to the extent possible, shall minimize the disruption to the existing pedestrian movements and ensure the safety of the public in conjunction with The Work.

The inspector shall have the option to direct the Contractor, with written notification, to modify the pedestrian control should he deem it necessary for proper operation of the station.

109 PROJECT CLOSEOUT

109.01 GUARANTEE

The Contractor shall submit a written warranty that all Work fully complies with the Contract Documents.

The Contractor shall submit a written certificate whereby he guarantees that he will correct any defective or non-conforming Work, when notified by Metra within one year after the date of final acceptance of The Work as defined in Section 118.02.

The warranty on the portions of The Work accepted for Substantial Completion as defined in Section 118.01 shall be one year from the date of acceptance of Substantial Completion for that Work only. The warranty on the remainder of The Work shall extend as described above.

The Contractor shall note that the one year guarantee may exceed some manufacturer's normal product warranties. Guarantees will not be waived if they exceed manufacturer's product warranties.

If the Project Manager or Inspector finds any items of The Work incomplete at the time of final acceptance, the date of guarantee on that item of The Work shall commence at the time of its acceptance as complete. The Contractor shall submit a separate guarantee for such items. The project will not be considered finished and final payment will not be made until the final punch list is complete and approved by the Project Manager.

Correction of defective or non-conforming Work shall include replacement, repair and refinishing to the satisfaction of Metra of all damage done to The Work, or to the work of other trades as a result of corrective actions.

Corrective Work shall be covered by an additional one year guarantee, dated from final acceptance of such Work.

109.02 FINAL CLEANING

Upon completion of The Work, the Contractor shall remove from the site and properly dispose of all tools, equipment, surplus material and rubbish pertaining to his Work. The Work, when cleaned, will be ready for occupancy by Metra after approval by the Project Manager. If the Contractor fails to clean up at the completion of The Work, Metra may do so, and the cost thereof shall be charged to the Contractor.

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up, Metra may clean up and charge the cost thereof to the contractors responsible therefor as the Project Manager shall determine to be just.

109.03 PROJECT RECORD DRAWINGS

As The Work progresses, the Contractor shall record all as-built locations of all underground or concealed-in-construction utilities, by dimensioning them to permanently fixed visible reference points.

The Contractor shall record all minor field changes ordered by the Project Manager.

The Contractor shall record all changes made by Addenda, indicating Addendum number.

All marks shall be made legibly with a sharp pencil and wording lettered. Dimensions shall be in feet and inches. Every item shall be dimensioned to give its exact location from at least two reference points.

At the end of The Work, the Contractor shall prepare a complete set of "As-Built" drawings. All notes and changes previously recorded during the progress of The Work shall be transferred to a set of original prints to be presented to Metra. This includes all forms and specifications.

109.04 OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

All Drawings, Specifications, and copies thereof furnished by the Consultant are and shall remain the property of Metra. They are to be used only with respect to this Project and are not to be used on any other project. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Project Manager on request at the completion of The Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of Metra's common law copyright or other reserved rights.

110 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

110.01 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for The Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of The Work.

110.02 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of The Work.

110.03 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which The Work will be judged.

110.04 By reviewing and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements and field construction criteria thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of The Work and of the Contract Documents.

110.05 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Consultant's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submission and the Project Manager has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Consultant's approval thereof.

110.06 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Consultant on previous submittals.

110.07 No portion of The Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Consultant as provided. All such portions of The Work shall be in accordance with approved submittals.

111 INDEMNIFICATION

111.01 In any and all claims against Metra or any of its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them

may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation act, disability benefit act or other employee benefit acts.

- 111.02** The obligations of the Contractor under this Section shall not extend to the liability of Metra, its agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs, change orders or specifications, or (2) the giving of or the failure to give directions or instructions by Metra, its agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

112 SUBCONTRACTURAL RELATIONS

By an appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of The Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward Metra. Said agreement shall preserve and protect the rights of Metra under the Contract Documents with respect to The Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against Metra. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor, prior to the execution of the Subcontract, shall provide to the Subcontractor copies of the Contract Documents to which the Subcontractor will be bound by this Section, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such documents available to his Sub-subcontractors.

113 METRA'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

Metra reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Contractor claims that delay or additional cost is involved because of such action by Metra, he shall make such claim as provided elsewhere in the Contract Documents.

When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Metra-Contractor agreement.

Metra will provide for the coordination of The Work of its own forces and of each separate contractor with The Work of the Contractor, who shall cooperate therewith as provided in Section 114, unless specifically called for on the plans that the Contractor shall provide coordination of all work, including railroad force work.

114 MUTUAL RESPONSIBILITY

The Contractor shall afford Metra and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents.

If any part of the Contractor's Work depends for proper execution or results upon the work of Metra or any separate contractor, the Contractor shall, prior to proceeding with The Work, promptly report to the Project Manager any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acceptance of Metra's or separate contractors' work as fit and proper to receive his Work except as to defects which may subsequently become apparent in such work by others.

Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

Should the Contractor wrongfully cause damage to the work or property of Metra, or to other work on the

site, the Contractor shall promptly remedy such damage.

115 TESTS

If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of The Work to be inspected, tested or approved, the Contractor shall give the Project Manager timely notice of its readiness so the Inspector may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals required by public agencies due to local ordinances.

If the Project Manager or the Inspector determines that any Work requires special inspection, testing or approval which this section does not include, he will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided previously. If such special inspection or testing reveals a failure of The Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof; otherwise, Metra shall bear such costs, and an appropriate Change Order shall be issued.

Required certificates of inspection, testing or approval shall be secured by the Contractor and promptly delivered by him to the Project Manager.

116 DELAYS AND EXTENSION OF TIME

If the Contractor is delayed at any time in the progress of The Work by any act or neglect of Metra, or by a separate contractor employed by Metra, or by changes ordered in The Work, or by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by Metra, or by any other cause which the Project Manager determines may justify the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Project Manager may determine.

Any claim for extension of time shall be made in writing to the Project Manager not more than twenty days after the commencement of the delay; otherwise it shall be waived. In the case of a continuing delay only one claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of The Work.

117 PAYMENT

117.01 PAYMENTS

Payments will be made as provided in the Contract Documents unless otherwise authorized in writing by Metra, the items of Work for which payment will be made shall be limited to those listed and enumerated in the Contract Documents. The unit prices or lump sum price or prices stated in the Contract Documents will be used in determining the amount to be paid and shall constitute full and final compensation for all Work.

Metra may withhold interim and/or final payments to the Contractor, pending the Contractor's submission (in accordance with I1, Rev. Stat. 1954, Chap. 82 Sec. 5) to Metra of a sworn statement, stating the names of all parties furnishing, or who have furnished, material and/or labor and the amounts due, or to become due to each.

117.02 NON-FIXED PRICE PORTIONS OF THE CONTRACT

If any portion of this Contract is on other than a fixed price basis, and the Contractor has reason to believe that the costs of the non-Fixed Price portion(s) which he expects to incur thereunder in the next thirty (30) days, when added to the costs previously incurred, will exceed eighty-five percent (85%) of the estimated cost thereof, the Contractor shall notify Metra in writing to that effect giving a revised estimate of the total cost of performance of that portion(s) of the Contract.

Metra shall not be obligated to pay the Contractor in excess of the established amount(s) for labor and materials for any non-Fixed Price portion of the Contract, unless Metra notifies the Contractor in writing that the estimated cost for same has been increased.

Metra reserves the right to renegotiate unit prices as necessary due to changes in the scope of work or bid quantities. Unit prices will not vary due to changes in the bid quantity unless the bid quantity changes by more than 20%.

The Contractor shall be reimbursed only for the actual amount paid to Subcontractors for materials under the non-Fixed Price portion of the Contract. No payment of any kind shall be made to the Contractor as a part of the material(s) cost for letting, administrative handling or supervising the acquisition of the material(s).

Metra and the Contractor must execute the Field Inspection Report prior to Metra making payment(s) to the Contractor. When Time and Material and/or Unit Price is provided for in the Contract Documents, Metra and the Contractor must additionally execute, for said Work each day, a "Daily Report", to permit payment for same.

117.03 PROGRESS PAYMENTS

It is agreed by Metra that estimates shall be made during the progress of The Work on or about the first of each month and that payment shall be made by Metra upon the estimate and certification by the Contractor a net thirty (30) days after receipt by Metra of invoice or completion of The Work.

Ten percent (10%) will be retained from the cost of The Work until such time as all Work provided for in the Contract Documents is completed and accepted. On Contracts in excess of \$1,000,000.00, retention will be

reduced to five percent (5%) at the completion and acceptance of eighty percent (80%) of The Work.

The Contractor's Application for Payment shall be on a Walker Form or a Cole Form or an identical computerized form, itemizing the Contractor's mobilization, general conditions and all areas of construction not subcontracted, profit and overhead, and all Subcontractor contracts with each Subcontract receiving a separate line representing the total of that Subcontract.

Chicago Title & Trust type waivers (pink and blue forms) shall be included for the previous monthly draw.

Draws must be approved by the Project Manager or Inspector prior to submittal.

117.04 PAYMENTS WITHHELD

The Project Manager may decline to certify payment if, in his opinion, he is unable to make representation as to the accuracy of the Application for Payment. If unable to do so, the Project Manager shall promptly indicate to the Contractor which portion of the Application for Payment can be accurately verified. The Contractor shall then submit a revised Application for Payment which can be verified for accuracy by the Project Manager.

The Project Manager may also decline to approve payment or, because of subsequently discovered evidence or subsequent observations, he may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in his opinion to protect Metra from loss because of:

1. Defective Work not remedied
2. Third party claims filed or reasonable evidence indicating probable filing of such claims
3. Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment
4. Failure of the Contractor to submit the appropriate Chicago Title & Trust type waivers from the previous month's Application for Payment
5. Reasonable evidence that The Work cannot be completed for the unpaid balance of the Contract Sum
6. Damage to Metra or to another contractor
7. Reasonable evidence that The Work will not be completed within the Contract Time, or
8. Persistent failure to carry out The Work in accordance with the Contract Documents.

When the above grounds have been corrected, payment shall be made for the amount withheld because of them.

118 COMPLETION OF PROJECT

118.01 SUBSTANTIAL COMPLETION

When the Contractor considers that The Work, or a designated portion thereof which is acceptable to Metra, is substantially complete as defined in Section 101, the Project Manager shall prepare for submission to the Contractor a "punch list" of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. When the Project Manager determines that The Work or designated portion thereof is substantially complete, he shall fix the time within which the Contractor shall complete all items on the list.

Upon Substantial Completion of The Work or designated portion thereof and upon application by the Contractor and certification by the Project Manager, Metra shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents.

118.02 FINAL COMPLETION AND FINAL PAYMENT

Upon receipt of written notice that The Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Project Manager will promptly make such inspection and, when he finds The Work acceptable under the Contract Documents and the Contract fully performed, he will promptly approve the final Application for Payment and the Contractor shall receive the entire balance remaining for the Contract, subject to the conditions stated below.

Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Project Manager (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with The Work for which Metra might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as is designated by Metra. If any Subcontractor refuses to furnish a release or waiver required by Metra, the Contractor may furnish a bond satisfactory to Metra to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to Metra all moneys that the latter will be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

If, after Substantial Completion of The Work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the Project Manager so confirms, Metra shall, upon application by the Contractor, make payment of the balance due for that portion of The Work fully completed and accepted.

The making of final payment shall constitute a waiver of all claims by Metra except those arising from:

- (1) unsettled liens
- (2) faulty or defective Work appearing after Substantial Completion.
- (3) failure of The Work to comply with the requirements of the Contract Documents, or
- (4) terms of any special warranties required by the Contract Documents.

The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

118.03 LIQUIDATED DAMAGES

The Contractor will be charged the amount specified in the Contract per day for every calendar day beyond the number of days specified in his proposal for final completion as defined in Section 118.02. The date of final completion may be extended only by a properly executed Change Order as outlined in Section 119.01.

119 CHANGES IN THE WORK

119.01 CHANGE ORDERS

Metra, without invalidating the Contract, may order Changes in The Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such Changes in The Work shall be authorized by Change Order and shall be executed under the applicable conditions of the Contract Documents.

A Change Order is a written order to the Contractor signed by Metra, issued after the execution of the Contract, authorizing a Change in The Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order.

The cost or credit to Metra resulting from a Change in The Work shall be determined in one or more of the following ways:

1. by mutual acceptance of a lump sum properly itemized;
2. by unit prices stated in the Contract Documents or subsequently agreed upon; or
3. by cost and a mutually acceptable fixed or percentage fee.

If none of the methods set forth in the above is agreed upon, the Contractor, provided he receives a Change Order, shall promptly proceed with The Work involved. The cost of such Work shall then be determined by the Project Manager on the basis of the Contractor's reasonable expenditures and savings, and including, only in the case of an increase in the Contract Sum, an allowance for overhead and profit as defined below. In the case of a net decrease in the Contract Sum, the Contractor and all Subcontractors shall be paid only for Work that was performed prior to the issuance of the Change Order, with allowances for overhead and profit based on the completed Work only. The Contractor shall keep and present, in such form as the Project Manager may proscribe, an itemized accounting together with appropriate supporting data. Pending final determination of cost to Metra, payments on account shall be made. The amount of credit to be allowed

by the Contractor to Metra for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease as confirmed by the Project Manager. When both additions and credits are involved in any one change, the allowances for overhead and profit shall be figured on the basis of net increase, if any.

On contracts less than \$1,000,000.00, the Contractor shall be allowed to add 5% profit and 10% overhead to his and all Subcontractor's itemized statements. On contracts over \$1,000,000.00, the Contractor shall be allowed 5% profit and 5% overhead. The same percentages shall apply to the itemized statements submitted by all Subcontractors to the Contractor.

All Change Orders must be executed and approved by funding agencies and Metra prior to execution.

If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will create an inequity on Metra or the Contractor, the applicable unit prices shall be equitably adjusted.

Should concealed conditions encountered in the performance of The Work below the surface of the ground be at variance with the conditions indicated by the Contract Documents or should unknown physical conditions below the surface of the ground of an unusual nature, differing materially from those normally encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract Sum shall be equitably adjusted by Change Order upon claim by either party made within a reasonable time after the first observance of the conditions.

119.02 MINOR CHANGES IN THE WORK

The Project Manager shall have authority to order minor changes in The Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be effected by Field Order or by other written order. Such changes shall be binding on Metra and the Contractor.

119.03 FIELD ORDERS

The Project Manager may issue written Field Orders which interpret the Contract Documents or which order minor changes in The Work without change in the Contract Sum or Contract Time. The Contractor shall carry out such Field Orders promptly.

120 COMPLETION AND ACCEPTANCE OF WORK

120.01 UNCOVERING AND CORRECTION OF WORK

If any Work is covered contrary to the request of the Inspector, it must, if required by the Inspector, be uncovered for his observation and replaced, at the Contractor's expense.

The Contractor shall promptly correct all Work rejected by the Inspector as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work.

If, within one year after the date of Substantial Completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of The Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from Metra to do so, unless Metra has previously given the Contractor a written acceptance of such condition. Metra shall give such notice promptly after discovery of the condition.

All such defective or non-conforming Work shall be removed from the site where necessary, and The Work shall be corrected to comply with the Contract Documents without cost to Metra.

The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

If the Contractor does not remove such defective or non-conforming Work within a reasonable time fixed by written notice from the Project Manager, Metra may remove it and may store the materials or equipment at

the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, Metra may upon ten additional days written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor. If such proceeds of sale do not cover all the costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to Metra.

The obligations of the Contractor under this Section shall be in addition to and not in limitation of any obligations imposed upon him by special guarantees required by the Contract Documents or otherwise prescribed by law.

120.02 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

If Metra prefers to accept defective or non-conforming Work, it may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the Contract Sum, or, if the amount is determined after final payment, it shall be paid by the Contractor.

120.03 METRA'S RIGHT TO STOP THE WORK

If the Contractor fails to correct defective Work as required by Section 120.01 or persistently fails to carry out The Work in accordance with the Contract Documents, Metra, may order the Contractor, in writing, to stop The Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Metra to stop The Work shall not give rise to any duty on the part of Metra to exercise this right for the benefit of the Contractor or any other person or entity.

120.04 METRA'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out The Work in accordance with the Contract Documents and fails within seven days after receipt of written notice from Metra to commence and continue correction of such default or neglect with diligence and promptness, Metra may, after seven days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy he may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then, or thereafter, due the Contractor the cost of correcting such deficiencies. If the payments then, or thereafter, due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to Metra.

