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**GENERAL SPECIFICATIONS****51.1 DEFINITIONS AND INTERPRETATION**

All definitions, employee titles and Department descriptions are subject to change based on prescribed operational parameters.

**51.1.1 ACTIVITY**

"Activity" shall mean the amount of related Work that applies to a specific operation and may involve one or more bid items.

**51.1.2 BID ITEM**

"Bid Item" shall mean the quantity of Work for which a single unit price is paid.

**51.1.3 CONTRACT**

"Contract" shall mean the written agreement covering the performance of the Work and the supplying of labour, equipment and material required to complete the Work, and shall include, without limiting the generality of the foregoing, the Contractor's Proposal, Security, Plans, Specifications, Special Provisions, notices, supplemental specifications, specification amendments and all supplemental agreements required to complete the Work.

**51.1.4 CONTRACTOR**

"Contractor" shall mean the person agreeing to perform the Work set out in the Contract.

**51.1.5 CONTRACT INSPECTOR**

"Contract Inspector" shall mean the agent or official assigned to the Work by the Engineer, acting within the authority of the Contract Inspector described herein.

**51.1.6 CONTRACTOR'S PROPOSAL**

"Contractor's Proposal" shall mean the document submitted by the Contractor in response to the Department's request for proposals.

**51.1.7 DEPARTMENT**

"Department" shall mean Her Majesty the Queen in right of Alberta as represented by the Department of Transportation and Utilities.

**51.1.8 ENGINEER**

The "Engineer" shall mean the person designated by the Minister to administer Contracts for Maintenance Work, and shall include a person authorized by the Engineer to perform, on his behalf, any of his functions under the Contract.

**51.1.9 IMPLIED PROVISIONS**

In the Contract:

- (a) words importing male persons include female persons and corporations;
- (b) words in the singular include the plural, and words in the plural include the singular;
- (c) the applicable law shall be the law of the Province of Alberta;
- (d) time shall be of the essence; and
- (e) headings and subheadings are not substantive and are inserted for reference only.

**51.1.10 MATERIAL**

"Material" shall mean all or any part of the commodities or other items used or expended in the prosecution of the Work and includes materials furnished by the Contractor or by the Department for use by the Contractor.

**51.1.11 MINISTER**

"Minister" shall mean the Minister of Transportation and Utilities for the Province of Alberta or his authorized representative.

**51.1.12 OPERATIONS MANAGER**

"Operations Manager" shall mean the agent or official assigned to the Work by the Engineer, acting within the authority of the Operations Manager described herein.

**51.1.13 PERSON**

"Person" shall include a corporation or a partnership and the heirs, executors, administrators and/or other legal representatives of a person.

**51.1.14 PLANS**

"Plans" shall include all drawings or reproductions of drawings provided by the Department and pertaining to the Work.

**51.1.15 PROSPECTIVE CONTRACTOR**

"Prospective Contractor" shall mean any individual, partnership, or corporation submitting a proposal for the Work described herein, acting directly or through a duly authorized representative.

**51.1.16 SPECIFICATIONS**

"Specifications" shall include all Specifications and Plans and the directions, schedules, Special Provisions and requirements contained herein, together with all written agreements made or to be made, pertaining to the method and manner of performing the Work, or to the quantities or quality of Material to be furnished under the Contract.

**51.1.17 SURETY**

"Surety" shall mean the person bound with the Contractor to provide security, respectively, for:

- (a) Payment to the Department in the event of default or Contract termination.
- (b) Payment in full for all labour and materials used or reasonably required in the performance of the Contract.

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**51.1.18 WORK**

"Work" shall mean all or any part of the Work to be performed by the Contractor under the Contract, as directed by the Engineer, whether complete or incomplete, and any or all of the equipment, material and labour supplied by or for the Contractor.

**51.1.19 WORK ORDER**

"Work Order" shall mean a written document which identifies a component of the Work to be performed by the Contractor, the bid items to be used, and the required completion date, or reduced response time.

## 51.2 GENERAL SPECIFICATIONS

### 51.2.1 SCOPE OF WORK

This Specification sets out the general requirements for the performance of roadway maintenance operations for a five-year term on Primary Highways and where applicable, on access roads, 900 series Secondary Highways, vehicle inspection stations, roadside turnouts, Rest Areas, Indian Reserve roads etc., within the Province of Alberta. The requirements for maintenance Work will be identified mainly by the Department, and the Work required will usually be defined and issued to the Contractor through a Work Order. However, the Contractor shall respond directly to emergency situations relating to the safety of the travelling public.

The limits of the Contract will be defined on a geographical basis, with predefined Contract limits as indicated on the Contract documents. The Work will not normally include capital construction, pavement rehabilitation or bridge structure related Work unless directed by the Engineer.

The Engineer reserves the right to modify the scope of the roadway systems and other assets to be maintained under the Contract. A reduction in scope will generally result from a change in designation and transfer of the road authority to other Government agencies. However, any corresponding reduction in quantities shall not be considered as a waiver of any condition of the Contract, nor shall any changes be made in the Contract unit prices on account of any such alterations.

### 51.2.2 CONTRACTOR'S PROPOSAL

The Contractor's Work Execution Plan, Environmental Management Plan, Safety Management Plan and any other documentation submitted as part of the Contractor's Proposal shall form a part of this Contract.

The Contractor shall maintain the currency of these documents and shall notify the Engineer of any occurrence which results in a change to these documents.

On an annual basis the Contractor shall provide the Engineer with evidence that the Contractor is able to finance the remainder of the Contract.

### 51.2.3 WORK OUTSIDE CONTRACT BOUNDARIES

The Engineer may direct the Contractor to perform Work outside the specified Contract boundaries. The Work will be limited to Contract-related items. The Engineer may direct the Contractor to perform this Work with other Contractors. Such Work will normally be required for emergency situations in which the safety of the travelling public is an issue or protection of the highway infrastructure is required.

### 51.2.4 CONTRACTING OF OTHER WORK

The Minister reserves the right to contract for the performance of other work at any time within the geographical area of the Contract. Such contracts or agreements may include types of work which are included or identified in this Contract. The types of Work which may be completed through these separate Contracts or agreements include but are not limited to the following:

- (a) Installation of culvert linings,
- (b) Supply and installation or replacement of culverts,
- (c) Crushing and stockpiling of aggregate,
- (d) Brush mowing with a rotary mower,
- (e) Installation of Jersey Barriers,
- (f) Traffic signal maintenance,



- (g) Capital construction work, including major pavement rehabilitation, major seal coat surfacing and any line painting, guardrail construction or permanent highway signing relating to this construction,
- (h) Specific bridge maintenance and repair work, and
- (i) Significant erosion control or other environmental improvements.

## 51.2.5 GUARANTEED ANNUAL PAYMENT

### 51.2.5.1 Minimum and Average Annual Payment

The Department guarantees a total minimum and average annual payment to the Contractor based on projected costs as calculated in Section 51.2.5.2 and on the following basis:

- For full years of the contract, a minimum annual payment of 75% (Exclusive of escalation/de-escalation).
- Notwithstanding the minimum annual guarantee of 75% (Exclusive of escalation/de-escalation), the **Contractor is assured of an average annual payment of 85%** (Exclusive of escalation/de-escalation) over the term of the contract.

These amounts are based on a complete fiscal year from April 1 to March 31 and will be prorated for partial fiscal years depending upon commencement and completion dates of the contract extension.

### 51.2.5.2 Calculating Minimum and Average Annual Payments

In calculating the minimum and average annual payments, the total yearly projected revenue will be based on the first year Provisional Quantities (shown in the revised unit price schedules for the maintenance contract extensions) multiplied by the bid price plus the following Direct Operating Cost bid items:

Truck availability  
Highway Maintenance Work - Summer  
Highway Maintenance Work - Winter  
Direct Operating Costs

### 51.2.5.3 Work Quantities

An Activity may be comprised of several bid items which may be used in several combinations to order the work required. The Engineer will determine the bid items to be used in performing the work for a specific Activity. The Contractor is advised that the unit price of the various bid items may be a factor considered by the Engineer when selecting the bid items for completion of the Work.

The provisional quantities identified in the 1998 request for proposal are presented at the bid item level and generally represent a typical complete Department fiscal year from April 1 to March 31. (The quantities are based on an average of typical previous winter quantities and projected summer quantities for 1998) These provisional quantities are approximate only and will be used as a component of the evaluation of the proposals.

The actual quantities of Work required for each bid item, each year, will be determined by the Engineer.

**51.2.5.4 Bid Items which do not Require New Unit Prices**

As indicated in the Request For Proposals for the Extensions to the Highway Maintenance Contracts, there are bid items which have no provisional quantity, and on which the Contractor is not permitted to submit a new price and for which the original unit price (marked up for inflation) has been retained. In situations during the remaining term of the contract where both the Engineer and the Contractor mutually agree that such prices are not suitable for the scope of the Work actually required, new prices may be negotiated on an as required basis. The new price(s) will apply to the 'negotiated' Work only.

**51.2.6 EXAMINATION OF WORK****51.2.6.1 Prospective Contractor's Investigation**

The Prospective Contractor shall examine the Plans, Specifications and Contract forms and carefully investigate and satisfy himself of every condition affecting the Work, including the site conditions and the labour and material to be provided. Submission of a proposal shall be conclusive evidence that the Prospective Contractor has made such investigation and assumes all risk regarding conditions affecting the Work.

**51.2.6.2 Hierarchy Of Documents**

In the event of discrepancies, the hierarchy of documents shall be as follows, in descending order:

- special provisions (contained in 1998 Request for Proposals for Maintenance Contract Extensions)
- specification amendments (contained in 1998 Request for Proposals for Maintenance Contract Extensions)
- supplemental specifications (contained in 1998 Request for Proposals for Maintenance Contract Extensions)
- special provisions (contained in existing contract)
- specification amendments (contained in existing contract)
- plans
- general specifications
- technical specifications
- mobilization plan
- Work execution plan

In the event of a difference between scaled dimensions on Plans and the figures written thereon, the figures shall govern. In the event that two or more Plans show conflicting information, the information on the most recently dated Plan shall govern.

**51.2.6.3 Deviations From Plans**

No deviation from the Plans or the approved working drawings will be permitted without the written order of the Engineer.

**51.2.6.4 Omissions**

In the event of an omission of any detail from the Specifications or Plans, only the best general practice, in the opinion of the Engineer, is to prevail, and only material and workmanship of the highest quality are to be used.

**51.2.7 REJECTION OF PROPOSALS**

The Minister reserves the right to reject any or all proposals.

Any or all proposals will be rejected if there is reason to believe that collusion exists among the Prospective Contractors, and none of the participants in such collusion will be considered in future proposals.

**51.2.8 COMPETENCY**

Contracts will be awarded only to Prospective Contractors registered with the Corporate Registry, Alberta Registries, Alberta Municipal Affairs.

Contracts will not be awarded to any government agency, including but not limited to the government of Canada, the government of a province or territory of Canada, any agency thereof, or any municipality or other unit of local government within any province, Indian Reserve, Metis Settlement, or territory of Canada.

**51.2.8.1 Safety Prequalification**

Contracts will be awarded only to Prospective Contractors who, prior to the time fixed for receiving proposals, have achieved accreditation/recognition or have enrolled in a safety certification program relevant to this industry and recognized by Alberta Labour, Occupational Health and Safety. Contractors who have not yet achieved accreditation in such a program must do so within 6 months of signing the Contract.

The Prospective Contractor shall also ensure to his satisfaction that any subcontractors/owner- operators are able to comply with all health and safety requirements before commencing the work.

The Department will verify the Prospective Contractor's compliance with this requirement through the Alberta Construction Safety Association.

It is the Prospective Contractor's responsibility to ensure that his registration in the program is properly documented with the Alberta Construction Safety Association, and the Department will assume no liability for errors or omissions by the Alberta Construction Safety Association in this regard.

During the progress of the Work, the Contractor shall complete monthly health and safety summary reports and submit these reports to the Operations Manager at the end of each month.

Annually, during the month of April, the Contractor and Operations Manager shall jointly complete the Project Completion Health and Safety Report.

The Department will provide copies of these forms to the successful Contractor.

**51.2.9 SECURITY**

The successful Contractor shall furnish security, in a form satisfactory to the Minister, in the amount of:

- (a) A liquidated damage of \$250,000 to be paid as a performance security to the Department in the event of Contractor default or Contract termination, as defined in 51.2.24, Default; and
- (b) \$500,000 for payment in full of all claims for labour and material used or reasonably required in the execution of the Contract.

**51.2.9.1 Performance Security**

An irrevocable letter of credit, certified cheque, bank draft, money order or forfeit bond will be the form of security required for the performance of the Contract.

When irrevocable letters of credit are used, they shall comply with the following:

- (a) The irrevocable letter of credit shall be provided by a domestic chartered bank as listed in the Bank Act, Schedule A, Domestic Chartered Banks, Schedule B, Foreign Chartered Banks, or Alberta Treasury Branches.
- (b) Unless otherwise approved by the Engineer, the irrevocable letter of credit shall be worded the same as the sample in the Contract.
- (c) The irrevocable letter of credit shall be renewable in 1 year, shall be in force throughout the term of the Contract, and shall contain an automatic renewal clause that will provide the Department with advance notice of non-renewal a full 90 days before the renewal date.
- (d) Should the Contractor fail to renew the irrevocable letter of credit, the Department will, without further notice, draw funds on the irrevocable letter of credit.

When forfeit bonds are used, they shall comply with the following:

- (a) Unless otherwise approved by the Engineer, the forfeit bond shall be worded the same as the sample in the contract.
- (b) The initial term shall be for a period of 2 years.
- (c) The forfeit bonds shall be subsequently renewed annually for two year terms.
- (d) Should the Contractor fail to renew the bond, the Department will without further notice draw funds on the forfeit bond.

Irrevocable letters of credit, certified cheques, bank drafts, money orders or forfeit bonds will be released:

- (a) upon expiration of the Contract, or
- (b) in cases where Section 51.2.11, Contractor's Warranty applies, after the expiration of the warranty period, provided any repairs are completed to the satisfaction of the Engineer.

**51.2.9.2 Labour and Materials Payment Bonds**

A labour and material payment bond will be the form of security required and shall comply with the following:

- (a) The initial term shall be two years;
- (b) The bonds shall be subsequently renewed annually for two year terms; and
- (c) The labour and materials bond shall remain in place for 120 days after completion of the Contract.

The Department will provide the Prospective Contractor with blank bond forms for completion.

**51.2.10 NOTICE OF CLAIMS INFORMATION**

The Contractor shall post, at his project field office or other conspicuous location accessible to employees, subcontractors, truckers, material suppliers, et cetera, copies of the following:

- Standard Claim Form
- Bond Notice
- Section 14 of the Public Works Act regarding Notice of Claim

These shall be protected in a legible condition for the duration of the Contract. Copies of these documents will be provided to the successful Contractor prior to commencement of the Work.

**51.2.11 CONTRACTOR'S WARRANTY**

During the warranty period, the Contractor shall warrant the Work to be free from any defect or failure and to withstand climatic, maintenance and normal operational conditions. The warranty period for the Work shall be as specified in the Technical Specification applicable to the Work performed. The warranty period shall commence on the date of completion of the Work as determined by the Engineer.

The Contractor shall, at his own expense, repair any such defect or failure which occurs in the Work prior to the expiry of the warranty period. The Engineer will notify the Contractor in writing during the warranty period of repairs required. The Contractor shall make these repairs promptly and in accordance with the method laid out in the original Work Order, and shall give the Engineer a minimum of 2 days notice prior to the repair being carried out.

If the Contractor fails to do the repairs promptly or to the satisfaction of the Engineer, the Engineer may then make other arrangements to have the repairs done, the cost of which shall be a debt due and owing by the Contractor, which the Engineer will deduct from monthly progress payments due the Contractor or draw funds from the performance security provided by the Contractor.

**51.2.12 INSURANCE**

The Contractor shall, without limiting his obligations or liabilities herein and at his own expense, provide and maintain the following insurances in compliance with the Alberta Insurance Act, and in forms and amounts acceptable to the Minister:

- (a) Comprehensive Liability Insurance in an amount not less than five million dollars (\$5,000,000) inclusive per occurrence against bodily injury and property damage, including loss of use thereof. The Minister is not to be added as an insured under this policy. Such insurance shall include but not be limited to:
- Products and completed operations liability,
  - Owner's and contractor's protective liability,
  - Blanket written contractual liability,
  - Contingent employer's liability,
  - Personal injury liability,
  - Non-owned automobile liability,
  - Cross Liability with respect to additional insureds,
  - Employees as additional insureds,
  - Broad form property damage endorsement,
  - Operation of attached machinery,
  - Sudden and accidental pollution,

and where such further risk exists:

- Blasting, Demolition, pile driving, caisson work **or** tunnelling, as applicable,
- Elevator and hoist liability,
- Towing/on hook coverage.

- (b) Automobile liability on all vehicles owned, operated or licensed in the name of the Contractor in an amount not less than five million dollars (\$5,000,000).

The Contractor shall provide the Engineer with a certified true copy of each policy prior to execution of the Contract. The Contractor shall also provide certified copies of the certificate of renewal of the policies, or certified copies of the replacement policies, as evidence that these coverages have been continued, for the duration of the Contract.

The Contractor shall ensure that products and completed operations coverage, as applicable, shall be in force for the duration of any warranty period.

All required insurance shall be endorsed to provide the Engineer with 30 days advance written notice of material change or cancellation.

The Contractor shall require and ensure that each subcontractor provide evidence of comparable insurance to that set forth in clauses (a) and (b) in an amount not less than two million dollars (\$2,000,000).

The Contractor is responsible for insuring his equipment against all risks of accidental loss or damage.

#### **51.2.13 CONTRACTOR'S DUTY AND INDEMNIFICATION**

The Contractor shall indemnify and hold harmless the Minister, his employees and agents from any and all claims, demands, actions and costs whatsoever that may arise directly or indirectly out of any act or omission of the Contractor, his employees or agents in the performance of the Work.

Such indemnification shall survive the Contract.

The Contractor shall ensure that his forces and those of all subcontractors use due care to ensure that no person is injured and no person's property damaged in the prosecution of the Work. Without restricting the generality of the foregoing, the Contractor shall, at his own expense, make such provisions as may be necessary to avoid any such injury or damage.

All claims for injury, loss or damage arising in connection with the Work will be referred to the Contractor who shall deal with each claim in a fair and reasonable manner. The Contractor shall respond to each claimant in writing, setting out the Contractor's position with respect to the claim.

If the Contractor settles the claim, he shall provide the Engineer with written proof that the matter has been resolved. If the Contractor is unable to settle the claim or considers the claim to be invalid, he shall provide the Engineer with written reasons for rejecting the claim.

The Engineer will refer unresolved damage claims of less than \$1,500.00 to an independent adjuster, who will decide on the validity and value of the claim. The adjuster will be appointed by the Department.

If the adjuster decides that the claim is unfounded, the Department will bear the cost of the assessment. In all other cases, the Contractor shall pay the adjuster's fee and the claim and provide the Engineer with written proof that he has done so.

The Department may retain from money due the Contractor the amount of each claim pending its resolution, including payment to the claimant and the adjuster, where applicable.

## **51.2.14 AUTHORIZATION OF WORK**

### **51.2.14.1 General**

The Work to be performed under the terms of the Contract will be identified by activity, and for each activity the bid items necessary to perform the Work will be specified. The Work to be undertaken may be identified by the following process:

- (a) The Engineer will identify and order the Work;
- (b) The Contractor identifies a requirement and makes a recommendation to the Engineer; or
- (c) The public requests work to be done.

The Engineer will identify the scope and nature of the Work to be performed with the exception of emergency Work and re-establishment of critical traffic control signs, which will be dealt with in accordance with Section 51.2.14.2, Emergency Situations, and minor work which is covered in the Highway Maintenance Work bid item.

The Engineer will issue instructions to the Contractor for the performance of the Work. These instructions may be in the form of a written Work Order, written instructions, or verbal instructions.

### **51.2.14.2 Emergency Situations**

Emergency situations will require very short response times by the Contractor and may include Work not specified in the Contract. The response to an emergency situation will be handled in either of the following ways:

- (a) When the Contractor observes an emergency situation or is contacted directly by emergency services such as the RCMP, local fire departments, Disaster Services or other similar agencies regarding an emergency situation, the Contractor shall co-operate with the request and, when necessary, take reasonable steps to ensure safe accommodation of the travelling public and protection of Department assets. The Contractor shall immediately notify a Department representative of any such requests. After the emergency, a Work Order will be issued to the Contractor.
- (b) When the Department receives notification of an emergency situation, the Contractor's representative will be contacted and given verbal authorization to perform the Work. The Contractor shall respond to the Emergency within the time specified by the Department's representative. After the emergency, a Work Order will be issued to the Contractor.

The Contractor shall treat absence of or damage to critical traffic signs, in particular Stop and Yield signs, as an emergency situation. When the Contractor either observes or is informed by the travelling public or notified by the RCMP of an emergency situation involving signage, the Contractor shall immediately take appropriate temporary measures, either installing a temporary sign or performing traffic control measures to ensure the safety of the travelling public, and immediately inform the Engineer.

### **51.2.14.3 Haul of Material**

The Engineer, prior to issuing a Work Order for the supply of material which contains a bid item for haul, will require the Contractor to confirm the source of the material and the haul distance to the Work site. The Engineer reserves the right to limit the distance the Contractor hauls material to those sites identified in the Request for

Proposal. Should the Contractor elect to haul materials from other than the approved sites, all additional costs shall be borne by the Contractor.

#### **51.2.14.4 Examination of Work**

The Contractor, upon receipt of an instruction to perform the Work, shall review the instructions given and satisfy himself that the quantities are reasonable to complete the Work, the warranty requirements are reasonable for work site conditions and the Work can be completed in the time allocated. The Contractor shall notify the Engineer of any conditions which will alter the authorized quantities.

#### **51.2.14.5 Scheduling of Work**

The Contractor will be permitted to schedule the assigned Work to achieve efficiency in his operations; however, the Contractor shall ensure that all specified completion dates for each Work activity will be met.

The Contractor shall provide a detailed schedule of his Work plan to the Engineer every 2 weeks.

The Engineer will inform the Contractor of any requirement for inspecting the Work while it is in progress. When an in-progress inspection is required, the Contractor shall provide the Engineer with a minimum of 2 working days advance notice of the start of the Work.

#### **51.2.14.6 Inspection by the Department**

Upon notification that the Work has been completed, the Engineer may inspect the Work to confirm that it has been performed in accordance with the specifications and/or to verify bid item quantities submitted by the Contractor.

The Engineer, subject to the availability of the Contractor's staff, may issue a Work Order to the Contractor to provide labour to assist in the measurement of the completed Work. Payment will be made in accordance with Section 51.2.29, Extra Work. The Work Order will specify the response time and the duration of the Work. Assistance requested shall be limited to the availability of suitable Contractor's staff.

#### **51.2.14.7 Measurement of Quantities for Payment**

The Engineer will determine the method of measuring the quantities of Work. The Engineer may use, but is not limited to, one of the following methods of measurement to establish final quantities:

- (a) Use quantities measured in advance of performing the required Work;
- (b) Agreement with the Contractor on the quantities or hours required to complete the Work, reached in advance of performing the Work;
- (c) Require the Contractor to provide a time-stamped photo or videotape illustrating Work in progress or Work completed;
- (d) Measure completed Work;
- (e) Require the Contractor to accurately measure and calculate the quantities of work and provide details to the Department for verification.

The requirement for such measurements and calculations, including the method to be used and the degree of accuracy required, will be indicated on the Work Order. Payment for measuring and calculating quantities of work will be made in accordance with Section 51.2.29, Extra Work.

or



- (f) Other methods agreed to by both parties.

#### **51.2.14.8 Quantity Variations**

The Contractor shall monitor and track the quantities and hours as the Work is being performed. Prior to exceeding specified quantities or hours of work, the Contractor shall obtain approval from the Engineer.

The Engineer will determine if the Work is to continue and the original quantities exceeded.

The Department will not pay for work in excess of that specified in the Work Order unless the Contractor has obtained prior authorization from the Engineer.

#### **51.2.14.9 Contractor Certification of Work in Progress or Completed Work**

When the Contractor has completed the Work or when the Engineer has authorized Work of extended duration, the Contractor shall inform the Engineer by submitting documentation which certifies that the Work has been performed or completed in accordance with the terms of the Contract. The Engineer will specify the form the Contractor's certification will take for Work in progress or completed Work. The form may take but is not limited to the following:

- (a) The Contractor shall complete the Work Order by stating the amount and type of Work performed or completed to date for each bid item. The Contractor will then certify that the Work has been performed by signing and dating the Work Order.
- (b) The Contractor shall prepare a daily report which specifies the hours worked and the location of the performed Work. The Contractor shall submit the reports to the Engineer within 2 working days of performing the Work, using the forms provided.

The Contractor shall, upon request from the Engineer, provide supporting evidence that the Work has been performed.

#### **51.2.14.10 Reduced Time to Complete**

When the Work Order specifies a completion time shorter than that specified in the Technical Specifications, the Engineer will also pay the Contractor the premium specified under the relevant bid item. This premium payment shall apply only once for all bid items related to the specified Work on the Work Order.

#### **51.2.14.11 Response Time**

Response time is the time within which the Contractor shall have mobilized the necessary work force and be in route to the work site. When Work Orders require a reduced response time, the Engineer will pay the Contractor the Reduced Response Time Premium specified under the relevant bid item. This premium payment shall apply only once for all bid items related to the specified Work on the Work Order.

#### **51.2.14.12 Adjustment to Work Order Completion Date**

A Work Order will be deemed completed when the Work has been completed in a manner satisfactory to the Engineer, and the completed Work Order has been signed by the Contractor and returned to the Engineer.

When completion of the Work is delayed through no fault of the Contractor, the Contractor shall provide the Engineer with written notice of the existence of circumstances over which he has no control and which affect completion of the Work. The Engineer may, at his discretion, extend the completion date specified in the Work

Order provided that in the Engineer's opinion the Contractor has diligently proceeded with the Work and has applied all reasonable means and methods to complete it.

#### **51.2.14.13 Cancellation of a Work Order**

The Engineer reserves the right to cancel a Work Order at any time. Payment will be made to the Contractor for acceptable Work performed prior to cancellation. The type of situation that may result in cancellation of a Work Order includes but is not limited to the following:

- (a) The scope and magnitude of the Work has changed excessively.
- (b) Department fiscal year-end of March 31 has been reached.
- (c) The term of the Contract has expired.

### **51.2.15 PAYMENT AND HOLDBACK**

#### **51.2.15.1 Payment**

The payment made to the Contractor in accordance with the Contract shall constitute full compensation for the Work completed and in place, including travel to and from the work site and the furnishing of all material, tools, machinery, equipment, labour and incidentals necessary to complete the Work thereto as well as any and all expenses incurred by reason of any cause whatever, except as otherwise provided herein.

Payment will be based on the quantities indicated on the completed Work Order following completion of the Work. The Department will determine payment for Work performed in accordance with Contract requirements. Payment may include portions of Work completed on Work Orders of extended duration.

The Department will prepare monthly progress estimates summarizing the work completed during that month and shall make the necessary payment within 30 days.

#### **51.2.15.2 Holdback**

The Department will not normally retain holdback from payment made for completed Work. However, the Engineer reserves the right to retain holdback in the total amount of any outstanding third-party claims, deficiencies in the Work, overpayment, or any other items identified.

#### **51.2.15.3 Release of Holdback**

When a holdback has been taken, the Department will release the holdback to the Contractor provided that the reasons for retaining the holdback are no longer applicable and the following have occurred:

- (a) The outstanding third-party claims filed with the Department have been removed.
- (b) There is no recovery required from the Contractor on any account, including overpayment, or penalty.
- (c) The Department has received the Workers' Compensation Board clearance and a statutory declaration, satisfactory to the Engineer, indicating "No Exceptions."

If the Contractor fails to meet his obligations with respect to any of these items, the Department may use holdback funds to rectify the deficiency, in accordance with the terms of the Contract and the Public Works Act.

**51.2.16 MOBILIZATION AND DEMOBILIZATION**

The Contractor shall at his own cost have his manpower and equipment mobilized and ready to commence Work on the date and time specified in the Contract for Time of Commencement.

Upon expiration of the Contract, the Contractor shall, at his own expense, demobilize his manpower and equipment within 7 calendar days of the Contract termination date.

**51.2.17 DIRECT OPERATING COSTS**

The direct operating costs bid item is included in the Unit Price Schedule to cover Contractor's costs that are not specifically covered in the Technical Specifications. Such costs shall include but are not limited to the cost of direct and indirect supervision, overhead, facilities, financing, security, attending meetings, and obtaining necessary permits and certifications.

Payment will be made in the amount bid per month, regardless of the volume of Work carried out.

**51.2.18 PRICE ADJUSTMENT DUE TO INFLATION****51.2.18.1 General**

A price escalation factor is included in the Contract to provide the Contractor and the Department with a fair method of accounting for the impact of inflationary and deflationary influences upon the Contract over its term. These influences will be accounted for through the development of a single adjustment factor, which will be based on changes in specific indices published by Statistics Canada.

**51.2.18.2 Index Factor**

The indices to be used are:

- (a) for Manpower, Statistics Canada Report 62-007, Construction Price Statistics. Table 2.3.2, Index of Average Hourly Earnings, Excluding Overtime, in Building Construction.
- (b) for Other, Statistics Canada Report 62-007, Construction Price Statistics, Non-Residential Building Construction Price Index, the numerical average of the Edmonton and Calgary values.

The base index level for the Non-Residential Building Construction Price Index and the Index of Average Hourly Earnings will both be established, using Statistics Canada values as of December 31, 1998. The annual December 31 indices, when published, will be reviewed by the Engineer. The annual values will be compared to those of the base year, and a calculated index for each year will be developed by the Engineer, using 100 for the base year. The annual calculated index values for each year will be compared to the base year, and the difference will be used in developing the adjustment factor.

**EXAMPLE:**

|                     | 1997  | 1998   | 1999  | 2000  | 2001   |
|---------------------|-------|--------|-------|-------|--------|
| <b>For Manpower</b> |       |        |       |       |        |
| Alberta             | 122.1 | 123.4  | 121.8 | 120.8 | 125    |
| Calculated Index    | 100   | 101.06 | 99.75 | 98.94 | 102.38 |

|                           | 1997  | 1998   | 1999  | 2000  | 2001   |
|---------------------------|-------|--------|-------|-------|--------|
| Difference from Base Year | -     | 1.06   | -0.25 | -1.06 | 2.38   |
|                           |       |        |       |       |        |
|                           |       |        |       |       |        |
| <b>For Other</b>          |       |        |       |       |        |
| Edmonton                  | 122.5 | 123.5  | 120   | 115   | 130    |
| Calgary                   | 121.5 | 122.5  | 120   | 115   | 130    |
| Average                   | 122   | 123    | 120   | 115   | 130    |
| Calculated Index          | 100   | 100.82 | 98.36 | 94.26 | 106.56 |
| Difference from Base Year | -     | 0.82   | -1.64 | -5.74 | 6.56   |

**51.2.18.3 Allowed Portion of Indices Changes**

The Engineer has determined that any percentage yearly differences in the calculated indices will be factored 100% to Manpower, Average Hourly Earnings Index changes and 50% to Other, Non- Residential Building Construction Price Index changes.

**EXAMPLE:**

|                           | 1997 | 1998 | 1999  | 2000  | 2001 |
|---------------------------|------|------|-------|-------|------|
| <b>For Manpower</b>       |      |      |       |       |      |
| Difference from Base Year | -    | 1.06 | -0.25 | -1.06 | 2.38 |
| Allowed Portion @ 100%    | -    | 1.06 | -0.25 | -1.06 | 2.38 |
| <b>For Other</b>          |      |      |       |       |      |
| Difference from Base Year | -    | 0.82 | -1.64 | -5.74 | 6.56 |
| Allowed Portion @ 50%     | -    | 0.41 | -0.82 | -2.87 | 3.28 |

**51.2.18.4 Ratio of Indices**

After the proportioning of the index changes, a ratio factor will then be applied to each index. The ratio will be based on dividing the Contract into two components which are; manpower at 35% of the Contract's value, and all Other costs, including but not limited to, fixed costs, profit, material, equipment, and overhead is considered to be 65% of the contract's value.

**EXAMPLE:**

| <b>For Manpower</b>              | <b>1997</b> | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> |
|----------------------------------|-------------|-------------|-------------|-------------|-------------|
| Allowed Portion @ 100%           | -           | 1.06        | -0.25       | -1.06       | 2.38        |
| Applied to 35% of Unit Price bid | -           | 0.37        | -0.09       | -0.37       | 0.83        |
| <b>For Other</b>                 |             |             |             |             |             |
| Allowed Portion @ 50%            | -           | 0.41        | -0.82       | -2.87       | 3.28        |
| Applied to 65% of Unit Price bid | -           | 0.27        | -0.53       | -1.87       | 2.13        |

**51.2.18.5 Net Index Change**

The Net Index Change is the sum of the weighted Manpower Index and Other Index.

**EXAMPLE:**

|                   | <b>1997</b> | <b>1998</b> | <b>1999</b> | <b>2000</b> | <b>2001</b> |
|-------------------|-------------|-------------|-------------|-------------|-------------|
| Weighted Manpower | -           | 0.37        | -0.09       | -0.37       | 0.83        |
| Weighted Other    | -           | 0.27        | -0.53       | -1.87       | 2.13        |
| Net Index Change  |             | 0.64        | -0.62       | -2.24       | 2.96        |

**51.2.18.6 Application of Net Index Change**

Effective April 1, 1999 and for each following Departmental fiscal year until contract termination, a net index change will be calculated and applied to each of the Contract Unit prices for the next Departmental fiscal year (that is, April 1 to March 31).

**51.2.19 GOODS AND SERVICES TAX**

This is to certify that the property and/or services ordered/purchased hereby are being purchased by Alberta Transportation and Utilities, which is part of the Alberta Crown or is listed as a tax free Alberta Government agency, and are therefore not subject to the Goods and Services Tax.

This exemption applies to all payments made by the Department to the Contractor under this Contract. The unit prices bid shall exclude any allowance for the goods and services tax.

**51.2.20 PAYMENT FOR LABOUR AND MATERIAL**

The Contractor shall promptly pay or ensure that prompt payment is made for all labour, services, equipment, supplies and material used for, on or about the Work, including any sum due from the Contractor, any subcontractor or any person, for the labour or services of any subcontractor, foreman, worker or other person, or for the use of plants, machinery or camp supplies. In the event of failure by the Contractor at any time to do so, or if the Department has reason to believe that such payments will not be made promptly, the Department may retain, out of any money due on any account to the Contractor from the Department, such amount as the Engineer may deem

sufficient to satisfy the same, giving the Contractor notice of such claims, and requesting him to settle them directly and withholding the balance until the claims are satisfied. The Department may pay directly to any claimant such amount as the Engineer determines is owing, rendering to the Contractor the balance due after deducting the payments so made.

When the liabilities of the Contractor under the Contract exceed the money owed to him on any account by the Department, the Contractor or the Surety shall pay all such claims as are certified by the Engineer to be correct.

The Contractor shall provide the Engineer with a quarterly statutory declaration in a form satisfactory to the Department, certifying that all payments have been made or providing details of accounts which are outstanding in excess of 30 calendar days.

#### **51.2.21 INNOVATION**

The Contractor may submit to the Engineer in writing, innovations for modifying the Plans, Specifications or other requirements of the Contract for the purpose of reducing the total cost of the Work without reducing design capacity or quality of the finished product or process. If accepted by the Engineer, net savings to the Department resulting from the innovation will be shared by the Contractor and the Department on an equal basis for the remainder of the Contract term.

This specification applies to all innovations initiated and developed by the Contractor and which are identified as such by the Contractor at the time of their submission to the Engineer. However, nothing herein shall be construed as requiring the Engineer to approve an innovation submitted hereunder.

The following information shall be provided with each innovative proposal:

- (a) a statement that this proposal is submitted as an innovation;
- (b) a description of the difference between the existing Contract requirements and the proposed innovative change;
- (c) a statement concerning the basis for the innovation and benefits to the Department, together with an itemization of the Contract items and requirements affected by the innovation;
- (d) separate detailed cost estimates for both the existing Contract requirements and the proposed innovative change;
- (e) an itemization of plan details, design standards or specifications to be changed if the innovation is adopted;
- (f) a statement of the date by which approval must be issued to obtain the total cost reduction of the innovation during the remainder of the Contract; and
- (g) if the Contractor has other Contracts with the Department, a statement of which Contracts his innovation will apply to.

The Department will process the innovation in whole or in part in the same manner as prescribed for any other proposal in accordance with the requirement outlined in Section 51.2.28, Changes in the Work. The Department will not be liable to the Contractor for failure to accept or act upon any innovation submitted pursuant to this provision, nor for any delays to the Work attributable to any such proposal. Until a proposal is adopted by the Department, the Contractor shall remain bound by the terms and conditions of the existing Contract. When an innovation has not been adopted by the date upon which the Contractor's proposal specifies that a decision thereon

should be made, or such other date as the Contractor may subsequently have specified in writing, evaluation of the proposal shall be terminated unless the Contractor extends the approval date.

The Contract modification will establish the estimated net savings agreed upon, provide for adjustment in the unit prices and indicate that the net savings be equally divided between the Contractor and the Department. The Contractor shall absorb all costs incurred in preparing an innovation for submission to the Engineer. Costs incurred by the Department in evaluating, approving or rejecting, and administering an innovation will be borne by the Department. The Department reserves the right to include any conditions it deems appropriate for implementation of the innovation. The Contractor's fifty percent share of the net savings shall constitute full compensation for affecting all changes pursuant to the innovation.

The actual cost of the revised Work, will be paid on current progress estimates. In addition, the Contractor will be paid on a lump sum basis by a separate item, one-half of the difference (net savings) between the cost of the original Contract Work and the final cost of the revised Work in the following manner:

- One-half of the Contractor's share, which is equal to 25% of the estimated net savings for a 1-year period commencing on the date on which the innovation was approved, will be paid to the Contractor upon approval of the innovation.
- The remainder of the first year's savings due the Contractor will be paid when that Work for the first year is completed and will be determined from actual quantities completed.

In subsequent Contract years, the Contractor will be paid his yearly share of the savings via an adjusted unit price to reflect the shared cost savings resulting from the new process.

If the Contractor submits an innovation essentially the same as one approved for another Department Contract or if the Department wishes to adopt an innovation being used on another Department Contract, any required change to the Contract shall be in accordance with Section 51.2.28, Changes in the Work.

All benefits accruing to the Contractor as a result of an innovation, will cease upon termination of the Contract.

The Department expressly reserves the right to adopt an innovation for general use in Contracts administered by the Department when it determines that the innovation is suitable for application to other Contracts without obligation or compensation of any kind to the Contractor who developed the innovation.

## **51.2.22 TEMPORARY SUSPENSION OF WORK**

### **51.2.22.1 Engineer's Authority to Suspend Work**

The Engineer shall have the authority to suspend the Work, in whole or in part, for such a period as he may deem necessary, due to conditions that he considers unfavourable for the execution of the Work or due to the failure of the Contractor to comply with any provision of the Contract.

Upon receipt of the Engineer's notice to suspend the Work, the Contractor shall immediately suspend those operations as are specified. No such suspension shall vitiate or void the Contract or any part thereof or any security or obligation for the performance thereof or relieve the Contractor of any other responsibility under the terms of the Contract, including the preservation and care of the work site and material.

During a period of suspension the Contractor shall not remove without the consent of the Engineer any part of the Material or equipment previously provided for the Contract.

Except in situations of imminent danger, the Contractor shall not suspend the Work without the consent of the Engineer.

**51.2.22.2 No Compensation**

Subject to Section 51.2.22.3, Compensation for Standby, the Contractor shall not have any claim for compensation or damages against the Department for any suspension, stoppage, hindrance or delay from any cause whatsoever.

No compensation will be paid for a suspension, stoppage, hindrance or delay of the Work due to the fault of the Contractor including, without limiting the generality of the foregoing, delays by strikes by the Contractor's or subcontractors' employees.

**51.2.22.3 Compensation For Standby**

When the Work or any part of it is suspended by order of the Engineer for a reason that is not related to the Contractor's performance of the Work, the Department may consider a claim for payment of standby costs which may be incurred by the Contractor. When such costs are claimed, they shall be legitimate, reasonable and supported by proper documentation as required by the Engineer, and submitted in accordance with Section 51.2.57, Procedures for Compensation Adjustment.

The Department will not pay for standby costs related to any of the following:

- Weather or other natural conditions;
- Failure by the Contractor to carry out orders given by the Engineer;
- Any failure by the Contractor to comply with a requirement or provision of the Contract;
- Any failure by the Contractor to provide for the safety of the public or his or the Department's work force;
- Any failure by the Contractor to protect the property of the Department or others;
- Any delay incurred in remedying defects or failures in the Work;
- Any change in the quantity of any item of Work from the estimated quantity shown in the Work Order;
- Any equipment or work force which was not actually present and actively working on the Work immediately prior to the suspension of the Work;
- Any haul trucks or their drivers used on the Work;
- Any suspension of the Work that is less than 4 hours in duration; and
- Testing of material or Work for compliance with Specifications and Plans.

When a claim for standby is considered by the Engineer, direct costs which, in the opinion of the Engineer, could not have been avoided by the judicious handling of forces, equipment or plant will be paid to the Contractor in an amount that the Engineer deems fair and reasonable. No item of cost, other than idle time rate of equipment and necessary payments for idle time of workers, will be considered.

Compensation for standby time of workers and equipment will be determined by the Engineer in accordance with the following criteria:

- (a) the time paid for will not exceed 8 hours in any 1 day;



- (b) overhead and profit will be excluded; and
- (c) The idle time equipment rates will be 50% of the rates identified in the Alberta Roadbuilders and Heavy Construction Association Equipment Rental Rates and Membership Roster current at the time of the temporary suspension.

Upon termination of the suspension by the Engineer, the Contractor shall resume operations no later than the commencement of the next working day.

### **51.2.23 HINDRANCES AND DELAYS**

#### **51.2.23.1 Utilities**

The Contractor shall advise the Engineer in writing of the requirement for relocation of utilities. Upon receipt of notification from the Contractor, the Engineer will arrange with the utility owners or operators to adjust their utility installations as necessary, within or adjacent to the Work. All such adjustments will be made by the owners or operators, except as otherwise provided for in the Special Provisions or as specifically noted on the Plans. The adjustment will be made at no cost to the Contractor.

No additional compensation will be paid by the Department for any delay, inconvenience or damage sustained by the Contractor which is caused by the existence of or adjustment to the utilities. However, if the Work cannot be done in the ordered completion time, an extension will be granted.

The Contractor shall consider in his scheduling those items of the Work essential to the adjustment of the utilities, and the Work shall be scheduled and performed at the time required to accommodate these adjustments. No additional compensation beyond that specified on the Work Order will be made by the Engineer.

#### **51.2.23.2 Work by Others**

When separate Department Contracts or agreements are in effect on or near the Work, the Contractor shall conduct his work so as to minimize interference with progress or completion of Work being performed by other Contractors. The Contractor shall cooperate with others working on or near the Work and, in the case of dispute as to procedure or scheduling of the Work, the Engineer will make the final decision, and it shall be binding on the Contractor.

The Contractor shall have no claim against the Department for any inconvenience, delay or loss arising from the presence and operations of others on or near the Work.

### **51.2.24 DEFAULT**

#### **51.2.24.1 Causes And Notice**

A Contractor who:

- (a) fails to begin the Work under the Contract within the time specified;
- (b) discontinues the prosecution of the Work;
- (c) fails to furnish security;
- (d) fails to provide the written undertaking required by Section ?, Emergency Winter Default Procedure;
- (e) fails to furnish insurance coverage; or

(f) loses accreditation in a recognized safety program;

shall be deemed to be in default of the Contract.

In addition, the Department will use a progressive demerit point system to determine when the Contractor is deemed to be in default of the Contract and a financial penalty system as outlined in Section 51.2.24.4, Penalties for Unsatisfactory Performance.

The Contractor shall be deemed to be in default and the Contract will be terminated when:

there are a total of 5 or more demerit points in force at any point in time in any one Contract Maintenance Area; or

for a Contract covering two Contract Maintenance Areas, there are a total of 7 or more demerit points in force at any point in time; or

for a Contract covering three Contract Maintenance Areas, there are a total of 9 or more demerit points in force at any point in time; or

for a Contract covering four Contract Maintenance Areas, there are a total of 11 or more demerit points in force at any point in time.

An assessed demerit point will be removed by the Engineer and shall no longer be in force when one calendar year has passed from the date of issuance of the demerit point.

The Engineer will assess demerit points against a Contractor for the following causes and in the following amounts:

(a) 1 demerit point to a Contractor who:

- (i) fails to prosecute the Work with sufficient skilled workers and equipment or with sufficient material to ensure the prompt completion of the Work within the maximum allotted time on more than 20% of the total value of the Work ordered in any 3-month period;
- (ii) fails to promptly pay his creditors for labour, services, equipment, supplies and materials used or reasonably required for use in the Work within 90 days of receipt of a valid invoice;
- (iii) fails to repair any defect or failure discovered in the Work within the warranty period; or
- (iv) in the opinion of the Engineer, performs the Work unsuitably.

(b) 2 demerit points to a Contractor who:

- (i) fails to have available, a staff complement of trained and experienced snowplow operators, as set out by the Contractor in the Request for Proposal, unless otherwise approved by the Engineer;
- (ii) fails to maintain minimum required snow removal equipment on standby;
- (iii) provides false documentation respecting any component of the Work;

- (iv) neglects or refuses to remove material or to redo Work rejected as defective and unsuitable; or
- (v) compromises the safety of the travelling public.

#### **51.2.24.2 Failure to Remedy**

Notwithstanding the fact that the Contractor will be deemed to be in default when the maximum allowable demerit points have been accumulated as shown in Section 51.2.24.1, Causes and Notice, should the Contractor fail to proceed diligently to remedy or rectify any of the causes giving rise to a demerit point within 6 days of receipt of the notice from the Engineer, the Contractor will be deemed to be in default and the Engineer may, without violating the Contract, take the prosecution of the Work out of the hands of the Contractor and:

- (a) appropriate or use any material at the work site to complete the Work;
- (b) enter into an agreement with another person for the completion of the Work; or
- (c) use any other methods that in the Engineer's opinion may be required to complete the Work.

#### **51.2.24.3 Demerit Point Assessment and Appeal Process**

The assessing of Demerit Points will occur on the recommendation of the Operations Manager, and will be assigned by the Regional Director.

Prior to assessing demerit points, the Regional Director will meet with the Contractor and will review and discuss any objections, or mitigating circumstances presented by the Contractor.

Should the Contractor wish to appeal the ruling of the Regional Director regarding the assessment of demerit point(s), he may appeal to the Engineer. Such appeal shall fully explain all grounds for the appeal and shall be submitted in writing within seven days of receipt of the Regional Director's assessment of points. The Engineer will render a decision within seven days of receiving the appeal.

Should the Engineer reject the appeal, the Contractor may have the issue ultimately resolved through the dispute resolution process contained in the document entitled "Dispute Resolution Process for Alberta Construction Contracts." In order to invoke such process, the Contractor must, within 14 days of receiving the Engineer's decision regarding the appeal, issue the Engineer with a written Notice of Dispute.

#### **51.2.24.4 Penalties for Unsatisfactory Performance**

A penalty of \$5,000 will be assessed against the Contractor upon the issuance of one demerit point providing the Contractor has no other demerit points in force. If the Contractor has any demerit points in force, the penalty for each additional point will be \$10,000. The penalty will be deducted from funds due to the Contractor in the monthly estimate following the issuance of the demerit point.

#### **51.2.24.5 Emergency Winter Default Procedure**

The safe accommodation of the travelling public during adverse winter conditions is viewed by the Department as a critical component of the Contract. To ensure the continuity of operations in the event of Contractor default in winter, the following procedure will be followed:

- (a) Prior to signing the Contract, the Contractor will identify to the Department all parties who have an interest in the snow removal equipment and update this list as required.

- (b) The Contractor shall provide to the Department a written undertaking from each party or subcontractor or subcontractor's interested party which will allow the Department to continue snow removal operations, using the Contractor's equipment and labour, for whatever duration is reasonably necessary to allow appropriate alternative arrangements to be made. Such written undertaking shall be renewed on an annual basis.
- (c) During this period, the Department will make payment at the appropriate unit prices to the party or parties or subcontractor(s) having an interest in the equipment.
- (d) The Contractor shall not remove any snow removal equipment during winter without permission of the Engineer.
- (e) The Contractor shall furnish the Department with a list of addresses and phone numbers for all of his employees and subcontractors involved in winter maintenance activities.

#### **51.2.25 ANNULMENT WITHOUT FAULT OF CONTRACTOR**

The Minister reserves the right to annul the Contract at any time upon giving at least 15 days notice in writing, to the Contractor, in which event the Contractor shall cease Work and shall be entitled to payment under the terms and conditions of the Contract for the Work done by him up to the time of the annulment.

The Minister will reimburse the Contractor for those costs, verified by the Minister, that are directly chargeable to that portion of the Contract not performed by reason of annulment and which he deems justifiable.

#### **51.2.26 ASSIGNMENT AND SUBCONTRACTING**

The Contractor shall not assign the Contract or any payment or other benefit under the Contract without written permission of the Engineer.

Except in the case of emergency, the Contractor shall not subcontract any part of the Work to any government agency, including but not limited to the government of Canada, the government of a province or territory of Canada, any agency thereof, or any municipality or other unit of local government within any province, Indian Reserve, Metis Settlement or territory of Canada.

The Contractor shall not subcontract the whole of the Work to be performed by the Contractor under the Contract. The Contractor shall not subcontract any part of the Work associated with Snow Removal and Ice Control where the value of that Work exceeds \$25,000, nor shall the Contractor subcontract any part of the Work, other than Snow Removal and Ice control, where the value of that Work exceeds \$100,000, without prior written consent of the Engineer, unless such subcontract is identified in the proposal and accepted by the Department. Both competency and the proposed subcontractor's existing work load with the Department will be considered when evaluating requests for subcontractor approval.

The Engineer reserves the right to reject any subcontract he considers unsatisfactory. No subcontract, even though duly consented to, shall exonerate the Contractor from liability under the Contract for the due performance of the Work. The Contractor shall be responsible for all acts, defaults, neglects and delays of any subcontractor and his agents and employees to the same extent as if no subcontract or assignment had been entered into.

The Contractor shall also ensure to his satisfaction that any subcontractors/owner-operators are able to comply with all health, safety, and environmental requirements before commencing Work.

#### **51.2.27 CHANGES TO WORK FORCE AND/OR EQUIPMENT**

Prior to making any major changes in equipment or personnel, the Contractor shall demonstrate to the Engineer that the requirements of the Contract, the original requirements of the Contractor's Proposal, and any subsequent authorized changes that have been made to it can be met.

**51.2.28 CHANGES IN THE WORK**

As new technology is developed or as circumstances and conditions change, the Engineer, without invalidating the Contract, may make changes to the Contract and may alter, add to, or deduct from the Work. The Contractor shall proceed with the Work as changed, and the Work shall be executed under the provisions of the Contract. No change shall be undertaken by the Contractor, without written order of the Engineer, except in an emergency endangering life or property, and no claims for additional compensation shall be valid unless the change was so ordered.

If, in the opinion of the Engineer, such changes affect the cost of conducting operations, the value of the change to the Contract amount and the method of determining such value shall be decided by the Engineer. The Engineer will use one or more of the following methods in deciding such value:

- (a) existing unit prices or combinations of existing unit prices;
- (b) unit prices submitted by the Contractor and accepted by the Engineer;
- (c) by lump sum submitted by the Contractor and accepted by the Engineer; or
- (d) on an Extra Work basis as specified in Section 51.2.29 Extra Work.

If the Contractor and the Engineer cannot agree on the unit prices to be used or on the lump sum, the Engineer will decide and certify the value of the change in the Contract amount that is, in his opinion, fair and reasonable to both parties.

**51.2.29 EXTRA WORK****51.2.29.1 General**

Extra Work shall include Work not specified in the Contract or of a class not included in the Contract.

When the Engineer issues a Work Order that includes Extra Work, the Engineer will either negotiate with the Contractor to establish a new unit price for the Extra Work or pre-authorize all labour, equipment and material, necessary to perform the Work, and it will be paid for as detailed in the remainder of Section 51.2.29, Extra Work.

**51.2.29.2 Labour**

For all labour directly involved in the extra work operation, the Contractor will be paid the actual cost of labour including the wages at the scale being paid on the Contract Work and payments made to or on behalf of the workers for holiday pay, Workers' Compensation Board assessment, insurance and pension payments, plus 20% of the total of the Extra Work labour account.

**51.2.29.3 Equipment**

For each piece of equipment used directly in the extra work operation, including trucks but excluding small tools, the Contractor shall receive payment:

- (a) at the rates shown in the Equipment Rental Rates Guide for Equipment which forms part of the Contract; or
- (b) for third-party equipment rental accounts, at the rates invoiced by the third party, provided these rates were approved by the Engineer prior to the commencement of the Extra Work, to which will be added 15% of the total third-party account; or

- (c) at the agreed price or prices as stated in the Engineer's Extra Work Order, to which no allowance will be added.

#### **51.2.29.4 Equipment Rental Rates Guide for Equipment**

The Equipment Rental Rates Guide for Equipment is the version of the Alberta Roadbuilders and Heavy Construction Association Equipment Rental Rates and Membership Roster current at the time of issuing the Extra Work.

#### **51.2.29.5 Purchased Material**

For all Material purchased by the Contractor solely to perform or incorporate into the Extra Work, as required by the Engineer, the Contractor will receive payment:

- (a) at the agreed price as stated in the Engineer's Extra Work Order, to which no allowance will be added; or
- (b) if there is no agreed price, at the amount shown on the supplier's invoices, to which will be added 15%.

Material purchased for the Extra Work, that is salvaged at the direction of the Engineer shall, at the Engineer's discretion:

- (a) become the property of the Department and shall be delivered by the Contractor to a location designated by the Engineer, or
- (b) be retained by the Contractor, and the agreed salvage value shall be deducted from the Extra Work account.

#### **51.2.29.6 Supervision**

For supervision required directly on the Extra Work operation, the Contractor will be paid the actual cost of superintendent's or foreman's wages at the scale being paid on the Contract Work, including statutory payments made to them or on their behalf for holiday pay, Worker's Compensation Board, insurance and pension payments, plus 20% of the total of the account.

If the supervisory personnel are also engaged in Work other than the Extra Work, only that portion attributable to the Extra Work will be paid for by the Department.

#### **51.2.29.7 Transportation of Workers and Equipment**

Vehicles used in the transportation of workers and small tools required exclusively for the Extra Work shall be considered as equipment and will be paid for as provided in Section 51.2.29.3, Equipment, for the period for which the vehicles are required.

The transportation of heavy construction equipment hauled or otherwise moved to the project exclusively for the Extra Work, or when necessary from separate points on the job to the site of the Extra Work and upon the completion of the Extra Work from the project, will be paid for at the applicable rates in accordance with Section 51.2.29.3, Equipment, provided that the means of transporting the equipment and the haul distance have been previously approved by the Engineer.

The Contractor, prior to mobilizing equipment for Extra Work, shall confirm the source of the equipment and the haul distance to the Work site with the Engineer.

Payment for demobilizing equipment from the site of the Extra Work will only be made if the equipment is not being moved to another job site.

#### **51.2.29.8 Payment for Extra Work**

The compensation provided in this section shall be payment in full for all charges, including overhead and profit, and for the use of small tools for which no rental is allowed.

The Contractor shall present his claim for payment for Extra Work before the 15th day of the month following that in which such Extra Work was performed, supported by proper vouchers giving details as to dates, quantities, rates, third-party invoices and any other supporting documentation that the Engineer requires.

### **51.2.30 ENGINEER SOLE JUDGE OF WORK**

The Engineer shall be the sole judge of the Work and material in respect of both quality and quantity, and his decision on all questions in dispute with regard thereto, or as to the meaning or intention of the Contract and as to the meaning or interpretation of the Plans and Specifications shall be final. No Work under the Contract shall be deemed to have been performed nor material or thing provided so as to entitle the Contractor to payment therefor, unless and until the Engineer is satisfied therewith as evidenced by his estimate in writing, which estimate shall be a condition precedent to the right of the Contractor to be paid therefor.

### **51.2.31 AUTHORITY OF THE ENGINEER**

#### **51.2.31.1 Orders of the Engineer**

All orders, directions and instructions given at any time by the Engineer with respect to the Work or the conduct thereof shall be promptly and efficiently performed and complied with by the Contractor to the satisfaction of the Engineer.

#### **51.2.31.2 Work Methods and Equipment**

Equipment and methods used shall be adequate to perform the Work. The Engineer reserves the right to order the discontinuation of use of any equipment or method which, in his opinion, fails or will fail to produce satisfactory results.

#### **51.2.31.3 Defective Work**

When the Engineer identifies any defective Work, whether the result of poor workmanship, damage through the Contractor's carelessness or use of defective material supplied by the Contractor, the Contractor shall, at his expense, promptly remove, replace or otherwise remedy the defective Work to conform to the Specifications in a manner acceptable to the Engineer.

Should the Contractor fail to comply promptly with any order made under this Section, the Engineer may cause the defective Work or material to be remedied, removed or replaced and deduct the costs incurred from any money due or to become due to the Contractor.

#### **51.2.31.4 Unauthorized Work**

Any work done without required notification, or material supplied by the Contractor which is beyond the lines, grades, or descriptions shown on the Plans and Specifications or established by the Engineer, will be considered as unauthorized and may not be paid for.

Upon order of the Engineer, unauthorized Work or material shall be remedied, removed or replaced by the Contractor at his expense in a manner acceptable to the Engineer.

Should the Contractor fail to comply promptly with any order made under this Section, the Engineer may cause unauthorized Work or material to be remedied, removed or replaced, and deduct the costs incurred from any money due or to become due to the Contractor.

#### **51.2.32 AUTHORITY OF THE OPERATIONS MANAGER**

The Operations Manager is placed on the Work by the Engineer to manage the Contract on his behalf and keep the Engineer informed as to the progress of the Work and the manner in which it is being performed. The Operations Manager has the additional responsibility of ensuring that Department budgetary and conditional targets for the Contract are achieved. To meet these requirements, the Operations Manager is authorized to:

- (a) Identify and authorize the Work to be performed;
- (b) Reject defective material and Work and prohibit any Work method or procedure that will result in a finished product that fails or will fail to meet the standards required by the Specifications or Plans;
- (c) Give final acceptance of any portion of the Work;
- (d) Inspect all Work done and material furnished, such inspection to extend to any part of the Work and to the preparation, fabrication or manufacture of the material to be used;
- (e) Approve new unit prices for undefined Work included in a specific Work Order;
- (f) Approve any Extra Work required;
- (g) Approve the rate for equipment not listed in the Alberta Roadbuilders and Heavy Construction Association Equipment Rental Rates and Membership Roster when used on a Work Order for Extra Work;
- (h) Suspend the work;
- (i) Adjust Work Order completion dates;
- (j) Recommend to the Engineer the assessment of demerit points;
- (k) Approve subcontractors; and
- (l) Represent the Engineer at the twice monthly planning meetings and participate in the twice yearly management meetings.

The Operations Manager is not authorized to extend or make changes to the Contract, or alter or waive provisions of or issue instructions contrary to the Specifications or Plans.

The Operations Manager will not act as foreman or superintendent for the Contractor.

The Operations Manager will exercise such additional authority as may from time to time be delegated to him by the Engineer.



**51.2.33 AUTHORITY OF THE CONTRACT INSPECTOR**

The Contract Inspector is placed on the Work by the Engineer to assist the Operations Manager in identifying the Work to be performed and to inspect and accept the Work. The Contract Inspector is authorized to:

- (a) Identify and authorize the Work to be performed;
- (b) Reject defective material and Work and prohibit any Work method or procedure which will result in a finished product that fails or will fail to meet the standards required by the Specifications or Plans;
- (c) Give final acceptance of any portion of the Work;
- (d) Inspect all Work done and Material furnished, such inspection to extend to any part of the Work and to the preparation, fabrication or manufacture of the Material to be used;
- (e) Suspend the Work due to work site hazards; and
- (f) Recommend to the Operations Manager the assessment of demerit points.

The Contract Inspector is not authorized to extend or make changes to the Contract, or alter or waive provisions of or issue instructions contrary to, the Specifications and Plans.

The Contract Inspector will not act as foreman or superintendent for the Contractor.

The Contract Inspector will exercise such additional authority as may from time to time be delegated to him by the Operations Manager.

**51.2.34 CONTRACTOR'S PROJECT SUPERVISOR**

The Contractor shall maintain a competent project supervisor on the Work who shall be present on the site of the Work during its progress. The project supervisor shall be considered the lawful representative of the Contractor, shall be fully authorized to act for him in all aspects of the Work, including the work of all subcontractors, and shall receive such communications as may be given by the Engineer.

**51.2.35 STAKES, MARKS AND ENGINEERING TESTS**

Stakes or marks may be set by the Engineer to define the location, alignment, elevation, and grade required for the Work. The Contractor shall give the Engineer ample notice of the time and place where the stakes or marks will be needed. The Contractor shall protect, and shall not remove or destroy or permit to be removed or destroyed, the stakes or marks placed on or about the Work by the Engineer.

The Contractor shall satisfy himself before commencing the Work as to the correctness and meaning of all stakes and marks.

When the Engineer provides to the Contractor summaries of engineering test results taken on or about the Work by the Engineer, the Contractor shall satisfy himself as to the meaning and correctness of the engineering test results.

The Contractor shall not take advantage of any apparent error or omission in the Plans, Specifications, stakes, marks, engineering tests, or other measurements done or provided by the Engineer, but shall immediately bring such apparent error or omission to the attention of the Engineer. The Engineer will make corrections and interpretations as may be necessary for the fulfilment of the Plans and Specifications.

The Engineer will consider claims for payment of the Contractor's documented extra costs which have resulted from incorrect stakes, marks or engineering tests that neither the Contractor nor the Engineer has recognized in time to prevent the occurrence of such extra costs or that have been drawn to the attention of the Engineer by the Contractor but have not been corrected in a reasonable period of time. Such claims shall be made in accordance with the specified procedures for compensation adjustment.

#### **51.2.36 VOLUNTARY "PARTNERING"**

It is the Department's intention to encourage the foundation of a cohesive relationship between the Contractor and its principal subcontractors and suppliers. The working relationship will be structured to draw on the strengths of each organization to identify and achieve common goals. The objectives are effective and efficient Contract performance and completion of the Work within budget, within the specified time, and in accordance with the Plans and Specifications.

The working relationship, to be called "Partnering", will be bilateral in make-up, and participation will be totally voluntary. Any cost associated with implementing this process will be agreed to by both parties and will be shared equally. Each party will be responsible for its own staff's wages during partnering workshop sessions.

The Contractor shall provide notice to the Engineer within 7 days of receipt of the Contract, signed by the Engineer, as to his intentions regarding Partnering.

The establishment of a Partnering agreement for the Contract will not change the legal relationship of the parties to the Contract nor relieve either party from any of the terms of the Contract.

#### **51.2.37 MOBILE COMMUNICATIONS**

Throughout the duration of the Contract, the Department will provide free of charge a mobile radio communications system, including the use of repeater towers, land lines, etc. Notwithstanding that the Contractor may have his own telecommunication systems, all radio communication with a Department and with Contractors in other areas shall be through the Department communications system. The Department will provide one mobile unit per snowplow truck, grader, superintendent's vehicle, and each vehicle required under the Highway Maintenance Work bid item. The cost of all long distance charges for calls originating from equipment supplied to the Contractor shall be the responsibility of the Contractor.

All installation, removal and in-vehicle unit maintenance costs shall be borne by the Contractor. Additional units may be provided to the Contractor upon request at a rental rate to be established by the Engineer.

At some future date, the Department may wish to change from its present system. Should this occur, the Department will cover the cost of installation and removal of the new in-vehicle units and will continue to provide the total system free of charge.

#### **51.2.38 COMMUNICATIONS**

##### **51.2.38.1 General**

While communication of any notice, order, direction, consent, offer, or otherwise may be given in any reasonable manner, important communications from the Contractor to the appropriate representative of the Department, or the Department's representative to the Contractor, shall be in writing.

Any important communication required to be given by the Department's representative to the Contractor may be personally delivered to the Contractor or his project supervisor or delivered or mailed to the office of either, and shall be deemed to have been received on the day it was delivered or on the fifth day after it was mailed.

Communication required to be in writing may also be given by facsimile, or any other method agreed to by the parties, and shall be deemed to have been received 24 hours after it was transmitted.

Any important communication required to be given by the Contractor to the Department's appropriate representative may be personally delivered or delivered or mailed to his office and shall be deemed to have been received on the day it was delivered or on the fifth day after it was mailed.

#### **51.2.38.2 Work Order Distribution**

The Engineer will normally issue Work Orders in writing on standard forms. The Work Order will normally be given to the Contractor by facsimile, hand delivery or applicable electronic mode.

#### **51.2.38.3 Verbal Communications**

Any verbal direction given to the Contractor by the Engineer will normally be confirmed later in writing.

#### **51.2.38.4 Communication with Outside Agencies and the Travelling Public**

##### **51.2.38.4.1 General**

The Contractor shall maintain at all times a telephone number that is well publicized throughout the Contract area.

The Contractor, upon receipt of an enquiry from other parties, shall note the name, address and telephone number of the parties and provide them with the Operations Manager's address and telephone number. All enquiries are to be recorded in a daily log, which shall show the above information together with what action (if any) was taken. Copies of this daily log are to be provided to the Engineer before close of business on the following working day.

##### **51.2.38.4.2 Emergency Communications**

The Contractor shall provide for direct communication for emergency notification on a 24 hour a day, seven day a week basis.

Prior to starting Work on the Contract, the Contractor shall provide the Engineer and the local emergency authorities with telephone numbers of his authorized personnel and the order in which they are to be contacted. The Contractor shall update the list as needed to ensure accuracy.

The Engineer will provide the Contractor with a list of Department representatives and the order in which they are to be contacted.

When contacted by emergency services such as the RCMP, fire departments, or representatives of Disaster Services, concerning an emergency situation, the Contractor shall cooperate with the request and respond in accordance with the procedure indicated in Section 51.2.14.2, Emergency Situations.

##### **51.2.38.4.3 Vehicle Markings**

The Contractor shall ensure that the Contractor's name and contact telephone number are prominently displayed on the sides of all of his vehicles involved in the Work.

**51.2.39 WORK PLANNING****51.2.39.1 Twice Monthly Planning Meetings**

The Contractor and the Engineer will meet twice monthly, unless mutually agreed otherwise, to discuss and review the following types of issues:

- (a) Work completed in the previous 2 weeks;
- (b) Work the Contractor has planned for the next 2 weeks;
- (c) Work the Department plans to issue within the next 2 weeks;
- (d) Status of Work in progress; and
- (e) Any project, technical, administration or communication problems.

The site for these meetings will be at a location and time agreed to by the Contractor and the Engineer. Meetings may be cancelled by mutual agreement.

There will be no direct payment to the Contractor for participating in the meetings or for providing facilities for the meeting if required.

Minutes of meetings will be taken alternately by each party, with copies distributed to both parties within 2 working days of the meeting.

**51.2.39.2 Twice Yearly Management Meetings**

Senior representatives from both the Department and the Contractors will participate in a management meeting a minimum of twice a year, spring and fall. At these meetings, the parties may discuss the following types of issues:

- (a) Scope and magnitude of anticipated Work for the next 6 month period;
- (b) The Department's budget and any budgetary constraints on the Work;
- (c) Updates and changes in the Contractor's business plan and financial plan; and
- (d) The Contract management process, with discussions on project performance over the preceding 6 months.

There will be no payment to the Contractor for participating in the meetings and for providing facilities for the meeting if required.

**51.2.40 COMPLIANCE WITH LAWS AND REGULATIONS**

The Contractor shall, in the performance of the Work, comply with the requirements of any local by-law or regulation of Canada and of the Province of Alberta.

In performing the services, the Contractor shall comply with all applicable statutes, regulations, by-laws, orders and directives of the respective governmental authorities having jurisdiction, shall obtain any permits, licenses, approvals or consents necessary for the services or the materials, and shall pay any tax, levy, fee or other like charge required to be paid in order for the Contractor to perform the services or for the Minister to use the materials.

**51.2.41 TRUCK WEIGH SCALES**

When payment by weight is specified, the Contractor shall provide silo scales or platform scales and a scale house.

The use of a particular silo scale shall be subject to the approval of the Engineer. Platform scales shall be of sufficient length and capacity to accommodate in a single loading any truck, including pups or trailers that is used. The scale house shall be weatherproof, heated and large enough to provide reasonable working accommodations for the scaleperson and required furnishings.

All weigh scales must be certified by the Legal Metrology Section of Industries Canada. The most recent certificate for a scale shall be displayed at all times. In the event a certified scale is modified in any way, it must be re-certified prior to being used.

Prior to use on this Contract and in each instance that a certified weigh scale is moved and set up, the Contractor may be required to test the weigh scale using the procedures established by Weights and Measures. This test shall be performed to ensure that the weight scale conforms with the current standards required by the Legal Metrology Section of Industries Canada. The Engineer will be in attendance during the entire testing process.

The Engineer may, when he deems it necessary, verify the accuracy of the weigh scale at any time and the Contractor shall provide all equipment, facilities and operating staff required to verify the weigh scale and shall cooperate fully in the verification process.

Verifying weigh scales by comparing the weight of a loaded vehicle over a grain elevator scale will not be accepted.

Unless otherwise specified by the Engineer, the Contractor shall provide, at his expense, a scaleperson for the purpose of weighing materials.

All costs associated with providing and installing the truck weigh scales and scale house and the testing or certification of the weigh scales shall be the responsibility of the Contractor, and no separate payment will be made.

**51.2.42 RECORDS OPEN FOR INSPECTION**

The Contractor's payrolls, time records, invoices, statements, and any other financial documents, data or records which may, in the Engineer's opinion, have any relation to the Contract shall at all times be open for inspection and copying by the Engineer. The Contractor shall assist the Engineer in every possible way in this inspection.

**51.2.43 DATA FOR MAINTENANCE MANAGEMENT SYSTEM**

The Contractor is required to furnish data in a format compatible with the Department's Maintenance Management System. The Department collects data on the amount of Work performed within each roadway segment. Where the required information cannot be derived from the Work Order, the Contractor will be required to provide details of the amount of Work performed in each segment. The Contractor will provide the required data at no cost to the Department.

The Department has defined two types of roadway segments:

- (a) Condition segments are sections of roadway that have a uniform and consistent surface condition. Currently, only paved surfaces have been segmented for condition rating, however, consideration is being given to extending condition rating to gravel surfaces.
- (b) Winter segments are defined for snow and ice control purposes based on the differing amount of effort required, depending upon terrain and prevalent weather conditions. Roadways within the Contract area requiring similar amounts of effort are given the same segment number. Currently, three are defined.

Boundaries will be established during the winter of 1995/96.

Snow and ice control work is recorded against winter segments. Other work is recorded against condition segments. Condition segment boundaries are marked as shown in the drawing entitled "Asset Management Segment Marker" or by any other means deemed appropriate by the Engineer.

#### **51.2.44 OWNERSHIP OF DATA**

Data and information provided by the Department to the Contractor during the performance of the Work shall remain the property of the Department.

Copyright and ownership in all data collected and provided, and in all drawings prepared by or on behalf of the Contractor shall become the sole property of the Department.

#### **51.2.45 CONFIDENTIALITY**

The Contractor shall treat data and information as confidential and not disclose, copy, use, or permit the use of it at any time or in any way, other than for the purpose of performing this Contract. The Contractor shall not communicate any matters concerning the Work to any member of the public or any news medium, whether the press or radio or television, without the prior consent of the Engineer.

The Contractor shall limit the disclosure of confidential information to those persons to whom such disclosure is strictly necessary for the performance of the Contract and shall ensure that those persons are bound by obligations of confidentiality equal to those contained in this section.

The Contractor shall not use the name of the Department in whole or in part, in publicity releases, advertising or promotion of the Contractor's business without the Department's written consent.

#### **51.2.46 FREEDOM OF INFORMATION**

Any information collected or generated by the Contractor in the course of the performance of the Contract, is the sole property of the public body and is subject to the Freedom of Information and Protection of Privacy Act as well as all other regulatory requirements governing the management of personal information.

#### **51.2.47 MAINTENANCE FACILITIES**

##### **51.2.47.1 Lease Agreement for Buildings and Land**

Some of the existing Government-owned buildings and land located within the Contract boundaries will be made available to the Contractor for lease on a site-by-site basis at the annual rental rates as shown in the section of the Request For Proposals entitled "List of Facilities." A security deposit will be required for each site in the amount of three (3) times the monthly rental rate plus GST. A Standard Lease Document containing the terms and conditions for each lease is available for viewing at the applicable district office.

To access the existing maintenance facilities, the Contractor will be required to enter into a separate lease agreement on the terms and conditions in the lease document with the Minister of Public Works, Supply and Services or the Minister of Transportation and Utilities. The lease agreement will specify the buildings and land available at the site and the terms and conditions under which the Contractor may use them.

##### **51.2.47.2 Access to Designated Stockpile Sites**

The Department will designate the sites where storage and stockpiling of salt and sand will take place. For sites on which the Contractor does not enter into a lease agreement under Section 51.2.47.1, Lease Agreement for

Buildings and Land, the Contractor shall enter into an access agreement with the Minister of Public Works, Supply and Services or the Minister of Transportation and Utilities. Such agreement will be provided at no cost to the Contractor.

#### **51.2.47.3 Privately Owned Facilities and Stockpile Sites**

The Contractor may elect to provide privately owned facilities and, where approved by the Engineer, stockpile sites at alternate privately owned locations. The Contractor shall clearly identify any privately owned facilities in his proposal in response to the Request for Proposal. Should the Contractor wish to provide alternate private stockpile sites, the Contractor shall make a proposal to the Engineer for approval. The Contractor's proposal shall identify the facilities or stockpile site that the Contractor no longer wants to use and shall demonstrate to the Engineer that:

- (a) The proposed site is in an equal or better and more cost-effective location for access to the Work than the existing site,
- (b) The proposed site will optimize winter maintenance response time,
- (c) The salt and sand storage site is of equal or greater storage capacity,
- (d) The Contractor can provide an environmental management plan to control contamination at the site,
- (e) The Contractor has met any and all obligations to Public Works, Supply and Services with respect to cancellation of any lease agreements, and
- (f) The Contractor can obtain all approvals for development, operation and reclamation of the site.

#### **51.2.47.4 Department Requirements of Facilities**

The Department may require the Contractor to provide, at his expense, office space and parking for Department personnel and free access to any of the lands or operations. The Contract Special Provisions will identify specific requirements.

The Special Provisions and/or lease agreement may specify the Department's requirements for the storage of Department-owned materials.

Certain facilities may be used by other forces. When facilities are used by other forces, such joint use will be identified in the lease agreement.

#### **51.2.48 PROVISION AND STORAGE OF SALT AND SAND**

The Contractor shall make use of existing stockpiles of sand and salt in stockpile at specific maintenance facilities at no cost. Once this material has been used, the Engineer will direct the Contractor to supply replacement material and will pay for such material under the applicable bid item.

#### **51.2.49 PRECAUTIONS AS TO FIRE**

The Contractor shall, at his own expense, take special precautions to prevent or extinguish uncontrolled fire occurring at or near the work site which is a result of the Contractor's performance of the Work.

51.2.50 OCCUPATIONAL HEALTH AND SAFETY ACT

51.2.50.1 Occupational Health and Safety Act

By entering into a Contract for this Work, the Contractor agrees that he is, and assumes all of the responsibilities and duties of the Prime Contractor as defined by the Occupational Health and Safety Act.

In the event that the work sites of 2 or more Prime Contractors coincide, it shall be the responsibility of the Prime Contractor of this Contract to liaise with all other prime Contractors and jointly develop a health and safety system or process for the affected work site. If 2 or more Prime Contractors of the Department cannot agree on a process or system that addresses the safety concerns of all parties, work at the affected work site shall cease and the matter shall be referred to the Engineer or his representative. Upon review, the Alberta Transportation and Utilities representative will decide which Prime Contractor shall be responsible for resolving the disputed safety issue. Such decision shall be final and binding upon all Prime Contractors.

The Prime Contractor shall, to the extent required by the Occupational Health and Safety Act, establish and maintain a health and safety system or process to ensure compliance with the Act by his subcontractors.

Copies of current legislation can be obtained from the following:

|                       |    |                       |
|-----------------------|----|-----------------------|
| Publication Services  | or | Publication Services  |
| Government of Alberta |    | Government of Alberta |
| 11510 Kingsway Avenue |    | 455 - 6th Street SW   |
| Edmonton, Alberta     |    | Calgary, Alberta      |
| T5G 2Y5               |    | T2P 4E8               |

51.2.50.2 Work Site Hazards

The Contractor has the responsibility to identify work site hazards and develop operational occupational safety policies, procedures and plans specific to the Work to ensure the safety of every person at the construction site and of the public travelling through the site. When requested by the Engineer, the Contractor shall provide copies of these safety policies, procedures and plans prior to the commencement of the Work, along with verification that they have been submitted to Alberta Occupational Health and Safety.

If Alberta Occupational Health and Safety conducts a work site inspection that results in orders being issued to the Contractor, the Contractor shall immediately supply copies of these orders to the Contract Inspector.

The Contract Inspector may suspend Work in accordance with Section 51.2.22.1, Engineer's Authority to Suspend Work, in cases of recognized imminent danger or when the Contractor fails to comply with safety orders issued or to rectify previously identified work site hazards. The Contract Inspector's interpretation of a work site hazard will be considered final in all cases.

51.2.50.3 Accident Investigations

In the event of an injury or accident as defined by Occupational Health and Safety regulations, involving employees of the Contractor or his subcontractors, the Contractor shall conduct an accident investigation in accordance with Section 13 of the Occupational Health and Safety Act. In addition, the Contractor shall supply a copy of this investigation report to the Engineer within 72 hours of the occurrence.

Should the Contractor or his subcontractors have a vehicle or equipment accident involving property damage to either the Contractor, a subcontractor, or the travelling public, or have any other accident identified by the Engineer, the Contractor shall investigate the accident and provide the Engineer with a report in a suitable format within 72 hours of the occurrence.



**51.2.50.4 Safety Meetings**

Prior to commencement of the Work, a pre-commencement meeting will be conducted by Alberta Transportation and Utilities. The Contractor shall ensure his project supervisor, the designated safety representative and a representative from each subcontractor named in the proposal are in attendance.

While the Work is in progress, the Contractor's project supervisor shall conduct safety meetings prior to the commencement of Work on each major Work phase or monthly, whichever occurs first. The Engineer or his designate shall be invited to attend.

**51.2.51 POLLUTION CONTROL**

The Contractor shall conduct his operation in accordance with all current environmental legislation; federal, provincial and local bylaws and other legislation that may affect the conduct of operations.

The Contractor shall become familiar with the applicable legislation and regulations.

The Contractor shall obtain all necessary approvals and permits and provide copies to the Engineer.

The Contractor shall remove and dispose of any inert solid waste resulting from the production of asphalt concrete pavement, concrete or soil cement to the satisfaction of the Engineer.

The Contractor shall clean up any waste arising from his Work which may cause pollution. Should the Contractor fail to do so, the Engineer may, without notice, arrange the clean-up and restoration of the site at the expense of the Contractor.

**51.2.52 CLEAN PREMISES**

During the course of the Work, the Contractor shall keep the premises in a neat and tidy condition satisfactory to the Engineer. The Contractor shall upon the completion of the Work, remove all temporary structures and clear away all rubbish, surplus, and waste material remaining at or near the work site and leave the premises in a neat and tidy condition satisfactory to the Engineer. If these requirements are not met, the Engineer may give written notice to the Contractor requiring him to remedy the situation. If the Contractor fails to remedy the situation within 14 days of receipt of the notice, the Engineer may cause the situation to be remedied and may deduct the cost thereof from any money owing to the Contractor.

**51.2.53 DEMURRAGE AND DAMAGES**

The Contractor shall be responsible for the prompt loading, unloading and delivery of all materials for the Work and for any demurrage and storage charges.

**51.2.54 SAFEGUARDING UTILITY INSTALLATIONS****51.2.54.1 Contractor's Responsibility**

The Contractor shall assume full responsibility for safeguarding all existing and relocated utility installations during the progress of the Work and shall assume liability for any damage to the utility resulting from his performance of the Work.

**51.2.54.2 Liaison and Location**

The Contractor shall ensure that all utility installations are located and clearly marked on the ground before commencing his operations. The Contractor shall be responsible for contacting all affected utility owners or

operators to determine the existence and location of all utility installations, maintaining liaison with the utility owners or operators concerning the adjustment of all utilities and coordinating his operations in compliance with Section 51.2.23, Hindrances and Delays.

#### **51.2.54.3 Precautionary Measures**

The Contractor shall take all precautionary measures as may be necessary when working over, under, or adjacent to utility installations, whether above or below ground, and shall control his equipment and method of operation to prevent damage to any utility and its appurtenances.

Under no circumstances shall the Contractor carry out any operations over or adjacent to any utility until the required adjustments and protection as required for the proposed Work have been completed. Additionally, the Contractor shall provide at least 48 hours notice to the utility owner or operator in advance of commencing his operations in that area. After completion of the utility Work by the utility owner or operator, the Contractor shall continue to work in close liaison with the utility owner or operator and, if the utility owner or operator so requires, ensure that a representative of the affected utility owner or operator is present at all times during active equipment operations at that location. The Contractor shall ensure that no equipment crosses or operates over or under any utility installation at locations other than where required protection has specifically been provided, and he shall work in close cooperation with the utility owner or operator in the execution of the Work. When the Work is in the vicinity of any unprotected utility installation, the Contractor shall exercise extreme caution to ensure that the utility installation is not damaged by the equipment or applied loads. When haul roads or equipment crossings are required, it shall be the Contractor's responsibility to determine, provide and install any protective works necessary and to observe any other necessary precautions.

#### **51.2.55 DISPOSAL SITES**

The Contractor shall be responsible for identifying and using proper disposal sites, including obtaining all necessary approvals from the appropriate jurisdiction or authority.

#### **51.2.56 TIME OF COMMENCEMENT**

The Contractor shall commence the Work at 4:30 p.m. Mountain Standard Time on the commencement date specified in the Contract Special Provisions

#### **51.2.57 CLAIMS AND DISPUTE RESOLUTION**

##### **51.2.57.1 Claims Resolution**

The resolution of claims arising between parties to this Contract, is subject to the following structured process:

##### **51.2.57.1.1 Claims**

If a situation or occurrence arises between the Department and the Contractor, in connection with or arising out of the Contract or the execution of the Contract Work, which results in a difference in opinion between the parties as to payment or compensation required under the Contract or the time required to complete the Work, such situation or occurrence shall be considered a Claim.

##### **51.2.57.1.2 Resolution of Claims**

Where the Department or the Contractor considers that a Claim has arisen under the Contract, the Department or Contractor shall issue a Notice of Claim to the other party.

A Notice of Claim shall be in writing and shall state the details of the claim. A Notice of Claim issued by the

Contractor to the Department pursuant to this Contract shall be served to the Contract Inspector as defined in Section 51.1.5.

A Notice of Claim shall be served as soon as possible after the occurrence of the circumstance giving rise to the Claim and not later than seven (7) days after the occurrence of the circumstance, or the claimant becoming aware of the circumstance. Failure to serve a Notice of Claim within this prescribed time period will prejudice the claimant's right to proceed with the Claim, unless the claimant can demonstrate that such delayed Notice did not prejudice the ability of the other party to take action to minimize any additional costs resulting from the Claim.

The Parties shall make bona fide efforts to resolve a claim. Attempts to resolve claims shall sequentially follow the Department's administrative review structure as follows:

1. Operations Manager
2. Regional Director
3. Executive Director, Contracts and Compliance Branch

The Department or the Contractor may not unilaterally proceed to litigation without agreement of the other party.

In the event the claim is not resolved to the satisfaction of both parties through this process and the claimant wishes to pursue the matter further, it is incumbent upon the claimant to issue a Notice of Dispute in accordance with Appendix A, Mandatory Dispute Resolution Process of the document entitled "Dispute Resolution Process for Government of Alberta Construction Contracts."

#### **51.2.57.2 Dispute Resolution Process**

Claims which escalate into disputes, and appeals to the Engineer's decision regarding the assessment of demerit points, shall be resolved through the processes identified in the document entitled "Dispute Resolution Process for Government of Alberta Construction Contracts", Appendices A, B, C, D, & E. In the event of a conflict between the aforementioned Appendices and other provisions of the Contract, the Appendices shall govern.

All references to Owner in the "Dispute Resolution Process for Government of Alberta Construction Contracts" shall mean the Department.

Any Notice of Dispute issued by the Contractor to the Department pursuant to this Contract shall be served to:

Executive Director, Contracts and Compliance Branch  
1st Floor, Twin Atria Building  
4999-98 Avenue, Edmonton, AB, T6B 2X3  
FAX: 422-2822

#### **51.2.58 DAMAGE TO WORK**

The Work shall be at the risk of the Contractor and he shall bear all loss or damage arising from any cause, excepting acts of the Queen's enemies, which may occur to the Work or as a result of the Work until the Work is accepted by the Engineer. If any such loss or damage occurs before this acceptance, the Contractor shall at his own expense immediately repair, restore and re-execute the lost or damaged Work so that the Work, or the portions thereof, shall be completed within the specified time.

#### **51.2.59 PREMIUM PAYMENTS**

When work eligible for an accelerated scheduling premium payment under more than one specification is performed at a single site, only one premium payment will be applied. Premium payment will be made at the rate for the first eligible work performed.

**51.2.60 MEASUREMENT BY THE CUBIC METRE**

When measurement of material is specified in cubic metres, quantities will be based on truck box measurement unless otherwise specified.

When the work directs that existing stockpiles are used and the quantity of material is known through prior measurement or calculation, the Engineer may direct that the previous quantity be used for calculation of payments.