

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

APPLICATION OF: : APPLICATION NO.
:
CITY OF PHILADELPHIA : A.99374

APPLICATION OF: : APPLICATION NO.
:
CITY OF PHILADELPHIA : A.98061

Room 1306, State Office Building,
Broad and Spring Garden Streets,
Philadelphia, Pennsylvania.

Wednesday, May 18, 1977

BEFORE: HON. RUDOLPH S. PALLASTRONE
ADMINISTRATIVE LAW JUDGE

APPEARANCES:

HERBERT SMOLEN, ESQ.,
Attorney for Applicant,
City of Philadelphia.

NO REPLY
FILE

RAPID REPORTING SERVICE, INC.
SUITE 1102-10
1405 LOCUST STREET
PHILADELPHIA, PA. 19102
732-4334-5

DOCKETED
APPLICATION DOCKET

JUN 28 1977

ENTRY No. *60*

77 JUN 21 10 35
STATE OFFICE
PUBLIC UTILITY
COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

JOEL MAZOR, ESQ.,
Attorney for Consolidated Rail
Corporation.

HERBERT G. ZAHN, ESQ.,
Attorney for Pennsylvania Department
of Transportation.

W. SCOTT ARMENTROUT, ESQ.,
Attorney for National Railroad Passenger
Corporation.

STEPHEN DITTMANN, ESQ.,
Attorney for Penn Central Trustees.

JUDITH BREEN SAKEN, ESQ.,
Attorney for Southeastern Pennsylvania
Transportation Authority.

W. PRESTON GRANBURY, ESQ.,
Attorney for Pennsylvania Bell Telephone
Company.

STEPHEN SCHACHMAN, ESQ.,
Attorney for Philadelphia Gas Works.

RUDOLPH CHILLEMI, ESQ.,
Attorney for Philadelphia Electric
Company.

I N D E X
E X H I B I T S

MARKED
FOR ID. REC'D

APPLICANT'S EVID:

5	✓ A-14 (7)	Copy of Deed.	174	184
6	✓ A-15 (2)	Copy of Excerpt of Page 243 of Vol. I of the Final System Plan, U. S. Railway Association.	175	"
8	✓ A-16 (2)	Copy of excerpt of Uniform System of Accounts for Railroad Companies.	175	"
10	✓ A-17 (2)	Copy of Letter, dated 12/27/76.	177	"
11	✓ A-18 (2)	Copy of Agreement, dated 3/11/77.	177	"
12	✓ A-19 (2)	Copy of Letter, dated 4/4/77.	177	"
13	✓ A-20 (2)	Copy of Agreement, dated 3/28/77.	178	"

PROTESTANT'S EVID:

15	✓ SEPTA'S No. 1 (2)	Copy of Document	190	--
----	---------------------	------------------	-----	----

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1

(2:15 o'clock P.M.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE ADMIN. LAW JUDGE: Gentlemen, let's commence. This is a hearing for 99374 and 98061. It appears that all we are going to do today is try to complete 99374.

I think, Mr. Smolen, you want to say something on the record with respect to 98061?

MR. SMOLEN: 98061 relates to the crossings involved in the Airport High Speed Line, and the 59th Street portion of the Airport High Speed Line is the only one that is handled in this particular proceeding contemplated under the Airport High Speed Line docket. And, therefore, future hearings are requested and will be requested on the other phases of the Airport High Speed Line crossings.

However, as stated in the previous hearing, the Public Utility Commission, in its order, consolidated these two dockets, 99374 and 98061, for hearing because it involved the same crossing, a portion of which involves the reconstruction of an existing span to which has been pended a portion of the Airport High Speed Line.

That is the purpose of this hearing, but

1 there will be other hearings, and we will request them,
2 on the Airport High Speed Line's other crossings.

3 THE ADMIN. LAW JUDGE: When do you
4 contemplate you would request hearing on 98061?

5 MR. SMOLEN: That question I cannot
6 answer with certainty by reason of the nature of the
7 various problems involved in the construction of the cross-
8 ings and some of those problems relate to agreements being
9 negotiated with other interested parties, the acquisition
10 of rights to construct the crossland, whether they be by
11 condemnation or by agreement; bearing in mind that the
12 City of Philadelphia is obligated under the Urban Mass
13 Transportation Administration grant to proceed in a certain
14 fashion with respect to the acquisition of properties
15 necessary in the construction of the Airport High Speed
16 Line.

17 UMTA has set forth a specific modus
18 operandi for the City to acquire necessary properties. And
19 that is previously the reason we, in all of the hearings
20 related to the Airport High Speed Line crossings, and as
21 a matter of fact, the Center City connections, that we
22 have requested the people not to make any appropriations
23 of ground or other rights necessary for the Airport High
24 Speed Line for the Center City connection because we are

1 bound to follow the procedures set by UMTA before
2 condemnation or before requesting appropriations.

3 THE ADMIN. LAW JUDGE: Based on your
4 assertion here today then, we will indicate to the
5 Commission with respect to A. 98061, which is the Airport
6 High Speed Line, that no hearing would be scheduled unless
7 requested, and then we call it. I think you, the City of
8 Philadelphia, through yourself as the representative of the
9 City Solicitor's office, is in a better position than
10 anyone to determine when the hearing would be required.

11 Are there any other counsel who wish to
12 make a statement?

13 MR. MAZOR: Yes, I think I should. It
14 is as a result of a letter that I wrote to Your Honor that
15 this hearing is being held.

16 Subsequent to the last hearing that we
17 had, the counsel for the City on March 28, 1977 sent Your
18 Honor a letter, which was in effect both a brief and also
19 had attached to it copies of certain documents which the
20 counsel wished to have introduced as exhibits, which he had
21 neither reserved the right to file at the last hearing and
22 which none of us had an opportunity to either cross-examine
23 or comment upon.

24 So, I wrote a letter to Your Honor saying

1 that if the issue of ownership, which counsel for the City
2 was seeking to raise by his argument and these documents,
3 was relative to the hearing, and I don't believe it is --
4 or relevant to it, I should say -- that I demand a further
5 hearing on the question. And I believe that is the purpose
6 that we are here today.

7 MR. SMOLEN: I did not address myself
8 to that issue in my previous comments. The deed and the
9 other materials, which I forwarded to the Administrative
10 Law Judge and the other parties, were not in my possession
11 at the time of the previous hearing.

12 THE ADMIN. LAW JUDGE: I think I recall,
13 and I think a check of the notes will show, but I think
14 Mr. Smolen indicated that he was endeavoring to get some
15 evidence of ownership and that the moment he did receive
16 that he forward it to all parties concerned. I think I
17 recall that, too, Mr. Mazor.

18 MR. MAZOR: All right, sir.

19 THE ADMIN. LAW JUDGE: Mr. Chillemi, do
20 you have anything you wish to say?

21 MR. CHILLEMI: No, Your Honor, I have
22 no comment at this time.

23 THE ADMIN. LAW JUDGE: Mr. Armentrout?

24 MR. ARMENTROUT: No, Your Honor.

1 THE ADMIN. LAW JUDGE: Mr. Dittmann?

2 MR. DITTMANN: No, Your Honor.

3 THE ADMIN. LAW JUDGE: Ms. Saken, I
4 don't know where she is.

5 Mr. Granbury?

6 MR. GRANBURY: Well, Your Honor, I had
7 a misunderstanding as to what this hearing was about, and
8 I have a witness who was going to be prepared to testify
9 on the remaining crossings of the Airport High Speed Line.

10 THE ADMIN. LAW JUDGE: 98061?

11 MR. GRANBURY: Yes. I understand that
12 the City has objections to the introduction of that
13 testimony.

14 THE ADMIN. LAW JUDGE: I don't think
15 they have objections, I think it may be premature. Do you
16 have any testimony on 99374?

17 MR. GRANBURY: I do not have any testimony
18 on 99374.

19 THE ADMIN. LAW JUDGE: Mr. Schachman,
20 I imagine you are just going to be an interested spectator?

21 MR. SCHACHMAN: Yes, sir.

22 THE ADMIN. LAW JUDGE: Mr. Smolen, I
23 assume now that you will move for the formal introduction
24 of your exhibits?

1 MR. SMOLEN: Yes, if Your Honor please,
2 I have circulated through the mail copies of the items
3 which I wanted to introduce of record. I sent three copies
4 to Your Honor; however, I have three other sets of them
5 for the stenographer today and perhaps it would be best
6 for me to mark for identification each one separately.
7 And I think the last exhibit number for the City was A-13,
8 so that it would be appropriate to start with A-14.

9 The first that I would like to have
10 marked for identification is a copy of a deed between John
11 C. Kohl, Trustee of the property of the Philadelphia,
12 Baltimore and Washington Railroad Company, Debtor, and the
13 Consolidated Rail Corporation, which encompasses the line
14 of rail, and our contention, the overhead structure at
15 58th Street involved in this proceeding.

16 This deed was given to me by the real
17 estate office of the Penn Central trustees. I request that
18 that be marked for identification as, I believe A-14.

19 THE ADMIN. LAW JUDGE: I direct the
20 stenographer to mark the exhibit pursuant to the request
21 of Mr. Smolen.

22 (Copy of Deed marked Applicant's
23 Exhibit No. 14 for identification.)

24 MR. SMOLEN: As Exhibit A-15, I request

7

1 be marked for identification an Excerpt of Page 243 of
2 Volume I of the Final System Plan, U.S. Railway Association.
3 I request that the Commission take judicial notice of this
4 publication, and we happen to have the publication with us
5 today if anybody wants to check the accuracy of this
6 excerpt of this one page.

7 THE ADMIN. LAW JUDGE: I direct the
8 stenographer to mark the exhibit pursuant to the request
9 of Mr. Smolen.

10 (Copy of Excerpt of Page 243 of
11 Volume I of the Final System Plan, U.S. Railway Association
12 marked Applicant's Exhibit No. 15 for identification.)

13 MR. SMOLEN: As Exhibit A-16, I request
14 that a two-page document entitled -- it is an excerpt of
15 the Uniform System of Accounts for Railroad Companies
16 prescribed by the Interstate Commerce Commission. I
17 request that the Commission take administrative or
18 judicial notice of that. It is an excerpt of page 46 of
19 those accounts, that system of accounts

20 THE ADMIN. LAW JUDGE: I direct the
21 stenographer to mark the exhibit pursuant to the request
22 of Mr. Smolen.

23 (Copy of excerpt of the Uniform
24 System of Accounts for Railroad Companies marked Applicant's

1 Exhibit No. 16 for identification.)

2 MR. SMOLEN: I request the marking for
3 identification as Exhibit A-17 a copy of a letter, dated
4 December 27, 1976, from the Urban Mass Transportation
5 Administration, Devendra M. Soni, Acting Regional Engineer,
6 addressed to Mr. Michael Gilinsky, Assistant City Solicitor,
7 City of Philadelphia Law Department.

8 Of course, the letter speaks for itself,
9 but to paraphrase, UMTA concurs in the proposed agreement
10 with the Philadelphia Gas Works. Now, that was an item
11 touched upon in the last hearing where we stated we were
12 going to submit the letter with UMTA approval together with
13 the actual copy of the agreement.

14 And, therefore, I request that marking
15 for identification as A-18 a copy of an agreement, dated
16 the 11th day of March 1977, between the City of Philadelphia
17 and the Philadelphia Facilities Management Corporation,
18 which relates to the Gas Works facilities involved in the
19 proceedings.

20 That would be A-18, the previous one is
21 A-17.

22 THE ADMIN. LAW JUDGE: I direct the
23 stenographer to mark, pursuant to the request of Mr. Smolen,
24 Exhibits A-17 and 18.

1 (Copy of Letter, dated 12/27/76,
2 marked Applicant's Exhibit No. 17 for identification.)

3 (Copy of Agreement, dated 3/11/77,
4 marked Applicant's Exhibit No. 18 for identification.)

5 MR. SMOLEN: Likewise touched on at the
6 last hearing, I would like to have marked for identifica-
7 tion as Exhibit A-19 a copy of a letter dated April 4, 1977,
8 from the Urban Mass Transportation Administration,
9 Devendra M. Soni, Acting Regional Engineer, addressed to
10 Mr. Richard S. Starr, P.E., Project Manager of the City
11 of Philadelphia.

12 Of course, the letter speaks for itself,
13 but generally states that UMTA concurs in the proposed
14 agreement between the City of Philadelphia and the Phila-
15 delphia Electric Company with respect to certain facilities
16 involved in these proceedings. That would be marked as
17 A-19.

18 THE ADMIN. LAW JUDGE: I direct the
19 stenographer to mark Exhibit A-19 pursuant to the request
20 of Mr. Smolen.

21 (Copy of Letter, dated 4/4/77, marked
22 Applicant's Exhibit No. 19 for identification.)

23 MR. SMOLEN: I also request marking for
24 identification as City Exhibit A-20 an Agreement, dated

1 the 28th day of March -- strike that -- a copy of an
2 Agreement, dated the 28th day of March 1977, between the
3 Philadelphia Electric Company and the City of Philadelphia,
4 pertaining to those Philadelphia Electric Company facilities
5 involved in these proceedings.

6 THE ADMIN. LAW JUDGE: All right, I
7 direct the stenographer to mark that exhibit pursuant to
8 the request of Mr. Smolen.

9 (Copy of Agreement, dated 3/28/77,
10 marked Applicant's Exhibit No. 20 for identification.)

11 MR. SMOLEN: I might say that attached
12 as a sub-exhibit within the agreement marked A-20 is a
13 copy of the ordinance approving that exhibit. That does
14 not require an additional number.

15 I request that these documents, which
16 have been marked for identification as A-14 through and
17 including A-20 be admitted into evidence.

18 THE ADMIN. LAW JUDGE: I assume there is
19 some objection, Mr. Mazor.

20 MR. MAZOR: Yes, sir. A-14 particularly,
21 the purported deed from the trustee of the Philadelphia,
22 Baltimore and Washington Railroad Company to Conrail.

23 I am first going to ask counsel for an
24 offer of proof as to what he is claiming he is proving by

11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

that conveyance for the record. I know what it is, but I would like to have it on the record, sir.

THE ADMIN, LAW JUDGE: Mr. Smolen?

MR. SMOLEN: I will respond, but I would like to go off the record for a moment if I may,

THE ADMIN, LAW JUDGE: Sure.

(Discussion off the record.)

MR. SMOLEN: This is the only deed available to the City showing a transfer of ownership of the line in question, and the deed has to be construed not only by itself, but together with A-15 as well as A-16.

MR. MAZOR: I gather then it is your contention that since this deed includes those items which are properly listed in ICC Accounts 1 through 45, particularly Account 39, that the bridge in question was transferred by that deed; is that correct?

MR. SMOLEN: Well, I don't know that I am on cross-examination here.

MR. MAZOR: No, sir, I am asking you if that is the purpose of your proof?

MR. SMOLEN: Can you restate that?

MR. MAZOR: Yes. Is it the City's contention that this deed shows by document fashion that the bridge in question, 58th Street bridge, was transferred

1 from the trustee of the Philadelphia, Baltimore and
2 Washington Railroad to Conrail?

3 MR. SMOLEN: Yes.

4 MR. MAZOR: Fine.

5 Then my objection, Your Honor, is simply
6 this: In order to have that proved, Mr. Smolen has left
7 out a step. He has not shown by any document or any proof
8 that that bridge was carried in Account 39 of the Phila-
9 delphia, Baltimore and Washington Railroad. Until he shows
10 that, he can't prove it was transferred.

11 MR. SMOLEN: I think that might be up to
12 a matter of defense, and we certainly don't have to go
13 ahead and prove someone else's case.

14 THE ADMIN. LAW JUDGE: No, sir.

15 MR. SMOLEN: If they say they don't own
16 it and it belongs to someone else, it is up to them.

17 THE ADMIN. LAW JUDGE: I agree with
18 Mr. Smolen and overrule your objection.

19 MR. MAZOR: You will note an exception
20 then, sir?

21 THE ADMIN. LAW JUDGE: Noted.

22 Is that the only exhibit you object to,
23 Mr. Mazor?

24 MR. MAZOR: Yes, sir.

1 MR. ARMENTROUT: Your Honor, I object
2 to A-15, I believe, the one-page extract from the U.S.R.A.
3 Final System Plan. My reason for this objection is that
4 the City offers in support of its argument concerning
5 ownership a one-page extract of, I guess, a 300-page,
6 however many pages it is, it is a huge thing, it has got
7 lots and lots of things in it. There are other portions
8 of that volume which support the contrary argument.

9 I think the City ought to offer the
10 entire document into evidence if they, indeed, intend to.

11 THE ADMIN. LAW JUDGE: Counsel, I think
12 that if that is your position, certainly by way of the
13 defense position, if you feel that that document in its
14 entirety is appropriate to be considered by me, you put it
15 in. I don't think that the City has to put it in. And if
16 your other objection is based on relevancy, I will over-
17 rule that objection also.

18 MR. ARMENTROUT: Well, I think the City
19 ought to offer the entire document, Your Honor.

20 THE ADMIN. LAW JUDGE: The burden of
21 proof is on them; and if they fail in the burden of proof,
22 that is a situation that Mr. Smolen will have to live with.

23 MR. SMOLEN: Let me say this: I have
24 requested the Commission take administrative or judicial

1 notice of this, and I have excerpted for convenience this
2 page 243. If someone else wants to cite it and request
3 administrative notice or judicial notice be taken, I
4 certainly think that they can, although I am not the one
5 to rule on it. But I requested administrative notice be
6 taken.

7 If you have any sections that you want
8 them to take notice of, I think you ought to state them and
9 for convenience excerpt them. But this is a document which
10 is available to the public and certainly to the Commission,
11 and you can refer to it. I can't make that order, but I
12 can make that suggestion.

13 MR. ARMENTROUT: Will the Commission
14 take notice of the entire document?

15 THE ADMIN. LAW JUDGE: Taking notice
16 means you have to read it, so I assume that you are saying
17 the only way to take notice is that we read it?

18 MR. ARMENTROUT: Well, I am sure they
19 have it in their archives.

20 THE ADMIN. LAW JUDGE: I think that if
21 there are other sections of that particular document, you
22 might as well identify the document.

23 MR. SMOLEN: This is the United States
24 Railway Association Final System Plan, Volume I; and it is

1 so identified as the cover page of A-15.

2 THE ADMIN. LAW JUDGE: If there are
3 areas in that document which you think purport to establish
4 your position one way or another, why don't you just make
5 reference to that? Why should the Commission take notice
6 of the entire document if 99 percent of it has no applica-
7 tion whatsoever?

8 MR. ARMENTROUT: All right, is this an
9 appropriate time to do that?

10 THE ADMIN. LAW JUDGE: Well, why don't
11 we go through the objections, and then I will come back to
12 you so chronologically it stays in order.

13 Do you have any other objections on any
14 of the other exhibits?

15 MR. ARMENTROUT: No, Your Honor.

16 THE ADMIN. LAW JUDGE: Do any other
17 counsel have any other objections to any of the exhibits?

18 MR. SCHACHMAN: Sir, I have objections
19 to reservations to A-17. The discussions we had at the
20 last hearing concerning any agreements between the City
21 of Philadelphia and a party other than Philadelphia Gas
22 Works, we were talking about the funding of this particular
23 agreement between PGW and the City of Philadelphia, we
24 would like to state for the record, are not necessarily

1 binding, obviously, on PGW. These agreements with the
2 City and a third party are binding upon the City. We have
3 no objection to the pending document.

4 THE ADMIN. LAW JUDGE: So, therefore,
5 you have no objections?

6 MR. SCHACHMAN: That is right, sir.

7 THE ADMIN. LAW JUDGE: Subject to the
8 points you have just mentioned.

9 Any other counsel have any objections?

10 MS. SAKEN: Yes, Your Honor, I would just
11 like to say that similarly on SEPTA's behalf, any agreement
12 SEPTA has with the City would not be affected by agreements
13 between the City and any other party. And subject to that
14 exception, I have no objections.

15 THE ADMIN. LAW JUDGE: You have no
16 objections subject to that.

17 Any other counsel?

18 (No response.)

19 I am going to direct the stenographer
20 to move and make part of the record all exhibits offered
21 by Mr. Smolen.

22 (Applicant's Exhibits Nos. 14 through
23 20 received in evidence.)

24 THE ADMIN. LAW JUDGE: And now we come

1 back to you.

2

3 MR. ARMENTROUT: All right, I would like
4 to -- I don't have copies. If I could borrow your --

5

6 MR. SMOLEN: Here is a set.

7

8 MR. ARMENTROUT: No, no, I would like
9 to borrow the entire manual.

10

11 I will submit at a later date, if it is
12 appropriate, copies of pages of the preceding two pages,
13 pages 241 and 242, with the footnotes that are appended
14 thereto in the Final System Plan.

15

16 THE ADMIN. LAW JUDGE: Any objections?

17

18 MR. SMOLEN: Can I take a look at them?

19

20 THE ADMIN. LAW JUDGE: We will give
21 counsel one week to late file.

22

23 MR. ARMENTROUT: They go further to --
24 the purpose of offering those pages is that those pages
go further to describe what the Final System Plan refers
to when they are talking about bridges, trestles, and
culverts.

25

26 MR. SMOLEN: Which notes were you
referring to specifically?

27

28 MR. ARMENTROUT: Footnote 46, I believe
is the one.

29

30 THE ADMIN. LAW JUDGE: Gentlemen, I have
Rapid Reporting Service, Inc.

1 a call from Washington on one of my other hearings. Let's
2 go off the record.

3 (Pause.)

4 THE ADMIN. LAW JUDGE: Okay, gentlemen.

5 MR. ARMENTROUT: I believe -- I am not
6 sure whether I was on the record or not, but just for the
7 sake of clarity, my specific reference was to, among other
8 things Footnote 46, which has a different interpretation
9 of what the U.S.R.A. means by references to bridges,
10 trestles, and culverts.

11 THE ADMIN. LAW JUDGE: And you want to
12 place that into evidence as an exhibit for your client?

13 MR. ARMENTROUT: Yes, I think the
14 Commission ought to have -- they have got one page of the
15 thing, they ought to have other pages.

16 THE ADMIN. LAW JUDGE: Make your request
17 then.

18 MR. ARMENTROUT: I request permission,
19 sir, to file as late file exhibits in this case pages 241
20 and 242 of Volume I of the U.S.R.A. Final System Plan.

21 THE ADMIN. LAW JUDGE: For your client?

22 MR. ARMENTROUT: On behalf of Amtrak.

23 MR. SMOLEN: May I ask a question of
24 counsel with respect to these two pages? The Footnote 46

1 to which you make reference relates to bridges carrying
2 track of railroad over highways or other structures?

3 MR. ARMENTROUT: Right.

4 MR. SMOLEN: Which in this case is
5 differentiated because this is a highway over the track.

6 MR. ARMENTROUT: That is exactly right.
7 And that is my purpose in offering it, that the U.S.R.A.
8 says, and I will read the footnote:

9 "Bridges, trestles, and culverts
10 mean such properties which can be carried in
11 Account 6 and include substructures and super-
12 structures of bridges, trestles, and culverts which
13 carry the tracks of the carrier over watercourses,
14 ravines, public and private highways."

15 I am saying that the Commission or the
16 Association didn't intend to convey to Conrail or Amtrak
17 or whoever bridges such as the one in this case.

18 THE ADMIN. LAW JUDGE: I will permit
19 Mr. Armentrout the late filing of the exhibit on behalf of
20 Amtrak. I think you could do that in a week. That is
21 more than ample time, with a copy to each one of the parties
22 of record, to the counsel of each one of the parties.

23 MR. MAZOR: If Your Honor please, I
24 should like to make a similar request, and I will do this

1 tomorrow. I want to file as a late file exhibit the deed,
2 the granting clauses of which are identical in language to
3 the deed that Mr. Smolen introduced as his Exhibit 14,
4 whereby the identical property was conveyed from Consoli-
5 dated Rail Corporation to the National Railroad Passenger
6 Corporation, which is Amtrak, on the same day that it
7 received the conveyance of those properties.

8 THE ADMIN. LAW JUDGE: Any objections?

9 MR. MAZOR: That would be Conrail No. 1,
10 sir. I don't think we have had any exhibits in this
11 proceeding.

12 THE ADMIN. LAW JUDGE: Just mark it the
13 appropriate exhibit and include that with your covering
14 letter. And send a copy to all parties of record.

15 MR. MAZOR: I shall, sir.

16 MR. SMOLEN: One further item, Your
17 Honor. During the break, Mr. Dittman, counsel for the
18 Penn Central Trustees, advised me that A-14 may have
19 another page attached to it which was not supplied to me
20 stating on that other page, "None."

21 Is that correct, Mr. Dittmann?

22 MR. DITTMANN: Yes, Your Honor, I would
23 be glad to submit as a late file exhibit an item which
24 shall be called Appendix D to this deed from the Penn

1 Central estate.

2 THE ADMIN. LAW JUDGE: Rather than ask
3 for a late file, if there is just one page, why don't you
4 send that one page to each of the parties?

5 MR. MAZOR: I think for the purpose
6 of the record, we can even stipulate that all that means
7 is that the Exhibit A granted the bankrupt railroads entire
8 interest in that particular line as there were no reserva-
9 tions of any property to the bankrupt estate. That is all
10 that Exhibit B would show.

11 THE ADMIN. LAW JUDGE: Rather than having
12 it -- I think the stipulation is fine, Mr. Mazor, but I
13 think the exhibit should be complete, so I will then direct
14 Mr. Smolen when he gets the other copy of the page of
15 Appendix D to forward it to all the counsel.

16 MR. SMOLEN: So, Mr. Dittmann, you will
17 supply that to me and then I will send this to the other
18 counsel and three copies to the stenographer.

19 THE ADMIN. LAW JUDGE: And they will
20 attach that to Exhibit A-14.

21 MR. SMOLEN: Thank you very much.

22 THE ADMIN. LAW JUDGE: Are there any
23 additional counsel who wish to either offer any exhibits
24 or make a statement?

1 MS. SAKEN: Your Honor, last time SEPTA's
2 witness gave testimony; and at that time, he had promised
3 offering evidence a summary of SEPTA's costs for the 58th
4 Street Bridge, the Main Bridge Span, and the West Approach
5 Span. And I am going to hand a copy of this exhibit to
6 each of the parties of record and ask that it be entered
7 as one SEPTA's first and only exhibit in this matter.

8 THE ADMIN. LAW JUDGE: Any objections,
9 gentlemen?

10 MR. SMOLEN: No objections.

11 MR. MAZOR: No objections.

12 THE ADMIN. LAW JUDGE: I will direct the
13 stenographer to mark the exhibit offered by Ms. Saken,
14 counsel for SEPTA, as SEPTA's Exhibit 1. She is now
15 distributing the copies to each of the counsel of record
16 and three copies to the stenographer.

17 (Copy of Document marked SEPTA's
18 Exhibit No. 1 for identification.)

19 MR. SMOLEN: Could we have a moment,
20 Your Honor?

21 THE ADMIN. LAW JUDGE: Certainly.

22 (Discussion off the record.)

23 THE ADMIN. LAW JUDGE: What is your
24 objection, Mr. Smolen?

1 MR. SMOLEN: Well, in the testimony at
2 page two, the very last answer, \$10,000 is the expense.

3 MS. SAKEN: A little more than \$10,000.

4 MR. SMOLEN: Well, a little more than
5 \$10,000. The exhibit now says \$15,000. That is a little
6 more, it is 50 percent more.

7 THE ADMIN. LAW JUDGE: The exhibit
8 certainly qualifies his answer, Mr. Smolen. He is bound
9 by his answer in the exhibit.

10 MR. SMOLEN: We have no objections and
11 no questions to the testimony or the exhibit. We may not
12 agree with it, but we have no objection to its introduction.

13 MR. MAZOR: No objection, Your Honor.

14 THE ADMIN. LAW JUDGE: Mr. Zahn, do you
15 have any objection?

16 MR. ZAHN: No, Your Honor.

17 THE ADMIN. LAW JUDGE: Mr. Armentrout?

18 MR. ARMENTROUT: No objection, Your
19 Honor.

20 THE ADMIN. LAW JUDGE: Mr. Dittmann?

21 MR. DITTMANN: No, Your Honor.

22 THE ADMIN. LAW JUDGE: Mr. Chillemi?

23 MR. CHILLEMI: No, Your Honor.

24 THE ADMIN. LAW JUDGE: Gentlemen, is that

1 all the exhibits that are being offered today?

2 MR. SMOLEN: That is all I have subject
3 to this last page to be attached to A-14.

4 THE ADMIN. LAW JUDGE: You are not going
5 to require any additional evidence based on that, since you
6 know what Mr. Armentrout is going to offer?

7 MR. SMOLEN: That is correct, I don't.

8 THE ADMIN. LAW JUDGE: Gentlemen, it
9 appears that all the testimony and all the exhibits are in
10 now, and I assume that it would be in order then to ask
11 each counsel are all counsel going to file briefs in this
12 matter? Mr. Zahn?

13 MR. ZAHN: Absolutely.

14 THE ADMIN. LAW JUDGE: Mr. Armentrout?

15 MR. ARMENTROUT: Yes.

16 THE ADMIN. LAW JUDGE: Mr. Dittmann?

17 MR. DITTMANN: Yes.

18 THE ADMIN. LAW JUDGE: I will then direct
19 that, in addition to all briefs that will be filed, each
20 counsel make their own findings of fact and conclusions of
21 law based on the relative positions taken by each of the
22 counsels and a proposed order based on the positions taken.

23 Now, the findings of fact and conclusions
24 of law will also include cost allocations that you believe

1 should be appropriate in this particular case. I will then
2 review the briefs and findings of fact and conclusions of
3 law and notes of testimony, and I will draw the appropriate
4 order myself.

5 MR. SMOLEN: One comment, and perhaps
6 a suggestion. As I explained to the Administrative Law
7 Judge prior to the hearing, since the City's testimony is
8 broken up into two phases and because of funding and the
9 contentions of the parties are different with respect to
10 each phase, that I certainly intend to break up the brief
11 by the findings of fact and conclusions of law and proposed
12 order as dealing with separate phases.

13 THE ADMIN. LAW JUDGE: You are talking
14 about Phase A and Phase B?

15 MR. SMOLEN: Yes.

16 THE ADMIN. LAW JUDGE: I believe that
17 suggestion is well-taken. I think that all counsel should
18 do the same so that the briefs and findings of fact and
19 conclusions of law and proposed order should be consistent
20 as to Phase A and Phase B.

21 Any questions or objections, gentlemen?

22 MR. SMOLEN: One final question, and that
23 is the time reference.

24 THE ADMIN. LAW JUDGE: Well, I assume

1 each party would like to have an order as soon as possible.
2 You know what the rules of the Commission are with respect
3 to briefs and with respect to hearings.

4 MR. MAZOR: When the transcript is filed,
5 we have 15 days.

6 THE ADMIN, LAW JUDGE: And I would
7 assume that the transcript should be received by each
8 party within 10 days, no later than 14.

9 MR. SMOLEN: May I make a request for
10 an extension of the 15-day rule for a 30-day period?

11 THE ADMIN, LAW JUDGE: It is probably
12 going to be a fairly substantial brief. I do not see any
13 reason why an extension should not be granted unless another
14 counsel will give me reason to say 15 days would be ample.

15 MR. MAZOR: We will join in the request.

16 MR. SMOLEN: Just so that it is clear,
17 30 days --

18 THE ADMIN, LAW JUDGE: From the receipt
19 of the transcript from the stenographer, I should have
20 delivered to me by hand or by mail a brief, findings of
21 fact, conclusions of law with respect to Phase A and
22 Phase B, and a proposed order.

23 Did you hear that, Mr. Zahn?

24 MR. ZAHN: Yes, sir.

1

THE ADMIN. LAW JUDGE: Off the record.

2

(Discussion off the record.)

3

THE ADMIN. LAW JUDGE: Now, just to

4

reiterate, on 98061, to which there was no testimony here

5

today, I am going to mark my sheets to indicate that this

6

application shall not be listed until a request from the

7

City of Philadelphia based on things they have to do, a

8

request is made to the Commission for scheduling here.

9

Is that correct, Mr. Smolen?

10

MR. SMOLEN: That is correct, Your Honor.

11

THE ADMIN. LAW JUDGE: Okay, thank you,

12

gentlemen.

13

14

(Concluded at 3:10 o'clock P.M.)

15

16

17

Reported by:

18

Marjorie Hopkins.

19

20

21

22

23

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the hearing of the aforementioned cause, and that this copy is a correct transcript of the same.

Marjorie Hopkins
MARJORIE HOPKINS,
Court Reporter.

5/22/88 WOL

DEED

THIS DEED IS MADE BY AND BETWEEN

JOHN C. KOHL,

AS TRUSTEE OF THE PROPERTY OF

THE PHILADELPHIA, BALTIMORE AND WASHINGTON RAILROAD COMPANY, DEBTOR

("Grantor"), whose address is 408 Kings Highway,
Moorestown, New Jersey 08057

AND

CONSOLIDATED RAIL CORPORATION,

a corporation organized and existing under the laws of the
State of Delaware ("Grantee"), whose address is 1818 Market Street,
Philadelphia, Pennsylvania 19103.DOCKETED
APPLICATION Docket

JUN 28 1977

ENTRY No. *BW*

WHEREAS, the Debtor is a railroad in reorganization under Section 77 of the Federal Bankruptcy Act, 11 U.S.C. Sec. 205, and is a railroad in reorganization as that term is defined in the Regional Rail Reorganization Act of 1973 (Public Law 93-236, 87 Stat. 985), as amended ("Act"); and

WHEREAS, by orders of the United States District Court for the Eastern District of Pennsylvania entered in Docket No. 70-347-K the above-named individual was duly appointed and is now serving as Trustee of the property of the Debtor; and

WHEREAS, the United States Railway Association, pursuant to Section 209 (c) of the Act, has certified to the Special United States District Court established pursuant to Section 209 (b) of the Act ("Special Court"), that the rail properties of the Debtor hereinafter described (except those hereinafter reserved and excepted) are to be transferred by the Grantor to the Grantee; and

WHEREAS, pursuant to Section 303 (b) (1) of the Act, the Special Court has ordered the Grantor to convey to the Grantee all of the Grantor's right, title and interest in such rail properties, free and clear of any liens or encumbrances as provided in Section 303 (b) of the Act;

Now, THEREFORE, pursuant to the Order of the Special Court, the Grantor hereby grants and conveys to the Grantee:

A. All of the Grantor's right, title and interest, legal and equitable, in and to the real property located in the

County of Philadelphia, Commonwealth of Pennsylvania

as described in Exhibit A attached to this Deed as a part hereof, together with all of the appurtenances, hereditaments, franchises, ways, waters, minerals, rights, privileges, improvements, fixtures, licenses, leaseholds, reversions, easements, rights under operating, trackage and joint facility agreements, rents, issues, profits and other interests and items belonging to or in any way appertaining to such real property, including but not limited to all real property items that would properly be recorded in Accounts 1 through 45 and 90 of the Property Accounts prescribed by the Interstate Commerce Commission for Railroad Companies in its Uniform System of Accounts, 49 C.F.R. Part 1201, to the extent that such interests and items belong or in any way appertain to such real property, except as those interests and items belong or appertain to the real property hereinafter reserved and excepted.

A-14, 5/18/77, M/A

RECEIVED
1977 JUN 23 AM 10:35

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

DOCUMENT
FOLDER

B. 1. The easements and rights reserved and excepted ("Grantor's Burdened Property"), any over and across the real property hereinafter reserved and excepted ("Grantor's Burdened Property"), any and all lines, poles, pipes, appliances, equipment, structures, facilities and appurtenances (each an "Easement Item") existing on and used or useful as of the date of delivery of this Deed as a part of any railroad communication, signal or interlocker system or as a part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system, together with the easement of reasonable access over the Grantor's Burdened Property to permit the exercise of the foregoing easements and rights, and the easement for lateral support of the real property conveyed by this Deed.

2. The easements and rights for the specific uses, if any, (each an "Easement Item") particularly described in Exhibit B attached to this Deed as a part hereof and burdening certain real property hereinafter reserved and excepted.

3. The Grantee shall give the Grantor reasonable notice before entering on the Grantor's Burdened Property to exercise the easements and rights conveyed in this Paragraph B, and shall exercise such easements and rights (a) so as not to interfere unreasonably with the use and enjoyment of the Grantor's Burdened Property, (b) in compliance with generally applicable reasonable requirements established from time to time by the Grantor and (c) so as not to increase materially the burden on the Grantor's Burdened Property existing on the date of delivery of this Deed. The Grantee shall indemnify and save the Grantor harmless from any loss, damage or expense arising from the exercise of the foregoing easements and rights, without regard to negligence on the part of the Grantor or the Grantee. Upon request of and at the expense of the Grantor, the Grantee shall execute and deliver to the Grantor a deed or other instrument releasing the Grantee's rights in any part of the Grantor's Burdened Property that is not used or reasonably needed by the Grantee in the exercise of the easements and rights conveyed in this Paragraph B.

4. If the location of any Easement Item would interfere with any proposed use or sale of any part of the Grantor's Burdened Property, the Grantor may, at the Grantor's expense and after obtaining the Grantee's written consent, relocate the interfering Easement Item or cause the same to be relocated. Such consent will be granted unless (a) the Easement Item cannot be relocated as proposed by the Grantor without unreasonable interference to the Grantee's operations or without damage to the integrity of the system of which the Easement Item is a part or (b) the Grantee will not have reasonable access to the relocated Easement Item. If the Grantee has previously released its easements and rights in any real property as provided in Paragraph B. 3. and a relocated Easement Item falls, in whole or in part, within the area that has been so released, the Grantor and the Grantee shall exchange the following instruments promptly after the relocation is completed:

(a) The Grantor shall execute and deliver to the Grantee a supplementary deed of easement which conveys to the Grantee with respect to the relocated Easement Item the easements and rights described in this Paragraph B.

(b) The Grantee shall execute and deliver to the Grantor a deed or other instrument of release as provided in Paragraph B. 3.

5. The Grantor shall bear all expenses and the cost of all transfer and recording taxes, fees and charges in connection with all deeds and other instruments delivered pursuant to this Paragraph B.

RESERVING AND EXCEPTING, HOWEVER, TO THE GRANTOR:

C. All the respective right, title and interest of the Grantor, legal and equitable, in and to the real property described in Exhibit B attached to this Deed as a part hereof, but subject, however, to (a) the limitation of access thereto across the real property conveyed by this Deed as hereinafter provided and (b) the easements and rights conveyed pursuant to Paragraph B above.

D. 1. The easements and rights to use, operate, maintain, repair, renew, replace and remove on, under, over and across the real property conveyed by this Deed ("Grantee's Burdened Property"), any and all lines, poles, pipes, appliances, equipment, structures, facilities and appurtenances (each an "Easement Item") existing on and used or useful as of the date of delivery of this Deed as a part of any railroad communication, signal or interlocker system or as a part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system, together with the easement of reasonable access over the Grantee's Burdened Property to permit the exercise of the foregoing easements and rights, and the easement for lateral support of the real property reserved and excepted from this conveyance.

2. The easements and rights for the specific uses, if any, (each an "Easement Item") particularly described in Exhibit B to this Deed and burdening certain real property conveyed by this Deed.

Property to exercise the easements and rights reserved and excepted in this Paragraph D, and shall exercise such easements and rights (a) so as not to interfere unreasonably with the use and enjoyment of the Grantee's Burdened Property, (b) in compliance with generally applicable reasonable requirements established from time to time by the Grantee and (c) so as not to increase materially the burden on the Grantee's Burdened Property existing on the date of delivery of this Deed. The Grantor shall indemnify and save the Grantee harmless from any loss, damage or expense arising from the exercise of the foregoing easements and rights, without regard to negligence on the part of the Grantee or the Grantor. Upon request of and at the expense of the Grantee, the Grantor shall execute and deliver to the Grantee a deed or other instrument releasing the Grantor's rights in any part of the Grantee's Burdened Property that is not used or reasonably needed by the Grantor in the exercise of the easements and rights reserved and excepted in this Paragraph D.

4. If the location of any Easement Item would interfere with any proposed use or sale of any part of the Grantee's Burdened Property, the Grantee may, at the Grantee's expense and after obtaining the Grantor's written consent, relocate the interfering Easement Item or cause the same to be relocated. Such consent will be granted unless (a) the Easement Item cannot be relocated as proposed by the Grantee without unreasonable interference to the Grantor's operations or without damage to the integrity of the system of which the Easement Item is a part or (b) the Grantor will not have reasonable access to the relocated Easement Item. If the Grantor has previously released its easements and rights in any real property as provided in Paragraph D. 3. and a relocated Easement Item falls, in whole or in part, within the area that has been so released, the Grantor and the Grantee shall exchange the following instruments promptly after the relocation is completed:

(a) The Grantee shall execute and deliver to the Grantor a supplementary deed of easement which conveys to the Grantor with respect to the relocated Easement Item the easements and rights described in this Paragraph D.

(b) The Grantor shall execute and deliver to the Grantee a deed or other instrument of release as provided in Paragraph D. 3.

5. The Grantee shall bear all expenses and the cost of all transfer and recording taxes, fees and charges in connection with all deeds and other instruments delivered pursuant to this Paragraph D.

E. All mineral rights owned by the Grantor in any parcel as to which an interest in the surface is not conveyed by this Deed.

TO HAVE AND TO HOLD the real property and the easements and rights hereby conveyed to the Grantee, free and clear of (a) any liens or encumbrances as provided in Section 303 (b) of the Act and (b) any and all easements and rights of access to the real property reserved and excepted from this conveyance across the real property conveyed by this Deed (except as otherwise provided in this Deed), even if such easements and rights would otherwise arise by reason of necessity, implication or other operation of law, statute, ordinance, rule or regulation of any governmental entity, BUT SUBJECT, HOWEVER, to (i) those easements and rights reserved and excepted in Paragraph D above, (ii) all existing licenses, easements, leases (other than those which may have been created to secure payment of a financial obligation), and operating, trackage right and joint facility agreements and (iii) Operating Rights Grants, if any, from the Grantor to a third party conveyed concurrently with this conveyance and identified in Exhibit B to this Deed.

The Grantor hereby covenants that the Grantor will perform, execute, acknowledge and deliver any and all such further acts, deeds, assignments and other instruments as may be reasonably requested by the Grantee to convey, confirm, clarify, identify or more precisely describe the real property and the easements and rights conveyed by this Deed or intended so to be in order to carry out the intent of this Deed in light of the designations contained in the Final System Plan which has been certified to the Special Court by the United States Railway Association pursuant to the Act, and to effect the recordation of, or otherwise perfect, this Deed and all such other deeds, assignments and instruments under any applicable statute, ordinance, rule or regulation.

The Grantee hereby covenants that the Grantee will perform, execute, acknowledge and deliver any and all such further acts, deeds, assignments and other instruments as may be reasonably requested by the Grantor to confirm, clarify, identify or more precisely describe the real property and the easements and rights reserved and excepted from this conveyance or intended so to be in order to carry out the intent of this Deed in light of the designations contained in such Final System Plan, and to effect the recordation of, or otherwise perfect, this Deed and all such other deeds, assignments and instruments under any applicable statute, ordinance, rule or regulation.

By acceptance of this Deed, the Grantee (a) agrees to perform each of the obligations imposed on the Grantee by the terms of this Deed, and (b) assumes and agrees to perform and observe all obligations and conditions on the part of the Grantor or the Grantor's predecessor in title to be performed or observed that arise or accrue after the date of delivery of this Deed under all licenses, easements, leases (other than those which may have been created to secure payment of a financial obligation) and operating, trackage right and joint facility agreements (subject, however, to the terms thereof) which are conveyed by this Deed and under those to which this conveyance is made subject, provided that the Grantee assumes no obligation or liability that arises after the date of delivery of this Deed out of any event, act or failure to act that occurred prior thereto and, where an obligation or liability is related to a period which is both before and after such date, the Grantee assumes only that portion of the obligation or liability which is reasonably allocable to the part of the period after such date. Concurrently with the delivery of this Deed, the Grantee is delivering to the Grantor a separate instrument executed by the Grantee acknowledging receipt and acceptance of this Deed and affirming the provisions of this paragraph.

All of the covenants of the Grantor and the Grantee, respectively, shall be deemed to be real covenants and shall run with the land.

The words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this Deed so requires and, whether singular or plural, such words shall be deemed to include in all cases the successors and assigns of the respective parties.

This conveyance and the specific covenants of the Grantor are made by the Grantor as Trustee of the property of the Debtor, and not individually, and this conveyance is made without covenants of title or any warranties express or implied.

IN WITNESS WHEREOF, the Grantor has executed this Deed this day of March, 1976.

Signed and Acknowledged
in the Presence of:

JOHN C. KOHL, AS
TRUSTEE OF THE PROPERTY OF THE
PHILADELPHIA, BALTIMORE AND
WASHINGTON RAILROAD COMPANY,
DEBTOR

DISTRICT OF COLUMBIA, SS:

On this day of March, 1976, before me, a Notary Public authorized to take acknowledgements and proofs in the District of Columbia, personally appeared John C. Kohl, personally known to me to be the person whose name is subscribed to the foregoing Deed, bearing the same date as this certificate of acknowledgement, and acknowledged himself to be the Trustee of the Property of The Philadelphia, Baltimore and Washington Railroad Company, Debtor, and that he executed the foregoing Deed as his free act and deed as such Trustee for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

This Instrument Prepared By:

United States Railway Association
Pursuant to the Act

EXHIBIT A

TO THE DEED BY AND BETWEEN

JOHN C. KOHL,

AS TRUSTEE OF THE PROPERTY OF

THE PHILADELPHIA, BALTIMORE AND WASHINGTON RAILROAD COMPANY, DEBTOR

AND

CONSOLIDATED RAIL CORPORATION

DESCRIPTION OF REAL PROPERTY

LOCATED IN

County of Philadelphia, Commonwealth of Pennsylvania

For the purpose of each description contained in this Exhibit A (and solely by way of illustration and not by way of limiting the generality of the term "adjacent"), adjacency shall be deemed to exist without regard to the existence of any public or private street, highway, alley or other way between one part of the Grantor's real property and another.

This Exhibit A consists of pages A-1 through A- inclusive.

Document No.

PB&W-CRC-ATK-RP-10

Situate in the County of Philadelphia, Commonwealth of Pennsylvania, and being The Philadelphia, Baltimore and Washington Railroad Company's line of railroad known as Penn Central's Philadelphia-Washington Main Line, and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County near University Avenue, in Philadelphia, connecting to another line of railroad known as Penn Central's New York-Philadelphia Main Line, and leaves the County at Darby Creek, near Island Road, in Philadelphia.

The line of railroad described herein is identified as Line Code 1101 in the records of the United States Railway Association.

RECEIVED

'77 JUN 23 AM 10:36

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

EXCERPT OF PAGE 243
OF VOLUME I
OF THE FINAL SYSTEM PLAN
U.S. RAILWAY ASSOCIATION

DOCKETED
APPLICATION DOCKET
JUN 28 1977
ENTRY No. *BW*

DOCUMENT
FOLDER

A-15, 5/18/77, M.A.

In the terms customarily used for railroad conveyances, included are all items associated with the rail lines which could be recorded in ICC account numbers 1 through 15, and 90, and not otherwise designated for transfer or offer under this chapter or specifically excluded.⁴⁸

In the appendix, specific rail lines are designated from each transferor to ConRail, profitable railroads, Amtrak and public authorities in accordance with subsections (A) through (D) of section 206(e) (1). As has been noted, designations of rail lines in accordance with subsection (E) as suitable for other public purpose use are listed in Part III, Section C-2.

Operating Agreements Associated with Rights of Way.—The present operating railroads are successors to dozens, and in the case of Penn Central, hundreds of smaller railroads whose lines were separately constructed during the 19th and early 20th century. This historical process as well as changes in operating patterns over the years caused the various railroads to enter into agreements ("Operating Agreements"),⁴⁹ relating to the joint use of tracks, terminals and other facilities. Generally, such agreements provide for either: (a) the right of one railroad to operate trains over the tracks of another railroad between certain points; or (b) the shared use of a particular facility (such as an interlocking tower or stations) by two or more railroads. Railroad consolidations and abandonments increased the number of such arrangements over the years, and thousands of such agreements exist today.

USRA attempted to assemble a full, comprehensive inventory of such agreements from the railroads' existing corporate records, but those records were inadequate for that purpose. USRA was able, however, to use the Penn Central's computerized system for monitoring and reporting joint facility debits and credits. That system also includes an inventory showing the railroad involved and a brief description of the service provided. To the extent available, some listings were also furnished by the other railroads but, in general, these listings did not provide the information needed for an accurate inventory. The information available to USRA, consequently, is inadequate to assess the value of these agreements and the desirability of their trans-

⁴⁸ For example, communication systems' property can be associated with a specific site, a specific piece of equipment, or generally associated with a system-wide operation or function. The designations here deal only with the communications equipment installed or customarily used along specific rail lines. Communications equipment at other facilities, not identified with a particular rail line (switchboards in terminals); mobile communications gear installed in equipment (such as in locomotives); communications equipment which may not be associated with any particular site or equipment (mobile radios, transmitters) are designated for transfer with those assets where to do so provides more logical basis for allocation.

⁴⁹ Operating agreements refers to those agreements and arrangements relating to more than one railroad's use, operation, control or access to tracks, terminals, interlocking towers, or other facilities related to rail services.

fer under the FSP. Information is lacking on such basic provisions of these agreements as cancellation provisions and established charges. The collection of such a comprehensive inventory will require an item-by-item check through the agreements themselves.

To the extent agreements are known to USRA, they have been correlated with the User File and are now associated with the line codes.⁵⁰ The information now available usually includes agreement identification number, location of agreement by line segment and milepost, railroads involved and a brief summary of the service or rights covered.

These agreements, particularly those involving track-age rights, affect the continuity of the routes over which the railroads now operate, and many other services vital to their functioning. ConRail and the other transferees will require the rights provided under most of these operating agreements. There are, therefore, designated for transfer or offer to each transferee, all operating agreements associated with the rail lines each acquires. Excepted from this designation, however, are:

- Operating rights associated only with light density lines that are not being acquired.
- Operating rights, in the case of ConRail, which, if acquired, would impose an obligation to provide service beyond that contemplated for it under the industry structure delineated in the FSP.
- Operating rights having so high a fixed cost in relation to the benefits of foreseeable use by the transferee, as to make other available options economically more attractive.

As noted, USRA has neither a complete inventory, nor sufficient details as to the terms of individual agreements. A more precise delineation, in accordance with the foregoing designation standards, will be presented when USRA certifies these agreements to the Special Court.

Facilities and Other Road Properties

Apart from rail lines and associated assets, the other main grouping of road property assets is facilities. These assets have been divided for analysis into yards and maintenance and service facilities, intermodal terminals, marine facilities, rail welding facilities and stations and other structures.

Yards and Maintenance and Service Facilities.—In designing a restructured system, USRA has designated a system of yards and facilities adequate for system operations and for the servicing and maintenance of rolling stock designated to the various transferees. Yards are by no means uniform; they range in size from

⁵⁰ New line codes have been created for tracks or facilities on line segments not previously included in the User File usually involving the railroads' right to operate over the track of other railroads.

RECEIVED

77 JUN 23 AM 10:36

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

UNIFORM SYSTEM OF ACCOUNTS
FOR
RAILROAD COMPANIES

PRESCRIBED BY
THE INTERSTATE COMMERCE COMMISSION
AS AMENDED TO JANUARY 1, 1976

DOCKETED
APPLICATION DOCKET
JUN 28 1977
ENTRY No. *BW*

DOCUMENT
FOLDER

A-16, 5/18/77, M.A.

hoirs.
s and towers.
er traps.
eciling or painting letters or numbers on
poles.

Part A: The cost of wire and pipe-distribution systems located within shop buildings and in stations and office buildings shall be included in the cost of the buildings, except lateral service lines to equipment-machines shall be included in account "Shop machinery." The cost of distribution systems used primarily for operating cranes and interlockers shall be included in account 27, "Signals and interlockers."
Part B: The cost of conduits and of poles and wires for telegraph and telephone, or lines shall be included in account 28, "Communication systems," or account 27, "Signals and interlockers," as appropriate.
Part C: The cost of poles and conduits used for tele- and telephone or signal lines and for distribution lines shall be included in account appropriate according to their character.

Miscellaneous Structures.

This account shall include the cost of permanent structures not provided for elsewhere, including all fixtures and equipment to equip them for use.

Roadway Machines.

This account shall include the cost of the initial outfit of roadway machines and for the maintenance of roadway machines at the line the road is for commercial traffic, and the additional roadway machines subsequently. This account shall include the cost of on and/or off-automotive vehicles, permanently equipped with special-purpose machinery such as hydraulic cranes, derricks, ditch-diggers, pile-driving equipment, and other machines listed below, and used exclusively in maintenance of way structures.

LIST OF ROADWAY MACHINES

Engine, portable.
Grading outfits.
Hydraulic outfits.
Jacks, hydraulic.
Log loaders.
Log drivers.
Mows, unloading.
Roll un-loaders.
Rock crushers.
Steam rollers.
Trailer trucks.
Veelpepees.

When an important addition and project or the construction of a

Part 1201

Title 49—Transportation

new line necessitates the purchase of roadway machines to be used exclusively thereon, the cost shall be included in the accounts to which the cost of the work is charged. The amount realized from any subsequent sale, or the appraised value of the machines retained after the completion of the special work for which they were purchased, shall be credited to the accounts charged with the cost thereof. The appraised value of such machines retained shall be debited to this account and thereafter considered as the cost of such property.

Note B: The cost of machines for the equipment of roadway shops shall be included in account 17, "Roadway buildings," as provided for therein.

Note C: The cost of roadway machines, such as pile drivers, log loaders, hoist engines, and concrete mixers, when permanently mounted for movement on the carrier's tracks, shall be included in account 57, "Work equipment."

[32 P.R. 20123, Dec. 20, 1907, as amended at 38 P.R. 65, Jan. 6, 1911]

38 Roadway Small Tools.

This account shall include the cost of the initial outfit of roadway and track small tools provided for the maintenance of way and structures at the time the road is opened for commercial traffic; also the initial outfit of such tools provided for the maintenance of extensions of such road.

Note: The cost of roadway and track small tools of which no specific record is kept shall be charged when required to an appropriate materials and supplies account, from which they shall be charged as itemized to the appropriate road and equipment, operating expense, or other accounts. When such tools are used both for construction and maintenance work the cost shall be equitably apportioned among the accounts provided for the two classes of work.

39 Public Improvements; Construction.

This account shall include amounts assessed on carrier property by governmental authority (by mutual agreement or otherwise) to cover the cost of constructing public improvements, when such assessments are made against property within defined areas of taxing districts. The account also shall include carrier's portion of the cost of public improvements constructed under governmental requirements. See Instruction 16. The entire amount of each assessment and other liabilities for public improvements shall be included in this account as soon as the amounts are determined.

Items

- Cost of land outside carrier's right-of-way to provide for the relocation of streets or highways or providing slopes thereto.
- Cost of removal and relocation of buildings and other structures in connection with the construction of streets and highways.
- Cutting streets and highways.
- Damage to property of others when incidental to highway construction.
- Drainage systems.
- Engineering.—When such costs apply to items chargeable to this account.
- Flood protection.
- Grading streets and highways.
- Outletting streets and highways.
- Irrigation systems.
- Leaves.

- Overhead highway bridges, including approaches.
- Paving streets and highways, including such paving at crossings.
- Planing, highway crossings.
- Sewer systems.
- Sidewalks.
- Street-lighting systems.
- Water works.

Note A: The cost of railway facilities installed in connection with joint public improvement projects if not in excess of total costs borne by the carrier shall be included in accounts other than account 39, "Public Improvements—Construction," appropriate for the class of property installed. Any costs borne by the carrier in excess of the cost of railway facilities shall be charged to this account.

Note B: The cost to the carrier of maintaining public improvements shall be included in Operating Expenses.

Note C: Any portion of the cost of public improvements which is included in the regular tax levy for a regular taxing district shall be included in the account appropriate for taxes.

Note D: The amount of the deferred payments of assessments for public improvements if payments are to be made within one year, shall be included in account 703, "Other current liabilities." If the payments are spread over a longer period they shall be credited to account 702, "Other liabilities." The interest paid on such assessments shall be included in account 547, "Interest on unfunded debt."

Note E: Interest and penalties imposed on basis of monthly or annual percentage rates, for failure to pay assessments within the allotted time shall be charged to account 547, "Interest on unfunded debt."

Note F: Assessments on noncarrier property for the cost of constructing public improvements shall be charged to account 727, "Miscellaneous physical property."

43 Other Expenditures; Road.

This account shall include items which can not properly be included in any of



DEPARTMENT OF TRANSPORTATION
 URBAN MASS TRANSPORTATION ADMINISTRATION
 434 WALNUT STREET
 PHILADELPHIA PA 19106

REGION III

December 27, 1976

Mr. Michael Gilinsky
 Assistant City Solicitor
 City of Philadelphia
 Law Department
 15th Floor
 Municipal Services Building
 Philadelphia, PA 19107

SECRETARY'S OFFICE
 PUBLIC UTILITY
 COMMISSION

77 JUN 23 AM 10:35

RECEIVED

RE: Airport High Speed Line
 UMTA Project No. PA-03-0043
 City Project No. 20-594-2-22
 Relocation Philadelphia Gas Works
 Facilities

Dear Mr. Gilinsky:

In reply to your letter of November 3, 1976, you are advised that UMTA concurs in the proposed agreement with Philadelphia Gas Works for the above referenced project provided that the necessary changes are made so that the compensation (\$840,321.00) shall be considered as the maximum compensation for the work to be performed under this contract and that no changes in that amount shall be made without prior UMTA concurrence.

It is our understanding that the City will execute this contract quickly in order to avoid possible extra costs due to delays.

Sincerely,

Devendra M. Soni

Devendra M. Soni
 Acting Regional Engineer

DOCKETED
 APPLICATION DOCKET
 JUN 28 1977
 ENTRY No. *BW*

DOCUMENT
 FOLDER

A-17 5/18/77, M4

THIS AGREEMENT, made as of the 11th day of March A.D., 1977, by and between THE CITY OF PHILADELPHIA, hereinafter referred to as "City", first part, and PHILADELPHIA FACILITIES MANAGEMENT CORPORATION, a non-profit Pennsylvania corporation, solely in its capacity as operator and manager of the City-owned Philadelphia Gas Works, under and pursuant to an agreement with the City of Philadelphia, dated December 29, 1972, as amended, hereinafter referred to as "PGW", second part;

W I T N E S S E T H:

WHEREAS, City desires to have gas facilities relocated for construction of the Airport High Speed Line, such relocation work being hereinafter referred to as the "Project"; and

WHEREAS, pursuant to the terms set forth in the City/PGW Basic Agreement dated January 1, 1973, attached hereto, made a part hereof, and marked Exhibit "A", PGW and City have established a policy for the performance of such relocation work; and

WHEREAS, PGW has submitted a proposal including Preliminary Detailed Estimated Cost Analyses for the performance of the relocation of the above-mentioned gas facilities, said proposal being attached hereto, made a part hereof, and marked Exhibit "C"; and

WHEREAS, it is understood and agreed that in entering into this Agreement, Philadelphia Facilities Management Corporation goes so solely in its capacity as operator and manager of the City-owned Philadelphia Gas Works under and pursuant to an agreement with the City of Philadelphia dated December 29, 1972, as amended, and not

DOCKETED
APPLICATION DOCKET
JUN 28 1977
ENTRY No. *BW*

DOCUMENT
FOLDER

A-18, 5/18/77, [Signature]

96-01
PHILADELPHIA FACILITIES MANAGEMENT CORPORATION

otherwise; and further, that any and all payments required to be made by it as a result of, arising out of, or in connection with its entering into this Agreement shall be made solely from the revenues of said Philadelphia Gas Works.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. WORK TO BE PERFORMED.

PGW, for and in consideration of the compensation herein-after set forth, covenants and agrees to perform the Project under the terms and conditions of this Agreement. No work on any part of the Project shall be commenced until PGW shall have submitted, and City shall have approved, a Final Detailed Cost Estimate covering the part of the Project to be performed and until PGW shall have received written notice from City to proceed.

2. COMPENSATION.

As compensation for said work, City covenants and agrees to pay to PGW a fee not to exceed Eight Hundred and Forty Thousand Three Hundred Twenty-One Dollars (\$840,321.00). Payment for each approved part of the Project shall be equal to the actual cost of the work when and as completed in accordance with PGW's then current billing procedures.

It is understood and agreed that the fee above set forth and the figures set forth in Exhibit "C", attached hereto and made a part hereof, are preliminary estimates based on current costs and project planning. If the actual costs of performing the Project are expected to exceed the fee, City and PGW shall enter into good faith negotiations, subject to the concurrence of the Urban Mass Transportation Administration (UMTA), to raise the fee in accordance with Paragraph 16 and all other terms and conditions of this Agreement to cover all appropriate costs of work which PGW is called upon by City to perform in

increased costs, expansion or redesign of part or all of the Project, or otherwise.

It is understood and agreed that the funding sources for the fee shall be as follows:

Federal Government - Urban Mass Transportation Administration (UMTA)	80%	\$680,424.00
State Government - Pennsylvania Department of Transportation (PennDOT)	16 2/3%	\$141,783.00
City of Philadelphia	3 1/3%	\$ 28,323.00

PGW shall adjust City's share of the final invoice sent to City for each approved part of the Project by the amount required by Paragraph 3 of Exhibit "A", said Exhibit "A" being attached hereto and made a part hereof.

If for any reason any portion of Federal or State funds becomes unavailable, or Federal or State payments are found upon audit by Federal or State authorities to have been ineligible for reimbursement, City's obligation for payment of that part of the fee which has become unavailable or has been so found ineligible shall be governed by Paragraphs 1, 2, 3, 4 and 7 of Exhibit "A".

3. SALVAGE.

It is understood and agreed that any materials removed by PGW from the bed of various streets pursuant to this Agreement may be salvaged and reused by PGW. In the event that such material is salvaged by PGW, UMTA, PennDOT, and City shall receive the following credits:

UMTA	80% of salvage value
PennDOT	16 2/3% of salvage value
City of Philadelphia	3 1/3% of salvage value

However, it is distinctly understood that the aforesaid salvage credits shall be paid in full only if UMTA and PennDOT fund their full shares of this Agreement as indicated in Paragraph 2 above. The amount of the aforesaid salvage credits to be paid by PGW to a party funding less than its full share shall be reduced proportionately to correspond to the proportion that the amount paid by the party bears to the full share that was due from the party under this Agreement. It is understood that PGW shall alone determine whether salvage is economically feasible and should be undertaken; salvage value shall be determined by PGW. The credits shall be directly applied to the sums due under this Agreement.

4. PAYMENT.

Before any payment shall come due, PGW shall furnish the City with bills and vouchers, in the number, of the form and content and accompanied by such supporting data as the Commissioner of Public Property may require. PGW may bill the City on a monthly basis, or on a less frequent basis if it so elects, for actual costs incurred by PGW pursuant to this Agreement. PGW shall be paid by City after examination and approval of billings. All payments to PGW shall be in checks drawn by the City Treasurer, and PGW shall only be paid for the cost of work actually performed pursuant to this Agreement. Anything in this Agreement to the contrary notwithstanding, the sum of any and all payments to PGW hereunder shall in no event exceed the sum of Eight Hundred Forty Thousand, Three Hundred Twenty-One Dollars (\$840,321.00).

5. COMPLIANCE WITH LAWS.

All work performed and all plans, specifications and related documents prepared by PGW as required by this Agreement shall strictly conform to all laws, statutes and ordinances of all governmental boards, bureaus, officers and commissions and other

agencies, and shall be wholly consistent with the Standard Contract Requirements of City, attached hereto, made a part hereof, and marked Exhibit "B", unless otherwise provided herein, and, when applicable, its standard specifications. PGW shall comply with all terms and conditions as may be required by the aforementioned federal and state funding agencies.

6. MANNER OF PERFORMANCE.

PGW shall enter upon the performance of this Agreement with all due diligence and dispatch; PGW shall assiduously press to its complete performance, and shall exercise therein the highest degree of professional skill and competence. PGW will prosecute the work to be performed under this Agreement to the fullest and most rapid extent possible and in a manner which shall be coordinated with the construction schedule of this Project and other construction work of the City.

7. APPROVAL OF COMMISSIONER.

All of the work required hereunder of PGW shall be performed to the satisfaction and approval of the Commissioner of Public Property and PGW will not be deemed to have rendered and performed the said work unless and until it is so approved.

8. TERMINATION FOR CAUSE.

If for any cause PGW shall abandon the work, or in the opinion of the Commissioner of Public Property neglect or fail to prosecute the work with promptness and diligence or unreasonably delay the work, or if PGW shall neglect or refuse to furnish suitable materials in place of any which may be rejected by the City as unsuitable, or shall refuse or neglect to furnish and supply a sufficiency of properly skilled workmen and necessary equipment or either, or if PGW shall execute any of the work improperly, carelessly, or in bad faith, and refuse to remove any of the work which, in the opinion of

the City, is defective and unsuitable, and to replace it with work that is in accordance with the Agreement requirements, or if PGW shall default in the performance of any of the terms, conditions and provisions of the Agreement, then and in that event, the Commissioner may notify in writing PGW and its Surety to remedy its neglect or default and require PGW to comply with the terms, conditions, and provisions of the Agreement which it is violating. If the said notification be without effect forty-eight (48) hours after the receipt thereof, or twenty-four (24) hours when, in the opinion of the Commissioner, immediate action is necessary to safeguard life or property, then and in that event the Commissioner shall have the right to declare PGW in default, and to notify PGW to discontinue the work or any part thereof under the Agreement, and to call upon the Surety to complete the same through agencies which meet the approval of the Procurement Commissioner and, in the opinion of said Procurement Commissioner, have qualifications equal to those required of PGW. If the Surety fail to take up and prosecute the work by means of such approved agencies within ten (10) days (or within twenty-four (24) hours when in the opinion of the Commissioner immediate action is necessary to safeguard life or property) the Commissioner shall have the right to declare the Surety in default and, at his option:

(i) terminate the work under the Agreement, maintain conditions, obtain bids (if circumstances will allow) for all or any portion of the work, and enter into a new Agreement to complete the work of the original Agreement; or

(ii) in case of an emergency including but not limited to danger to life or property, or serious interference with traffic, terminate the work under the Agreement, and then and there secure in open market, from any person or party, at the then current market

prices the materials of, the quality and quantity required, the necessary workmen and mechanics, and the required equipment to carry forward the said work and complete the Agreement.

Upon default by PGW as hereinabove set forth, all moneys due PGW, materials delivered and materials built into the work, shall upon such default become the property of the City for use in the completion of the work and resort shall be had thereto by the City to the extent necessary to maintain and complete the work and reimburse the City for its outlays and expenditures in the premises.

In case of such default by PGW the remedies herein provided shall be in addition to and not in substitution of the rights and remedies which would otherwise be vested in the City, all of which rights and remedies are specifically reserved to the City. The failure of the City to exercise any of the remedies herein provided shall not preclude the resort to any other appropriate remedy.

The use of specific remedies herein provided shall not prevent subsequent or concurrent resort to any other remedy which by law or equity would be vested in the City for recovery or damages or otherwise, in the event of default by PGW.

PGW and its Surety shall pay to the City on demand, all loss, expense, cost or damage suffered or incurred by it by reason of any default.

9. TERMINATION IN BEST INTEREST OF CITY.

The performance of work under this Agreement may be terminated by the City in accordance with the terms set forth below, whenever the Commissioner of Public Property shall determine that such termination is in the best interest of the City. Upon receipt of the Notice of Termination, and except as otherwise directed by the Commissioner, PGW shall:

(i) stop work under the Agreement, on the date and to the extent specified in the Notice of Termination;

(ii) place no further orders or subcontracts for materials, services or facilities;

(iii) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Commissioner to the extent he may require, which approval or ratification shall be final for all the purposes of this Agreement;

(v) transfer title and deliver to the City all specialty items or items expressly fabricated for this Agreement and which cannot be used as a standard item on another project and the completed or partially completed plans, drawings, information and other property which, if the Agreement had been completed, would have been required to be furnished to the City;

(vi) take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to this Agreement which is in the possession of PGW.

After receipt of a Notice of Termination, PGW shall submit to the City its termination claim, in the form and with certification prescribed by the City.

Claim shall be submitted promptly within a reasonable time period set forth by the City but not later than 60 days after City has terminated the job. Upon failure of PGW to submit its termination claim

within the time allowed, the City may determine on the basis of information available to it, the amount, if any, due to or from PGW by reason of the termination and PGW or City shall thereupon be paid the amount so determined.

In the event of the failure of PGW and the City to agree upon the whole amount to be paid to or by PGW by reason of the termination of work pursuant to this Agreement, the appropriate party shall pay to the other the amounts determined by the City as follows, but without duplication for work already completed and paid for:

1. The cost of all work satisfactorily performed prior to the effective date of the Notice of Termination;
2. The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under this Agreement, which amounts shall be included in the cost on account of which payment is made under 1. above;
3. The reasonable cost of the preservation and protection of property incurred pursuant to paragraph 9(vi) above and any other reasonable cost incidental to termination of work under this Agreement, including expense incidental to the determination of the amount due to PGW as the result of the termination of work under this Agreement; and

4. City shall be entitled to credit for or payment of any sums due and owing from PGW under any of the terms of this Agreement.

The total sum to be paid to PGW shall not exceed the total Agreement price.

PGW shall keep in force for one (1) year after the date of final payment, all required bonds and insurance.

10. MAINTENANCE OF RECORDS.

PGW will at all times maintain full and accurate books and records with respect to the work to be rendered the City under this Agreement and for three (3) years after the completion of the work hereunder. Said records shall include, inter alia, records showing actual time devoted and costs incurred pursuant to this Agreement.

11. AUDIT AND INSPECTION OF RECORDS.

PGW will, at any time during normal business hours, and as often as the City or the U.S. Department of Transportation and the Comptroller General of the United States may deem advisable, permit the City or the United States Department of Transportation or the Comptroller General of the United States or their duly authorized agents to have full and free access to all books and records of PGW relative to the matters covered by this Agreement, including but not limited to charges, fees and costs, and permit the City, the U.S. Department of Transportation and the Comptroller General, and their authorized agents to make excerpts or transcripts from such books or records and to review, inspect, and make audits of its work, materials, payrolls, records of personnel, conditions of employment, invoices of materials, books of account, and any and all other data pertaining to the subject matter of this Agreement. PGW covenants and agrees to have said books and records available within the City of Philadelphia.

12. REPORTS AND INFORMATION.

PGW shall maintain an adequate system of control and information to provide accurate data for reporting purposes. PGW shall provide the City with a monthly progress report relative to the work being performed under this Agreement. In addition, PGW shall, at such times as the City may require, furnish it with such periodic reports, statements, and other documentary data and information relative to the work being performed hereunder, as may be requested by the City. PGW shall, upon request by the City, use forms specified by the City in preparing certain of such reports, statements, and other documentary data and information relative to the work being performed hereunder. All periodic reports, statements, and other documentary data and information furnished by PGW relative to the work being performed hereunder shall be the property of the City, and they shall not be made available to any individual or organization without the prior approval of the City.

13. OWNERSHIP OF DOCUMENTS.

The City shall retain ownership of all plans, specifications and related documents which are generated by either the City or PGW pursuant to the terms of this Agreement.

14. SUBCONTRACT APPROVAL.

Any subcontract of any portion of the work contracted to PGW by virtue of this Agreement must be approved in advance by the City in writing. If PGW elects to enter into an approved subcontract, it agrees to require any third parties with which it may so contract to comply with all applicable terms and conditions of this Agreement and of federal and state regulations, unless exempted in writing by UMTA and City.

15. NO ASSIGNMENT.

This Agreement and the monies to come due hereunder shall not be assigned or assignable, either by action of PGW or by operation of law.

16. AMENDMENTS.

This Agreement may be amended or supplemented only by written agreement signed by the parties hereto or their duly approved agents or assigns.

17. GOVERNMENT INSPECTIONS.

The City, State and Federal Governments shall have access to the site of construction and shall have the right to inspect all project works.

18. INELIGIBLE CONTRACTORS.

PGW hereby certifies that it is not included on the U.S. Comptroller General's Consolidated List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Incorporating Labor Standards Provisions.

19. NONDISCRIMINATION.

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

(1) PGW will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. PGW will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading,

demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. PGW agrees to post in conspicuous places, available to employees, and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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

(3) PGW will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of PGW's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) PGW will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) PGW will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of PGW's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated, or suspended in whole or in part and PGW may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation; or order, of the Secretary of Labor, or as otherwise provided by law.

(7) PGW will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. PGW will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event PGW becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, PGW may request the United States to enter into such litigation to protect the interests of the United States.

20. PRIME CONTRACTOR PARTICIPATION.

PGW shall perform, on the site, with its own staff, work equivalent to at least 10 percent of the total amount of the construction work at the site. Only pay items of the construction contract will

be used in computing the total amount of construction work at the site. The City may increase this minimum amount of prime contractor participation, depending upon the degree of specialization required to perform this work.

21. CERTIFIED PAYROLLS - CONSTRUCTION PROJECTS.

The City shall obtain from PGW a certified copy of each of the weekly payrolls of its subcontractors within seven days after the regular payroll date. Following a review by the City for compliance with State and Federal labor laws, the payroll copy shall be retained at the project site for later review by UMTA.

PGW shall require its subcontractors to use the Department of Labor Form WH-347, "Optional Payroll Form", which provides for all the necessary payroll information and certifications, or any other payroll form, provided it includes the same information and certifications as the Department of Labor Form WH-348, "Statement of Compliance".

22. WARRANTY OF CONSTRUCTION.

For a period of one year from the date of completion, as evidenced by the date of final acceptance of the work, PGW warrants that work performed under this Agreement conforms to the Agreement requirements and is free of any defect of equipment, material or workmanship performed by PGW or any of its subcontractors or suppliers.

Under this warranty, PGW shall remedy at its own expense any such failure to conform or any such defect.

Nothing in the above intends or implies that this warranty shall apply to work which has been abused or neglected by the owner.

23. AIR POLLUTION.

PGW agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to UMTA and the Regional Office of the Environmental Protection Agency.

PGW must submit evidence to the City that the governing air pollution criteria will be met. This evidence and related documents will be retained by the City for on-site examination by UMTA.

24. WORKMEN'S COMPENSATION.

PGW hereby certifies that it has accepted the provisions of the Workmen's Compensation Act of 1915 and all supplements and amendments thereto insofar as the work covered by this Agreement is concerned and that it has insured its liability thereunder in accordance with the terms of said Act.

25. INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS.

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

26. PROHIBITED INTERESTS.

No member, officer, agent or employee of the City or of PGW during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

27. MINORITY BUSINESS ENTERPRISES.

In connection with the performance of this Agreement, PGW will cooperate with the City in meeting its commitments and goals with regard to the maximum utilization of minority business enterprises and will use its best efforts to insure that minority business enterprises

shall have the maximum practicable opportunity to compete for sub-contract work under this Agreement.

28. MEANING OF THE TERM "CITY".

Whenever in this Agreement there appears a reference to the "City", it shall mean the Commissioner of Public Property unless the context shall clearly indicate otherwise or unless PGW shall be advised to the contrary by the Commissioner in writing.

29. NOTICES.

All notices, demands or other communications under this Agreement by any party to the other shall be in writing and shall be deemed sufficiently given or delivered only if dispatched by mail or delivered personally. In the case of the City, notices shall be sent to the attention of:

The Commissioner of Public Property
10th Floor
Municipal Services Building
Philadelphia, Pennsylvania 19107.

In the case of PGW, notices shall be sent to the attention of:

The Engineer of Distribution Design
Philadelphia Gas Works
1800 N. 9th Street
Philadelphia, Pennsylvania 19122.

Notices shall be sent to such other addresses or persons as the parties respectively may from time to time designate in writing.

30. PARAMOUNTCY OF AGREEMENT.

In the event of conflict or variance between this Agreement and the proposal of PGW marked Exhibit "C" or the Standard Contract Requirements of City marked Exhibit "B", this Agreement shall govern.

31. BINDING EFFECT OF AGREEMENT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

32. WAIVER.

The failure of City at any time to require performance by PGW of any provision hereof, shall in no way affect the right of City hereafter to enforce the same. Nor shall the waiver by City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of the provision itself.

33. INVALID PROVISIONS.

If any provision of this Agreement is illegal, the remainder of the Agreement shall not be affected thereby.

34. TITLES NOT PART OF AGREEMENT.

The titles of the paragraphs of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

35. DOT APPROVAL.

This Agreement is subject to the approval of the appropriate official of the United States Department of Transportation.

36. TERM.

It is understood and agreed that the term of this Agreement shall be one (1) year; provided, however, that this term shall be automatically renewed for additional one (1) year periods, unless

City notifies PGW in writing to the contrary at least sixty (60) days prior to the end of any current term, until all work to be performed hereunder by PGW is completed to the satisfaction of City. If City decides to terminate this Agreement, it shall do so in accordance with the terms of paragraph 8 or 9 herein, whichever is applicable.

IN WITNESS WHEREOF, PGW and the City have executed this Agreement as of the date first above written.

APPROVED AS TO FORM:

SHELDON L. ALBERT
CITY SOLICITOR

BY *Joan Parkolup*
Assistant City Solicitor
3-11-77

ATTEST:

Hector P. Paul Jr
Assistant Secretary

THE CITY OF PHILADELPHIA

BY *Robert Silver*
Robert Silver
Commissioner, Public Property

PHILADELPHIA FACILITIES
MANAGEMENT CORPORATION,
in its capacity as operator and
manager of the City-owned
Philadelphia Gas Works

BY *James A. [Signature]*
Vice President *FMM*

BASIC AGREEMENT

1-WHENEVER ANY DEPARTMENT OR AGENCY OF THE CITY, EITHER BY ITSELF OR IN CONJUNCTION WITH ANOTHER DEPARTMENT OR AGENCY OF THE CITY, OR ANOTHER GOVERNMENTAL AGENCY OR POLITICAL SUBDIVISION, UNDERTAKES A PUBLIC IMPROVEMENT AS PART OF ITS CAPITAL PROGRAM, THE COST OF SUCH IMPROVEMENT WILL INCLUDE THE COST, DETERMINED AS PROVIDED BELOW, OF RELOCATION OF ANY OF THE FACILITIES CONSTITUTING THE PHILADELPHIA GAS WORKS REQUIRED THEREBY, AND PROVISION WILL BE MADE TO RELIEVE THE GAS WORKS OF EXPENSE IN CONNECTION THEREWITH. HOWEVER, IN ANY SUCH CASE, IF THE TOTAL COST OF RELOCATION OF GAS WORKS FACILITIES FOR A SINGLE PROJECT IS ESTIMATED AT \$25,000 OR LESS, THE FULL COST WILL BE BORNE BY THE GAS WORKS AS A CHARGE AGAINST GAS REVENUES, SINCE IT MAY BE ASSUMED THAT THE GAS WORKS WILL BE ABLE TO ABSORB SUCH EXPENSE WITHOUT IMPOSING ANY ADDITIONAL BURDEN ON GAS CONSUMERS IN THE FORM OF AN INCREASE IN GAS RATES.

2-IT WILL CONTINUE TO BE THE PRACTICE OF THE DEPARTMENT OR AGENCY OF THE CITY PROPOSING A PUBLIC IMPROVEMENT WHICH MAY REQUIRE RELOCATION OF GAS WORKS FACILITIES, TO ADVISE THE GAS WORKS THEREOF AT THE EARLIEST OCCASION, IF POSSIBLE BEFORE CITY PLANS ARE MADE FINAL. THE GAS WORKS WILL THEN PROVIDE THE NECESSARY INFORMATION AS TO RELOCATION OF GAS FACILITIES. MOREOVER, TO SECURE FOR THE CITIZENS OF PHILADELPHIA THE LOWEST OVERALL COST OF ANY CAPITAL IMPROVEMENT, THE CITY DEPARTMENTS AND AGENCIES WILL COOPERATE WITH THE GAS WORKS IN THE DESIGN OF THEIR IMPROVEMENTS TO KEEP THIS TOTAL COST AT A MINIMUM, THUS, WHERE AT A RELATIVELY SMALL ADDITIONAL COST OF THE IMPROVEMENT ITSELF IT IS POSSIBLE TO SAVE A GREATER AMOUNT IN THE OVERALL COST BY ANY FEASIBLE CHANGE IN DESIGN, THE CHANGE IN DESIGN SHOULD BE ADOPTED.

3-THE GAS WORKS WILL TAKE WHATEVER ACTION IS NECESSARY OR DESIRABLE TO ACCOMPLISH THE REQUISITE RELOCATION OF GAS WORKS FACILITIES IN EACH CASE. IN DETERMINING THE COST THEREOF TO BE CHARGED AGAINST THE PUBLIC IMPROVEMENT, ANY SUBSTANTIAL ELEMENT OF INCREASE IN VALUE OF THE AFFECTED FACILITY RESULTING THEREFROM SHALL NOT BE SO CHARGED, BUT THE EXPENSE ATTRIBUTABLE THERETO SHALL BE BORNE BY THE GAS WORKS. THUS, THE COST ATTRIBUTABLE TO THE EXCESS IN VALUE OF THE RESULTANT RELOCATED FACILITY OVER THE ORIGINAL ONE BECAUSE OF BETTERMENT IN AGE, SIZE, QUALITY OR CLASS OF STRUCTURE, OR FOR ANY OTHER REASON, SHALL BE AN EXPENSE PAID BY THE GAS WORKS. IN CALCULATING SUCH EXCESS IN VALUE, IT WILL BE ASSUMED THAT ALL FACILITIES OTHER THAN DUCTILE IRON AND CAST IRON MAINS HAVE A FIFTY-YEAR USEFUL LIFE AND THAT DUCTILE IRON AND CAST IRON MAINS HAVE A ONE HUNDRED-YEAR USEFUL LIFE.

EXHIBIT "A"

BASIC AGREEMENT

4-THESE PROVISIONS SHALL ALSO BE APPLICABLE WHEREVER THE CITY HEREAFTER, BY CONTRACT, UNDERTAKES TO ASSUME THE EXPENSE OF RELOCATING MUNICIPAL FACILITIES OR STRUCTURES. IN SUCH CASES, THE GAS WORKS FACILITIES SHALL SPECIFICALLY BE INCLUDED AS MUNICIPAL FACILITIES AND THE COSTS SHALL BE ALLOCATED BETWEEN THE APPROPRIATE CITY DEPARTMENTS OR AGENCIES AND THE GAS WORKS, AS PROVIDED IN PARAGRAPH 3 ABOVE.

5-IN OTHER CASES OF PUBLIC IMPROVEMENTS REQUIRING RELOCATION OF MUNICIPAL FACILITIES, INCLUDING GAS WORKS FACILITIES, IF THE COST OF SUCH RELOCATION IS TO BE BORNE BY OTHERS THAN THE CITY, THE ENTIRE COST OF RELOCATION OF THE GAS WORKS FACILITIES, AS ASCERTAINED BY THE CITY ON CONSULTATION WITH THE GAS WORKS, WILL BE INCLUDED IN THE COST SO TO BE BORNE BY OTHERS.

6-IN THE EVENT THAT THE CITY UNDERTAKES A PUBLIC IMPROVEMENT WHICH IS TO BE FINANCED BY OPERATING BUDGET FUNDS (AND NOT AS A CAPITAL BUDGET ITEM), AND WHICH REQUIRED THE RELOCATION OF GAS WORKS FACILITIES, AN EFFORT WILL BE MADE TO KEEP THE COST OF SUCH RELOCATION AT A MINIMUM. IT IS ASSUMED THAT IN MOST CASES SUCH IMPROVEMENTS WILL BE MINOR ONES, AND THE COST OF RELOCATION OF THE GAS WORKS FACILITIES WOULD BE UNDER \$25,000 AND, THEREFORE, ABSORBED BY THE GAS WORKS UNDER THE PROVISIONS OF PARAGRAPH 1 ABOVE. IF THAT SHOULD NOT BE THE CASE, THE CITY AND THE GAS WORKS WILL CONSULT IN AN EFFORT TO AGREE UPON AN EQUITABLE BASIS FOR ALLOCATING THE COSTS OF SUCH RELOCATION OF THE GAS WORKS FACILITIES.


7-THESE PRINCIPLES AND PROCEDURES SHALL BE APPLIED AS TO ALL PROPOSALS SUBMITTED BY PHILADELPHIA GAS WORKS AFTER JANUARY 1, 1973.

8-IT IS RECOGNIZED THAT EXPERIENCE WITH THIS AGREEMENT MAY INDICATE THE DESIRABILITY OF REVIEWING IT FOR MODIFICATION. A PROPOSAL FOR MODIFICATION WILL BE MADE ANNUALLY, BUT NOT BEFORE ONE YEAR FROM THE DATE OF THIS WORKING AGREEMENT.

AGREED: CITY OF PHILADELPHIA

AGREED: PHILADELPHIA GAS WORKS


HILLEY S. LEVINSON
MANAGING DIRECTOR


EDWARD F. HUBBARD
GENERAL MANAGER

DATE:

1-5-73

DATE:

1-5-73

CITY OF PHILADELPHIA



STANDARD
CONTRACT REQUIREMENTS
FOR PUBLIC WORKS
CONTRACTS

PROCUREMENT DEPARTMENT

APRIL 1976

EXHIBIT "B"

CITY OF PHILADELPHIA
STANDARD CONTRACT REQUIREMENTS

TABLE OF CONTENTS

CONTRACT PROVISIONS:	Page
A. Bidding Requirements.....	1
B. General Requirements of the Contract.....	4
C. Administration, Measurement, and Payment.....	6
D. Materials, Workmanship, and Inspection.....	9
E. Construction Requirements.....	9
F. Surface, Subsurface, and Overhead Structures.....	11
INDEX.....	13

CONTRACT PROVISIONS

A. BIDDING REQUIREMENTS

1. Standard Contract Requirements.—These Standard Contract Requirements are the standard requirements of the City in connection with the proposals for and the award, execution, and performance of public works contracts, except as modified or amplified by special requirements for each contract, and are issued with the contract as an integral part of the Contract Documents. Wherever the word "contract" is used herein, without specific qualification, as in the expressions "this contract", etc., it shall accordingly be taken to mean the particular contract under consideration.

2. Qualifications of Bidders.—Bidders will be required to show that they are responsible and capable of performing the work to be done under the contract, that they have successfully completed contracts equivalent in scope and comparable in magnitude, and that they have the necessary financial resources to perform the work in a proper and satisfactory manner, in accordance with the Contract Documents, and within the time specified. As required by Sect. 17-101, of the Philadelphia Code, each bidder for a public works contract will be required to submit to the head of the Department requesting the work, not later than one (1) week prior to the time of opening bids, a statement of his facilities, experience, and financial resources, upon the Department's questionnaire form, for the purpose of determining his qualifications and responsibility. Should the information so required be refused or omitted to be given, or should it, in the judgment of the Procurement Commissioner, taking into consideration recommendations of the head of the department requesting the work, reveal that the prospective bidder is not sufficiently equipped or qualified to enter into or perform the said contract, no bid from such bidder or bidders will be accepted or scheduled, and the Procurement Commissioner will forthwith notify the proposed bidder to that effect.

3. Examination of Contract Documents and Site.—Bidders shall acquaint themselves with the Standard Contract Requirements, the Specifications, and Plans including all notes thereon. They shall examine in detail the site of the work to be done under the contract, and shall acquaint themselves with conditions affecting the work, and, in the case of construction contracts, the condition of walls and foundations of overlying and adjacent structures, the character of the paving, and the soil. The proposal shall be prepared with due regard to the provisions of the Contract Documents and to the conditions existing or to be anticipated at the site of the work.

The form of contract to be entered into and the form of accompanying bonds mentioned in these specifications, are on file and may be obtained at the office of the City Solicitor, Room 1540, Municipal Services Building.

Where borings, test piles, and existing underground and overhead structure locations are shown, they are for the information of the City; their correctness is not guaranteed by the City, and in no event is this information to be considered as a part of the contract. If this information is used by a bidder in preparing his proposal, he must assume all risks resulting from conditions differing from the approximation shown. If bidders desire to obtain such data, the City will afford them the opportunity, at their own expense, to make borings or soundings, to drive test piles, or to dig test pits on the site of the work.

Before making any excavations whatsoever, borings or soundings, driving test piles, or digging test pits on the site of proposed work, the Contractor shall check the records of the Committee of Highway Supervisors, Room 860, Municipal Services Building, for any City, public utility or privately owned structures that may be so disturbed and notify the owners of such structures forty-eight (48) hours in advance of starting work.

4. Bids.—Bids for doing all of the work and furnishing all of the materials and services in the contract shall be made on the forms issued, and shall be enclosed in sealed envelopes addressed to the Procurement Commissioner. Bids will be received at the office set forth in the proposal, and will be publicly opened and read at the time stated therein. No bid may be considered if received after that time nor may any bid be modified or withdrawn after that time.

Unless an advertisement or other written invitation to bid competitively for a City contract expressly provides for a different period, any person may withdraw any bid filed and any security therefor and may refuse to enter into any contract with the City if his bid has not been accepted within 60 days of the opening for bids.

5. Rejection of Informal Bid.—A bid which is incomplete, obscure, conditional, or unbalanced, or which contains additions not called for, or irregularities of any kind, including alterations or erasures, may be rejected as informal. A bid which is not accompanied by the required security for the execution of contracts shall be rejected.

6. Security for Execution of Contract.

a. The bid shall be accompanied by a certified, bank treasurer's or cashier's check (hereinafter sometimes referred to as "check") drawn to "The City of Philadelphia" in an amount based on the gross amount of the bid and computed in accordance with the formula below unless a specific amount is set forth in the proposal. The gross amount of the bid shall be the sum of all items bid upon without reduction for "deduct" alternates. A bid bond is not acceptable.

\$	0	when the gross bid does not exceed	\$
300	when gross bid exceeds	\$ 2,000 and does not exceed	\$ 2,000
500	when gross bid exceeds	3,000 and does not exceed	3,000
800	when gross bid exceeds	5,000 and does not exceed	5,000
1,500	when gross bid exceeds	10,000 and does not exceed	10,000
2,500	when gross bid exceeds	20,000 and does not exceed	20,000
5,000	when gross bid exceeds	50,000 and does not exceed	50,000
8,000	when gross bid exceeds	100,000 and does not exceed	100,000
12,500	when gross bid exceeds	200,000 and does not exceed	200,000
20,000	when gross bid exceeds	300,000 and does not exceed	300,000
40,000	when gross bid exceeds	500,000 and does not exceed	500,000
75,000	when gross bid exceeds	1,000,000 and does not exceed	1,000,000
150,000	when gross bid exceeds	2,500,000 and does not exceed	2,500,000
300,000	when gross bid exceeds	5,000,000 and does not exceed	5,000,000

b. For the purpose of estimating the amount of the check required, it will be assumed that the amount of work and labor or the quantities of materials or supplies to be furnished will be in accordance with the estimated quantities found opposite each item on the proposal form; but the City will not be bound by such estimates as regards the actual quantities of the work and labor or the materials or supplies required to be furnished under the contract.

c. When bids are opened and the low bidder has been determined, the Procurement Department shall return forthwith all checks except those for the two lowest bids. Upon return of the duly executed Contract Documents by the lowest responsible bidder to the Law Department, the checks of the two lowest bidders will be returned.

7. Charges by Law Department.—The charges by the Law Department in connection with the preparation of contracts and the related bonds are as follows:

Contract	not exceeding	\$ 5,000	\$15
over 5,000	and not exceeding	10,000	20
over 10,000	and not exceeding	20,000	25
over 20,000	and not exceeding	50,000	35
over 50,000	and not exceeding	100,000	50
over 100,000	and not exceeding	250,000	75
over 250,000	and not exceeding	500,000	100
over 500,000	and not exceeding	1,000,000	150
over 1,000,000			250

The schedule of charges to be paid the Law Department for the preparation of contracts and bonds other than those above may be obtained from the Law Department, Room 1540, Municipal Services Building.

8. Comparison of Bids.—Bids will be compared on the basis of the aggregate of all the items of the proposal, unless otherwise specified.

9. Award of Contract.—The contract award will be to the lowest responsible bidder; the Procurement Commissioner reserves the right to reject any or all bids as he may deem best for the interest of the City.

10. Execution of Contract.—Any bidder not lawfully released from his bid, who refuses to execute a contract in accordance with his bid or who refuses to furnish the required bonds, and insurance, shall be liable to the City in the amount of the check deposited as security for his bid as liquidated damages; or where the damages are readily ascertainable, such bidder shall be liable for the actual loss or damage sustained by the City by the failure of such bidder to enter into the contract.

11. Contract Surety.—Security for Performance: The Contractor will be required at the time of the signing of the contract to give security for the faithful performance of the work and for compliance with the contract, in the form of a performance bond, with an approved surety company as surety thereon, in a sum equal to one-hundred percent (100%) the amount of the contract.

Labor and Materialmen's Bond: In addition to the above mentioned security the contractor will be required at the time of the signing of the contract to give a labor and materialmen's bond in a sum of one hundred (100%) percent of the amount of the contract with an approved surety company as surety thereon, conditioned for the full payment of sub-contractors and others furnishing labor and materials in the performance of the contract.

12. Laws and Ordinances.—All regulations and ordinances of the City of Philadelphia, the Home Rule Charter and laws of the Commonwealth of Pennsylvania and of the United States shall be observed by the Contractor as far as they apply.

13. Labor-Management Relationships.—The contract awarded under these specifications is subject to all of the provisions of Section 17-107 of the Philadelphia Code entitled "Contractors: Labor-Management Relationships", copies of which may be obtained at the same place that copies of these specifications may be obtained. It is also subject to all regulations and procedures adopted thereunder.

a. As required by the Ordinance, all employees performing work under each contract shall be paid at least the applicable prevailing wages for the respective occupational classifications designated, as set forth in the minimum wage schedule attached for the applicable part of the specifications, and shall be given at least the applicable presently prevailing working conditions during the entire period of work under the contract. Such working conditions are those which are given to employees pursuant to a bona fide collective bargaining agreement for the applicable craft, trade or industry in the Philadelphia area on the date these specifications are issued. The occupational classifications for all employees under each contract shall be only the specific categories of jobs within a given craft, trade or industry for which a separate hourly wage rate for the Philadelphia area is determined by the Secretary of Labor of the United States, in accordance with the provisions of the Davis-Bacon Act, and which are set forth in the applicable schedule attached to the respective parts of these specifications. In the event that any contractor believes that work under his contract should be performed by employees in occupational classifications omitted from the schedule attached to the applicable part of the specifications, he shall so advise the Department of Public Property which shall remedy the omission if it agrees.

b. City may withhold from any sums due to the contractor under each contract so much as may be necessary to pay the employees the difference between the wages required to be paid thereby and the wages actually paid to such employees, and the City may make such payments directly to the appropriate employees.

c. Each contractor shall require all subcontractors to comply with and be bound by all of the provisions of this section of the contract and of Section 17-107 of the Philadelphia Code.

d. Every contractor and subcontractor shall keep an accurate record showing the name, address, occupational classification, wages and other benefits paid or provided and number of hours worked for each employee assigned to city-work, and such record shall be preserved for two years from the date of payment. The contractor shall make his employment records available for inspection by authorized representatives of the Department of Public Property, at all reasonable hours, and shall permit such representatives to interview employees during working hours on the job.

e. All contractors and subcontractors performing city-work shall, upon request of the City, file with the Department of Public Property a certified statement setting forth the name, address, occupational classification, wages and other benefits paid or provided and number of hours worked with respect to each employee performing city-work. Such statement shall be made weekly for each preceding weekly period. The certification shall affirm that the statement is correct and complete, that the wages set forth therein are not less than those required by the contract for city-work and that the occupational classification set forth for each employee conforms with the work he performed.

f. Nothing herein shall preclude the payment by the contractor of wages at rates higher than those specified as the minima in the applicable attached schedule. However, no increase in any contract price shall be allowed or authorized on account of the payment of wages in excess of those so specified or on account of wage increases granted hereafter. No increases above the amounts specified in the applicable attached schedule will be required by any contract during the term thereof except in the case of an error or omission in such schedule. Such an error or omission shall be called to the attention of the Department of Public Property as promptly as possible; but the remedying thereof by the Department shall not constitute grounds for withdrawal of a bid or cancellation of a contract, nor for an increase in the contract price or other claim or recovery against the City nor a ground for failure or refusal to pay the applicable proper minimum to all employees.

g. The minimum wages required hereby shall be paid unconditionally without any subsequent deduction or rebate of any kind except in accordance with prevailing payroll deduction practices. Any assignment of wages by an employee for the direct or indirect benefit of the contractor shall constitute a violation of this section; and any purported release of rights hereunder by an employee shall be void and of no effect.

h. Reference shall be made to the Ordinance and to the regulations to be issued from time to time by the Department of Public Property of the City of Philadelphia for further information concerning the administration of these requirements. In addition, it shall be the responsibility of all bidders and contractors to inform themselves as to all prevailing working conditions, including, without limitation, length of work day and work week, overtime compensation, and holiday and vacation rights.

14. Equal Employment Opportunities Requirement.

a. **Non-discrimination provisions.**—The contractor agrees to provide equal employment opportunities in connection with all work performed and materials furnished and supplied pursuant to this contract or to any sub-contract hereunder. The contractor, therefore agrees: (1) Not to discriminate nor permit discrimination against any employee or applicant for employment with regard to hiring, tenure of employment, promotion, terms, conditions or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion or national origin; (2) To keep posted in conspicuous and readily accessible places customarily frequented by applicants for employment and in at least one place customarily frequented by employees at or near each location where services are performed by such employees, copies of notices provided by the Commission on Human Relations, setting forth the substance of sub-section (1) of this paragraph; (3) Not to discriminate in the award of any sub-contract hereunder because of race, color, religion or national origin; (4) To insert the provisions of sub-section (1), (2) and (3) of this paragraph, as covenants to be performed by the sub-contractor, in all sub-contracts which are entered into by the contractor under this contract.

b. **Penalties for failure to comply.**—It is hereby agreed that any failure to comply with any of the foregoing requirements shall constitute a substantial breach of this contract. It is further agreed that in the event the Commission on Human Relations of the City of Philadelphia after investigation, shall determine that the contractor or any sub-contractor or any person acting on behalf of the contractor or of any sub-contractor hereunder, has failed to comply with any of the provisions of the foregoing paragraph, and the Commission shall certify such failure to the Procurement Commissioner, the city may terminate this contract, whereupon all obligation on the city to perform this contract shall cease, save only the obligation to pay the contractor the sums due for all articles delivered or work done in strict and exact accordance herewith, and there may be deducted from any sums due to the contractor for articles delivered or work done by the contractor under this contract, a penalty of \$5.00 for each person for each calendar day during which such person is discriminated against in violation of the provisions of the foregoing paragraph.

c. **Cancellation of contract and forfeiture for second or subsequent breach.**—In the event that the Commission on Human Relations of the City of Philadelphia shall determine, after investigation, that the contractor or any sub-contractor hereunder or any person acting on behalf of the contractor or of any sub-contractor hereunder has breached the provisions of the foregoing paragraph, or of the provisions of any covenant required by the foregoing paragraph, for a second or subsequent time, and the Commission shall certify such second or subsequent breach to the Procurement Commissioner, this contract may be terminated by the city, and all money due or to become due hereunder, may be forfeited.

B. GENERAL REQUIREMENTS OF THE CONTRACT

15. **Contract Documents.**—It is understood and agreed that the Standard Contract Requirements, and the Department's Standard Specifications if issued, as they apply; the Special Specifications, the Proposal, and the Plans with all notes thereon (excepting the record of borings, underground structures, and test piles) issued with each contract; and the Agreement and Performance Bond; referred to herein collectively as the Contract Documents, shall each constitute a part of the contract. If the Special Specifications, the Proposal, or the Plans modify any of the requirements of the Standard Contract Requirements or Standard Specifications, they shall supersede the portions of the Standard Contract Requirements or Standard Specifications with which they conflict. Titles, subtitles, and paragraph headings are inserted only for convenience, and shall not be considered as limiting the application of the paragraphs, or as being a part of this contract for any purpose whatever.

16. **Definitions.**—The following terms and expressions used in the Contract Documents shall be understood as follows:

"The City" to mean the City of Philadelphia.

"Department" to mean the Department for which work is done, except in the case of contracts supervised by the Department of Public Property, in which case "Department" shall mean the Department of Public Property.

"Operating Commissioner" to mean the head of the Department for which work is done, except in the case of contracts supervised by the Department of Public Property, in which case "Operating Commissioner" shall mean the Commissioner of Public Property.

"Engineer" to mean either the Chief Engineer of the Department for which work is done, or any successor or successors duly appointed, or any deputy or substitute who may be designated by the operating Commissioner, in person, or acting through a duly authorized representative, within the scope of the particular duties assigned such representative. The Architect, in the case of contracts supervised by the Department of Public Property, shall have the status and authority herein vested in the Engineer.

"Inspector" to mean the representative of the Engineer assigned to the inspection of materials and workmanship under the contract.

"Plans" to mean the general plans and designs accompanying the specifications, the Standard Details, and such detail and supplementary drawings as may be furnished from time to time.

"Contractor" to mean the party of the second part to the contract.

"Work" to mean all the matters and things herein agreed to be furnished or done by or on the part of the Contractor.

"Sub-contractor" to mean persons, firms, or corporations having a direct contract with the Contractor to perform a portion of the work specified, but not including those who merely furnish materials or equipment.

"Masonry Lines" to mean the outside net lines of the structure to be built under this contract, both in plan and in elevation.

Wherever in the Specifications or upon the Plans the words "directed", "required", "permitted", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Engineer is intended, and similarly the words "approved", "acceptable", "satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Engineer, subject in each case to the final determination of the Operating Commissioner.

17. **Unauthorized Acts.**—Any act of City representative, official, agent, or employee, which is not within the scope of his authority or line of duty as laid out in the Contract Documents, shall not be binding on the City nor deemed as a defense to the Contractor for the breach of any of the conditions and provisions of the contract.

18. **Cancellation of Contract.**—The Contractor will not be required to proceed with the work of any contract, if, for any reason for which he is not responsible, the work cannot be commenced within three (3) months from the date of execution of the contract, except in the case of contracts for street improvements, when six (6) months shall be the limiting period, and in such case, at the request of the Contractor, the contract shall be declared null and void. This shall not apply to contracts entered into for work the beginning of which is dependent upon progress of other contracts where this condition is plainly indicated by the character and location of such work at the time of receiving proposals.

If, at any time prior to the issuance of the notice to proceed, it becomes evident that the work must be curtailed in amount equal to or greater than twenty-five (25) per cent of the amount of the bid, then the Contractor shall have the option of canceling the contract prior to the receipt of the notice to proceed.

19. **Contractor's Obligation.**—The work to be done under the contract is indicated in detail in the Specifications and Proposal and upon the accompanying Plans. The Contractor shall furnish all labor, materials, plant, tools, and appliances, and shall complete the work to the satisfaction of the Engineer in the manner and within the time required in the contract documents at the prices bid, agreed upon, and fixed therefor. If at any time the Contractor's methods, force, or equipment appear to the Engineer to be unsafe, insufficient, or inadequate for the proper performance of the provisions of the contract, he may order the Contractor to make such changes as he may deem necessary, and the Contractor shall comply with such orders, but the failure of the Engineer to make such demands shall not relieve the Contractor of his obligations under the contract. The Contractor shall maintain an office where orders and instructions may be delivered, and shall give personal attention to the faithful performance of the work of the contract. He shall employ a competent representative or superintendent who shall have full authority to receive and execute orders, and to supply such labor, tools, and materials as may be required for the proper performance of the work.

20. **Materials and Equipment Loaned or Rented by the City.**—Any materials or equipment loaned or rented by the City to the Contractor for use on the particular job must be returned by the said Contractor in kind or in cash, or the Contractor will be considered in default of the contract. The use or operation of such material or equipment shall be at the Contractor's own risk.

21. **Contract Time.**—a. Time is an essential element of the contract. The Contractor shall begin work within ten (10) calendar days from the date of notice from the Engineer to proceed with the work, and shall complete all work under the contract within the time specified.

b. Should the City cause any delay in the completion of the contract, by failure to give possession of the site, by changes in the Plans and Specifications, or by requiring for any cause the suspension of the work under the contract, the Contractor will be entitled to a reasonable extension of the time specified for the completion of the work. There shall be, however, no payment or compensation of any kind to the Contractor for damages arising from delay, whether such delay be avoidable or unavoidable. Any claim for a time extension must be made in writing to the Engineer immediately upon the occurrence of the delay, and the Engineer will determine what allowance, if any, shall be made. The time allowed for any delay will be added to and will correspondingly extend the contract time for completion.

c. On contracts on a calendar day basis (a specified number of days) no allowance will be made for Saturdays, Sundays, holidays, or delays due to unfavorable weather, to the removal, relocation or fulfillment of other requirements by utilities, or to the failure to obtain material and equipment.

d. On contracts on a working day basis allowances will be made for days or parts of days, in increments of one-quarter day, for conditions entirely beyond the control of the Contractor; New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving Day and Christmas Day, or the Monday thereafter when these days occur on Sunday, and Saturdays and Sundays shall not be considered as working days; an allowance shall be made for unsuitable weather necessitating a suspension of work or other unfavorable conditions when the operation which controls the progress of the work is suspended; a record of the working days shall be kept by the Department; this record shall be available to the Contractor on request; the contract time shall start with the first working day after the date of the notice to proceed and the scheduled date of completion shall be that established by the specified number of working days plus the allowances.

e. If, for reasons other than those stated above, any portion of the work remains uncompleted after the contract date specified for its completion, for each and every working day that any portion of the work remains uncompleted, the Operating Commissioner shall deduct from the moneys due the Contractor, as damages actually suffered by the City, the actual direct expenses incurred by the City and for supervision during this period (supervision shall be calculated at 20% of the costs). Should such a detention or delay be due to causes which the Contractor considers extraordinary or beyond his control he may give timely notice thereof in writing to the Operating Commissioner, who may in his discretion make due allowance for such detention or delay.

f. Notwithstanding the above provisions of this paragraph the Contractor will not be liable or responsible for delays or damage to the work caused by acts of God, acts of public enemy, acts of Government, quarantine restrictions, general strikes throughout the trade, or freight embargoes not caused or participated in by the Contractor.

22. Accidents.—The Contractor shall be deemed and considered an independent contractor in respect to the work covered by the contract, and shall assume all risks and responsibility for casualties of every description in connection with the work. He shall have charge of the entire work until completion and acceptance, and shall alone be liable and responsible for any accidents to persons and any loss or damage to property, buildings, or adjacent work that may occur as a consequence of or during the progress of the work under this contract, whether such damage or accident be due to negligence of his servants, agents, employees, or whether such damage or accident be due to the inherent nature of the work. It is not the intention of this section or of any thing herein provided to confer a third party beneficiary right of action upon any person whatsoever and nothing hereinbefore or hereinafter set forth shall be construed so as to confer upon any person other than the City of Philadelphia a right of action either under this contract or in any manner whatsoever.

23. Suits and Claims.—Contractor agrees to indemnify, defend and save harmless, the City, all its officers and subordinates, from all suits and actions of every name, nature, and description brought against them or any of them for or on account of any damages or loss sustained by any party through the Contractor or his agents, servants or employees in the performance or subsequent to the completion of the work under the contract whether such injury or damage be due to negligence or the inherent nature of the work or to the negligence of The City of Philadelphia, its servants, agents or employees. It is not the intention of this section or of anything herein provided to confer a third party beneficiary right of action upon any person whatsoever and nothing hereinbefore or hereinafter set forth shall be construed so as to confer upon any person other than the City of Philadelphia a right of action either under this contract or in any manner whatsoever.

24. Insurance.—Contractor shall obtain and maintain in full force and effect covering the performance of the work under this contract a contractor's comprehensive liability insurance. Said policy of insurance to have minimum limits, unless otherwise specified, of \$300,000/\$1,000,000 and \$100,000 property damage and such insurance shall name the City of Philadelphia as a co/or additional insured. Evidence of such insurance shall be furnished to the operating department before work is begun.

25. Patented Appliances, Products or Processes.—The Contractor agrees to indemnify and save harmless the City, all its officers and subordinates from all suits and actions of every nature and description brought against them, or any of them, for or on account of the use of patented appliances, products, processes, constructions, designs, or methods, or the infringement of any patent, trademark or copyright, and he shall pay all royalties, charges and penalties which may become due or payable by reason of such use or infringement. Prior to the issuance of the final estimate, upon request by the Engineer, the Operating Commissioner, or the Procurement Commissioner, the Contractor shall submit evidence of the full payment of such royalties, charges and penalties, or in lieu thereof Contractor shall give such security, approved by the City Solicitor, as may in the opinion of the Engineer, the Operating Commissioner, or the Procurement Commissioner, be necessary to indemnify and save harmless the City, all its officers and subordinates, as aforesaid.

26. Violations of Contract.—If the Contractor shall abandon the work, or, in the opinion of the Operating Commissioner neglect or fail to prosecute the work with promptness and diligence, or unreasonably delay the work so that it may not be completed within the contract time, or if he shall neglect or refuse to furnish suitable materials in place of any which may be rejected by the Engineer as unsuitable, or shall refuse or neglect to furnish and supply a sufficiency of properly skilled workmen and necessary equipment or either, or if he shall execute any of the work improperly, carelessly, or in bad faith, and refuse to remove any of the work which, in the opinion of the Engineer, is defective and unsuitable, and to replace it with work that is in accordance with the contract requirements, or if the Contractor shall default in the performance of any of the terms, conditions, and provisions of the contract, then and in that event the Operating Commissioner may notify in writing the Contractor and his Surety to remedy his neglect or default and require the said Contractor to comply with the terms, conditions, and provisions of the contract which he is violating. If the said notification be without effect forty-eight (48) hours after the delivery thereof, or twenty-four (24) hours when, in the opinion of the Operating Commissioner, immediate action is necessary to safeguard life or property, then and in that event the Operating Commissioner shall notify the Procurement Commissioner who shall have the right to declare the Contractor in default, and to notify the Contractor to discontinue the work or any part thereof under the contract, and to call upon the Surety to complete the same through agencies which meet the approval of the Procurement Commissioner and, in the opinion of said Procurement Commissioner, have qualifications equal to those required of the original Contractor. If the Surety fail to take up and prosecute the work by means of such approved agencies within ten (10) days (or within twenty-four (24) hours when in the opinion of the Procurement Commissioner, immediate action is necessary to safeguard life or property) the Procurement Commissioner shall have the right to declare the Surety in default and, at his option:

a. To terminate the work under the contract, to maintain conditions, to obtain bids (if circumstances will allow) for all or any portion of the work, and to enter into a new contract to complete the work of the original contract; or

b. In case of an emergency including but not limited to danger to life or property, or serious interference with traffic, to terminate the work under the contract, and to then and there secure in open market, from any person or party, at the then current market prices the materials of the quality and quantity required, the necessary workmen and mechanics, and the required equipment to carry forward the said work and complete the contract.

Upon default by the Contractor as hereinabove set forth, all moneys due the Contractor upon estimates, retained percentage or otherwise, materials delivered, materials built into the work, and the Contractor's plant (including tools, appliances, and equipment on the premises intended for use in the performance of the contract), shall upon such default become the property of the City for use in the completion of the work, and resort shall be had thereto by the City to the extent necessary to maintain and complete the work and reimburse the City for its outlays and expenditures in the premises.

In case of such default by the Contractor the remedies herein provided shall be in addition to and not in substitution of the rights and remedies which would otherwise be vested in the City, all of which rights and remedies are specifically reserved to the City. The failure of the City to exercise any of the remedies herein provided shall not preclude the resort to any other appropriate remedy.

The use of specific remedies herein provided shall not prevent subsequent or concurrent resort to any other remedy which by law or equity would be vested in the City for the recovery of damages or otherwise, in the event of default by the Contractor.

Contractor and his surety shall pay to the City on demand, all loss, expense, cost or damage suffered or incurred by it by reason of any default.

27. Subcontracts.—The Contractor shall not assign this contract or any part thereof, and he shall not assign any right to any moneys to be paid him thereunder. The contract as a whole shall not be sublet. No portion of the work shall be sublet without the approval of the Engineer, and no sub-contractor shall be employed unless in the opinion of the Engineer he is reliable and responsible and competent to perform the work in compliance with the Contract Documents. All agencies so employed shall be bound by the terms and provisions of this contract, and neither the Contractor nor his sureties will be relieved from the terms and conditions of this contract or their duties or responsibilities under the same by reason of such employment.

27. (a) Performance of Work by Contractor.—The Contractor shall perform on the site and with his own organization, at least 20% of the total amount of work to be performed under the contract.

The Bidder shall submit with his bid a description of the work he will perform with his own organization (e.g. earthwork, paving, brickwork, roofing, etc.) the percentage of the total work this represents, and the estimated cost thereof.

28. Permits and Licenses.—The Contractor shall obtain all permits and licenses required by the City or by State Regulations unless otherwise specifically directed. The Contractor will be required to pay the fee where a service is rendered or materials, supplies, or equipment is provided.

29. Co-operation with Other Contractors.—a. The Contractor shall co-operate with any other contractors on concurrent work that may be on or adjacent to this work, and shall afford reasonable facilities and access to them. The Engineer will decide any matters in dispute as to the performance of the work, including access to the site and priority of performance, on either side of the division line between contiguous contract sections.

b. Where any portion of the work under this contract is done in combination with or affects in any way the progress of the work of other contracts, the Contractor shall co-operate with the contractors for such contracts, and shall prosecute the details of his work at such time and in such a manner that the entire work may proceed without interruption. Where electrical, plumbing, heating, or mechanical equipment is installed under separate contracts, concurrently with construction contracts, the equipment contractors shall keep in close touch with the construction work, and the contractor for the main construction shall give the equipment contractors at least twenty-four (24) hours' notice of his intention to place concrete, do backfilling, or perform similar work affecting the installation of such equipment. The equipment contractors shall thereupon promptly furnish and install their equipment, as required. Should the equipment contractors fail to do such work within a reasonable time after having been so notified, and the progress of the work is thereby delayed, the Engineer shall have the right to order the work performed by another contractor and to deduct the cost thereof from any moneys due for this work under the contract comprising such equipment.

30. Restoration of Conditions.—All rubbish or refuse and all unused materials and tools shall be removed promptly from the premises, and as the work progresses it shall be carefully cleaned and kept clean from such rubbish and refuse. Before the work will be considered as having been completed, the sites and places affected by the work shall be thoroughly cleared and left clean; free from debris, construction plant, buildings, and materials; fit for travel or other proper use; and in as good condition as existed before the work was begun. Grass plots disturbed shall be resodded or planted anew, and shrubbery destroyed shall be replaced. Structures shall be broom clean, free from stains, spots or other blemish, and ready for use, and all glass shall be washed. The restoration work shall be governed by the record of existing conditions made and filed in the office of the Department previous to the commencement of work.

31. Maintenance After Completion and Contractor's Guarantee.—a. The Contractor shall guarantee the work of the contract against defectiveness of material and workmanship for a period of one year from the date of completion and acceptance by the City, unless a longer period is specified, and shall guarantee all equipment to perform the duty specified. When individual items of the contract are accepted and used by the City prior to the completion of the total contract, the period of guarantee for said items shall be reckoned from the date of acceptance of such items. Paving paid for wholly or in part by assessment bills shall be similarly guaranteed for a period of five years. If, within the said period of guarantee, any of the work shall prove to be defective either in materials or workmanship, or if damage occurs by settlement of the backfill placed under this contract, or if any part or parts of equipment furnished shall prove to be inadequate, insufficient, or defective either in design, material, or workmanship, the Contractor shall, immediately upon demand of the Engineer (whose decision as to such inadequacy, insufficiency, or defectiveness shall be binding and conclusive upon the parties hereto), repair and replace the same, and shall repair and replace any consequential damage to other parts or structures, at the Contractor's own cost and expense, without cost or expense to the City, to the approval and satisfaction of the Engineer.

b. Should the Contractor or his sureties fail to comply with the orders of the Engineer to replace or repair defective material, workmanship, or equipment within ten (10) days from the date of said notice, the Operating Commissioner shall notify the Procurement Commissioner who shall have the right to declare the Contractor and/or his surety in default, and to proceed with the correction of the defect in accordance with the methods provided herein in the case of violations of contract.

C. ADMINISTRATION, MEASUREMENT, AND PAYMENT

32. Status and Authority of Engineer.—The Engineer shall have general supervision and direction of the work, the interpretation of the Plans and Specifications, the ordering of additions to or deductions from the work, and the determination of procedure. He shall give all orders and directions contemplated under the contract. He shall in all cases determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under the contract, and shall have authority to reject all work and materials which do not conform to the contract requirements. He shall determine all other questions that may arise in relation to the execution of the work. He shall have authority to halt the work whenever such action may be necessary to secure the safe and proper execution of the contract. He shall adjust and decide any differences or conflicts that may arise between the Contractor and other contractors for concurrent work.

33. Plans and Specifications.—The Plans, with all notes thereon, and the Specifications are intended to be correlative and of equal force and effect, and the Engineer will interpret their meaning should any apparent discrepancy appear between them. The Plans give general dimensions and sizes, and such details as are required to cover special features. Figures shall have preference over scale in reading dimensions.

34. Shop Drawings.—The Contractor shall prepare all shop or working drawings, which shall include all details required to supplement the City's plans, and shall submit prints of each as required for approval before proceeding with the work. These drawings, whenever required by the Department, shall conform to standards specified by it. Upon correction, if found necessary, and after approval, the Contractor shall furnish three or more prints for construction purposes. After the completion of the work, the tracings shall be delivered to and become the property of the City. The approval of shop drawings shall not relieve the Contractor of responsibility for the proper fit of the work nor for its complete execution. The approved Plans and the Specifications shall be kept constantly on the work by the Contractor.

35. Lines and Grades—City Datum.—Vertical dimension are given in United States standard feet and fractions thereof. Unless otherwise stated, elevations preceded by a plus (+) or a minus (-) sign refer respectively to distances above or below the established City Datum, which is two and one-quarter (2.25) feet above mean high water in the Delaware River at Chestnut Street, Philadelphia. Dimensions locating buildings and structures shall be verified and checked in the field by the Contractor before proceeding with construction details affected thereby. Line and grade stakes giving the requisite basic data will be set by the City without expense to the Contractor. The Contractor will be held responsible for the proper and correct extensions of measurements from such data, and the correctness of work based thereon. The Contractor will be held responsible for the preservation of stakes, bench-marks, or survey monuments, until authorized to remove them. Should any stakes be disturbed, the cost of replacing them will be charged against the Contractor at a fixed price of five dollars per stake, to be deducted from the final estimate. All survey monuments or bench marks moved, covered or uprooted in the course of the performance of the work of this contract will be reset by the City at the cost to the Contractor, of a fixed price of seventy-five dollars per monument or bench mark to be deducted from the final estimate. The Contractor shall provide reasonable and necessary opportunities and facilities for setting points and taking measurements. He shall not proceed until he has made timely demand upon the Engineer for, and has received from him, such points and instructions as may be necessary for the progress of the work. Any work improperly done without lines or levels or instructions shall be removed and replaced by the Contractor at his own expense. Failure to do so may be considered a violation of contract.

36. Changes.—If changes in the design of any portion of the work or the requirements of the Specifications are deemed necessary by the Engineer, in order to carry out and complete more fully the work agreed to be performed under this contract, he may order alterations to or changes in the work covered by the Contract Documents, and the Contractor shall comply with such orders. If such changes increase the cost of the work to the Contractor, additional compensation will be allowed by the City. If such changes diminish the cost of the work to the Contractor, the amount of such diminution may be deducted by the City. No consequential loss of profit on account of changes or of work not executed will be allowed the Contractor, but the Contractor may be entitled to an extension of time on this account. No changes shall be made except upon written orders from the Engineer authorizing the change and fixing the method of compensation or deduction therefor.

37. Scope of Payments.—a. Payment for the cost of all work, labor, materials, and services required to be done or furnished to complete the work of the contract, as shown on the Plans and/or as specified (except where payment is otherwise specifically provided), will be made at the prices bid in the Proposal. The prices bid shall each cover the supply and/or installation, in a good, sound, substantial and workmanlike manner, of everything required for and incidental to the full completion of the work of that item as called for by the Plans and/or as specified, including its proportionate share of the expense of all plant, tools, and equipment required; the cost of all bonds, fees, and permits; of all administration, superintendence, and insurance; and of any loss or damage arising out of the nature of the work, from the action of the elements, from any unforeseen difficulties encountered in the prosecution of the work, and from risks of all kinds connected with the work.

b. Where additions to or diminutions in the amount of work called for by the Plans and Specifications are ordered, or where changes are ordered in the design of the work or the requirements of the Specifications which increase or diminish the cost of the work to the Contractor, adjustment in compensation therefor will be made to cover the work actually performed, in accordance with the orders of the Engineer, as follows:

- (1) For work covered by the several classifications for which applicable prices are bid in the Proposal, payment or deduction will be made in accordance with the prices bid.
- (2) For work not covered by the prices bid, and for which prices for contingent work are applicable, payment or deduction will be made at the prices named for contingent work.
- (3) For work for which neither the prices bid nor the prices for contingent work are applicable, payment or deduction will be made either at a price or prices to be agreed upon in writing between the Contractor and the Engineer and approved by the Operating Commissioner, or the Engineer may order the work done under Force Account.

When such changes are ordered in connection with work for which a lump sum price is bid, the lump sum price for that item will be increased or diminished in accordance with the above methods.

The Contractor will not be entitled to payment for any work as extra or additional, unless it be ordered in writing as such by the Engineer.

38. Quantities are Approximate.—When quantities of the various classes of work to be done and materials to be furnished under the contract are stated, they are estimated and approximate. When stated in the Proposal they are given only for the purpose of comparing the bids on a uniform basis. The City does not guarantee that they will correspond to the actual amounts that are eventually comprised in the work, and no claim for damages, for anticipated profit, or for loss of profit will be allowed the Contractor in the event of their disagreement with the final estimate of work done and material furnished. The Department reserves the right to increase or decrease the quantities or to entirely omit any of the items as contained in the Proposal, to the extent found necessary by the Engineer, provided that the aggregate value of the work performed is within the limit of funds fixed in the contract.

39. Prices for Contingent Work.—In the absence of unit prices bid, the contractor will be required when ordered by the Engineer, to do at the applicable contingent prices in the contract any incidental work which may be necessary to the proper execution of the contract. Where a unit price is bid in a proposal, it shall govern for work of the class to which it relates.

40. Force Account.—a. Payment under Force Account will be for the actual and necessary direct cost of the work in accordance with the orders of the Engineer, and in addition thereto the percentage of such cost hereafter stated. "Actual and necessary direct cost" shall be deemed to include the following:

- (1) The actual expenditure for labor for the time actually engaged in the work, including the distributed cost of foremen in direct charge of such labor and insurance, taxes and other payments applicable to such labor.
- (2) The actual expenditure for materials used up or incorporated in the work.
- (3) A reasonable hourly, weekly or monthly rental as applicable, as determined by the Engineer, for use of motor trucks and special equipment such as power-operated shovels, cranes, drills, paving breakers, etc. (but not including small hand tools), at a rate not to exceed the current local rate charged for the type of equipment used, for the time that such equipment is required on the work for the performance of Force Account work exclusively. The rental price shall be for the equipment provided on the work and shall include transportation to and from the work, fuel, power, lubricants, operating tools, repairs, depreciation, replacements, and the sharpening of drills and other tools required to keep them in the best working condition.

b. To the actual and necessary direct cost of the work done under Force Account as noted above, fifteen (15) per cent will be added to the expenditure for labor as set forth in sub-paragraph (1) above and ten (10) per cent will be added to the expenditure for materials. No additions will be allowed to the rental of trucks, and special equipment. These percentages, and the rental price for equipment furnished, shall be deemed to cover the cost of heat, light, use and upkeep of small hand tools, administration, engineering, superintendence, all loss, damage, risk, and expenses incidental to the work and profit. The Contractor shall have no claim in excess of the above, such payments being in full compensation for the performance of such work and the furnishing of such materials and for all expense in connection therewith and incidental thereto.

c. Should the Contractor sublet any portion of the work to be executed under Force Account, payment for that portion will be computed as the actual and necessary direct cost as defined above, exclusive of any profit to the sub-contractor, plus the percentages allowed, plus five (5) per cent of the total paid to the sub-contractor.

d. The Contractor shall submit daily a statement in duplicate of work done on a Force Account basis within twenty-four hours of the time the work is done, and representatives of the Engineer and the Contractor shall make daily comparison of the time and rates of labor, material used, etc., as given therein. After correction, if necessary, this comparison shall be signed by each and filed with the Engineer and the Contractor. The Contractor shall submit to the Engineer monthly, prior to each current estimate, four copies of an itemized statement of the amount and value of labor and materials furnished, accompanied by the original receipted bills for commodities purchased or for work performed under a subcontract, and by an affidavit certifying the correctness of the said statement. The Engineer shall have access to any books, vouchers, records, and memoranda showing the labor employed and the materials actually used on the specific operation and the actual net cost thereof.

e. Work done under Force Account shall be subject to all of the requirements of the contract. It shall be prosecuted in an orderly and economical way, and the prices paid for labor and material and the method of prosecuting the work shall be subject to the approval of the Engineer. No work nor material will be paid for under Force Account unless it be ordered as such in writing.

41. Current Estimates.—a. Current estimates of the approximate value of the work performed will be prepared by the Engineer at intervals of about one month during the progress of the work, provided that all of the requirements of the contract are being complied with and the value of the work done during the time covered by the estimate exceeds one thousand five hundred (1,500) dollars. To assist the Engineer in estimating the approximate value of the work performed, the Contractor shall furnish, subject to approval of the Engineer, an apportionment of any lump sum bid, showing in detail, its component parts. Payment will be made on the basis of these estimates, when approved by the Engineer. Current payments on incompleting items will be for the value of the work done and materials furnished, as apportioned by the Engineer. Current estimates may include a reasonable allowance for materials especially fabricated for the work as indicated on approved shop drawings delivered on the site or on City property, but no allowance will be made for raw materials, nor for materials not incorporated in the work unless especially fabricated therefor, nor for the Contractor's plant. The current estimates are approximate only, and subject to correction in the final payment. The current payment shall not bind the City to the acceptance of any materials furnished or work done.

b. Current estimates on contracts other than equipment contracts subject to test, will be reduced ten (10) per cent until the substantial completion of the work and the payments under the final or semi-final estimates are made; provided, however, that, when the amount of the current estimates reaches fifty (50) per cent of the limit of the contract, and all of the requirements of the contract, including its satisfactory progress, have been complied with, no additional percentage will be retained on succeeding estimates during the continuation of such satisfactory prosecution of the work. Current payments will be the amount of the estimate as thus reduced less the sum of all previous payments.

c. Current estimates on contracts for furnishing and/or installing electrical, mechanical, plumbing, heating, and other equipment subject to test, will include an allowance of fifty (50) per cent of the price bid for the units especially fabricated therefor (or the apportioned value thereof), when such equipment is delivered on the site or on City property. A further allowance of twenty-five (25) per cent will be made when the equipment is installed and ready for test.

42. Semi-final Estimates.—In the event that circumstances beyond the control of the Contractor prevent the immediate completion of minor items of work and all other conditions of the Contract Documents have been complied with, the Engineer may prepare an approximate semi-final estimate which shall release to the Contractor the moneys due him under the contract, the retained percentage, and the assessment bills, if any, retaining in lieu thereof a sum equal to twice the contract value of or estimated cost of the work remaining to be done; Provided, that the sum withheld shall not be less than two (2) per cent of the limit of the contract, unless the completion of such minor items of work must be delayed for reasons beyond the control of the Contractor for a period of more than three (3) months after the contract has been substantially completed, in which case the contractor may be paid in full for all of the work performed, and the contract left open until the completion of the required items of work.

43. Final Estimates.—When the entire work embraced in the contract has been completed, and all the requirements of the Contract Documents have been complied with, the balance due the Contractor, after all allowable additions and deductions have been made, will be paid to the Contractor, when approved by the Engineer, by checks drawn by the City Treasurer and/or assessment bills. The acceptance of payment under the final estimate shall constitute a waiver of all claims by contractor not filed previous to such acceptance.

44. Assessment Bills.—Where required by ordinance of Council, the Contractor shall receive, and accept as cash, assessment bills against abutting property, as compensation for furnishing materials, labor, tools, and equipment, and for doing work contemplated and embraced in the Contract Documents. He shall collect them at his own cost, and the better to enable him to do so, he may use the name of the City of Philadelphia and employ all legal remedies or proceedings, whether by lien, action in assumpsit, or otherwise, including recourse to the Appellate Courts to which the said City may be entitled. It is to be understood that the City does not in anywise guarantee either the value or the collection of assessment bills, and that in the event of neglect to properly file and collect the same no recourse shall be had against the City by reason thereof. The Contractor must accept and assume all risk of failure to collect such assessment bills.

D. MATERIALS, WORKMANSHIP, AND INSPECTION

45. **Materials and Workmanship.**—The materials used in the work under the contract shall conform to the requirements of the specifications and shall be those best adapted for the kind of service required. The workmanship shall be equal to the best standard practice. Work of reconstruction and restoration of City, corporation, or privately-owned structures shall be in accordance with the rules and regulations of the owners thereof. Where no requirements are specified for materials or for the methods of testing materials or equipment, they shall at least equal the latest standard or tentative specifications of nationally recognized standardizing agencies, such as the American Society for Testing Materials, the American Water Works Association, the American Society of Mechanical Engineers, the latest codes of the National Board of Fire Underwriters or, as they apply, and regulations of the Architecture and Engineering Division, Department of Public Property.

46. **Inspection.**—All of the work of the contract shall be subject to supervision and inspection of the Engineer or his designated representatives, and the Contractor shall afford every facility for the inspection of materials and workmanship. Electrical installations may also be subject to the inspection and approval of the Architecture and Engineering Division, Department of Public Property. Authorized representatives of the Department shall be permitted access at all reasonable times to all portions of the work, and to such portions of the place of manufacture of fabricated materials as may be necessary for complete inspection. Before beginning work the Contractor shall notify the Engineer of the type and source of supply of the principal materials which he proposes to furnish, and, as soon as possible thereafter, shall furnish samples of materials, fixtures, and appliances offered for approval. Before beginning the fabrication of materials, or before shipping materials of a specified type, he shall notify the Engineer in ample time to permit inspection at the place of manufacture, should the Engineer so desire. Such materials shall be delivered on the work properly marked for identification, and shall be subject to re-inspection and final acceptance or rejection at the site of the work. Materials inspected at the site of the work shall be delivered in ample time for sampling and testing. No materials shall be used on the work until accepted by the Engineer, and all materials rejected by the Engineer as unsuitable or not in conformity with the Plans or Specifications shall be immediately removed from the work. Unless otherwise specifically provided for, the cost of inspection and testing will be borne by the City. All work shall be prosecuted in the presence of the Inspector, and in a systematic manner and consecutive order. Work shall be done only during regular working hours unless specifically authorized or directed otherwise by the Engineer. The presence of the Inspector shall not lessen the obligation of the Contractor for construction in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the Contract Documents.

47. **Investigation of Work.**—Should the Engineer at any time have reason to suspect that defective work has been done, he may order an investigation made, and the Contractor shall furnish the necessary labor and appliances for the investigation. If any part of the work is thus found to be defective, the Contractor shall reconstruct it to the satisfaction of the Engineer, and the cost thereof and of the investigation shall be at the sole expense of the Contractor. If the work is found to be in accordance with the contract requirements, the Contractor will be reimbursed for the expense incurred because of the examination.

48. **Defective Work or Material.**—The Contractor shall remove, at his own expense, any work or material condemned by the Engineer as defective and not in accordance with the contract requirements, and shall rebuild and replace the same without additional compensation. Failure to do so shall be deemed a violation of contract and subject to the procedure established for such case. Any omission or failure on the part of the Engineer to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material.

E. CONSTRUCTION REQUIREMENTS

49. **Prosecution of Work.**—The method of procedure shall be subject to approval as best adapted for the safe, efficient, and expeditious prosecution of the work, with a minimum of interference with public traffic or convenience. Work shall be performed at such times and at such places as may be ordered or approved by the Engineer.

50. **Right of Way.**—Where work is constructed on private property in the lines of an unopened street, the City guarantees the Contractor, for access and construction purposes, the area only within the lines of said street.

Where work is constructed over private property, not within the lines of any street upon the City plan, the City guarantees the Contractor right-of-way between lines not more than twenty-five feet, each side, beyond the outside lines of the structure to be built, unless otherwise provided for, with right of access only within the lines of this strip and subject to the limitations of existing structures.

Where work is constructed within the lines of an open street, the City guarantees the Contractor use of the area only within the lines of said street, and subject to the requirements of these Specifications for maintenance of travel, existing structures, and access to abutting properties.

51. **Maintenance of Traffic and Access to Property.**—Traffic of all kinds shall be maintained continuously and access to buildings shall be provided for at all times, except where otherwise specifically permitted by the Contract Documents, or where temporary interference is authorized by the Engineer, in which case it shall be interrupted only for such time as is necessary to provide temporary substitutes for surfaces disturbed by the construction and to restore street and sidewalk surfaces after the completion of the work. Suitable bridges shall be built and maintained to permit owners and occupants to reach their premises. Where necessary, proper and easy means for passengers to reach or leave the street cars shall be maintained. Where partial occupation of the street is allowed, materials and equipment shall be so placed as to insure a minimum of interference with traffic; no materials shall be placed on the sidewalk within one foot of the curb line, and a clear sidewalk passage not less than four feet in width shall be maintained at all times. The work shall be so conducted that annoyance to residents and interference with the normal use of the properties will be reduced to a minimum. The flow in gutters and inlets shall be maintained. When access to any adjacent property is temporarily cut off, owing to occupancy of the street by the Contractor, he shall render every assistance to the owner or occupant in handling materials of every description that must be delivered to or removed from such property, including ashes, rubbish, and garbage, and such materials shall be taken to or from the nearest accessible point that, in the opinion of the Engineer, is convenient for handling. No additional compensation will be allowed for the various items of expense above noted.

52. Maintenance of Waterways.—In navigable streams all work shall be carried on in full compliance with the requirements of the United States Department of the Army and those of the Philadelphia Department of Commerce. Movement of boats and vessels of all kinds shall be maintained unless interference is permitted otherwise by the United States Department of the Army and the Navigation Commission for the Delaware River and its navigable tributaries and then only within the limits and times specified. Should the Contractor, during the progress of the work, sink, lose, or throw overboard any material, plant, machinery, etc., which may be dangerous to or obstruct navigation, he shall forthwith recover and remove the same. The Contractor shall give immediate notice to the proper authorities of such obstruction, and, if required, he shall, under the directions of the said authorities, mark or buoy such obstructions until the same are removed.

Upon the completion of the work affecting waterways of any character, all equipment shall be removed, and material deposited in such waterways shall also be removed unless otherwise ordered or permitted, so as to leave an unobstructed channel of the same width and depth and with the banks, retaining structures, or wharves in a condition equal to that existing before the beginning of work.

53. Access to Fire Hydrants and Fire Alarm Boxes.—Fire hydrants shall be left at all times clear of obstructions and readily accessible of fire apparatus, and no material or other obstructions shall be placed within ten feet of a fire hydrant. Fire alarm boxes shall be supported and protected and maintained so as to be readily accessible and open to view. Excavations shall be decked or bridged, where necessary, to permit the safe passage of fire apparatus and to give access to fire hydrants and to adjacent buildings for the extinguishing of fires. Where necessary, branch pipes shall be extended from the nozzles of the fire hydrants for convenient attachment to the fire engines. The pipes connecting the fire hydrants to the mains shall be protected from freezing, and the fire hydrants (particularly the high pressure type) shall, where necessary, be braced or tied to the connecting pipes to prevent movement under water pressure.

54. Construction Methods to be Approved.—Before commencing work, the Contractor shall, when required by the Engineer, submit for approval his proposed methods of prosecuting the work, including maintaining travel; underpinning; bulkheading; shoring; sinking foundations; handling spoil; lighting; maintaining structures, street surfaces, and drainage; and all other branches of his operations. Such approval is reserved in order to safeguard the City's interests, but it will in no wise relieve the Contractor of his obligation or responsibility for the safe and proper conduct of the work. He shall also submit for approval the locations and designs of shaft heads, trestles, loading hoppers, fences, etc., which shall be made neat and sightly.

55. Temporary Buildings.—Buildings, fences, and equipment erected by the Contractor shall be neat in appearance and shall be painted a dark olive green color. No advertising matter, other than contract information and the name and address of the Contractor, shall be displayed on the work.

56. Danger Signals.—The Contractor, at his own expense, shall erect and maintain all necessary barricades, red lanterns, and danger signals. The lights shall be kept burning from sunset until sunrise, and necessary watchmen shall be provided for the safety of the public. The Contractor shall observe such rules relative to signals and safeguards as the police regulations, harbor regulations, laws, and ordinances require.

57. Detour Signs.—When permission is given to close a highway during contract operations and to divert the traffic therefrom, the contractor, at his own expense, shall erect and maintain highway barricades. Detour signs shall be placed by the Department of Streets. The Contractor will be required to notify the department seven (7) working days prior to the date of starting work and one (1) day prior to the date of completion. Copies of these notices shall be sent to the Traffic Engineer of the Department of Streets.

58. Contract Identification Signs.—The Contractor shall, at his own expense, erect and maintain in a prominent position upon the work a suitable sign, plainly lettered with the name and address of the Contractor, the character of the work and the name of the Department under which the contract is being carried out. No advertising matter other than the signs above noted shall be displayed on the work.

59. Safety and Sanitary Provisions.—The Contractor shall provide means and appliances and shall enforce suitable rules for the safe prosecution of the work and for the safety and health of the men employed on it. The completed portions of the work shall be kept clean and in a sanitary condition. The Contractor shall provide and maintain properly secluded sanitary conveniences, in accordance with existing regulations of the Department of Public Health, for the use of his workmen, and the exclusive use of them shall be strictly enforced.

60. Storage Space.—Buildings, yards, or sidings that may be required for the delivery or storage of materials shall be provided by and at the cost of the Contractor. The use of streets for storing materials will not be permitted, unless specifically authorized by the Engineer.

61. Sunday Work.—The Act of Assembly approved April 22, 1794, prohibits work on Sundays. In case of emergency, permit for work on Sunday may be obtained from the Police Department upon certificate of urgency signed by the Engineer.

62. Night Work.—Work during the night shall be carried on with due regard to the comfort of nearby residents, and the method of prosecution shall be subject to the approval of the Engineer, who may, if conditions so require, order that no night work be done in specific localities. Workmen shall refrain from loud noises, calls, or whistles, and the operation of air compressors, rock drills, riveting machinery, and blasting is prohibited between the hours of 7:00 p.m. and 7:00 a.m. unless specifically permitted.

63. Power and Light.—In the built-up portion of the City, and elsewhere when ordered by the Engineer, the Contractor shall use either electric, compressed air or internal combustion engine power, unless conditions are such that use of steam power is not objectionable and its use is approved by the Engineer. When steam power is permitted the Contractor shall use anthracite coal under the boilers unless bituminous coal or oil is otherwise specifically permitted by the Engineer. When compressed air or internal combustion engines are used the exhaust shall be muffled. None but electric lights shall be used in or under buildings or anywhere on the work below the surface of the street.

64. Use of Water.—Permits for the use of City water upon construction work may be obtained upon application to the Department of Licenses and Inspections, endorsed by the Engineer. In general, water for contracts other than those relating to highway improvements shall be obtained through a ferrule attachment. Water for highway improvement contracts may be obtained through a hydrant attachment. In each case the application and use shall be in accordance with Water Department regulations. Where the ferrule attachment requires the opening of streets outside of the pay lines of the structures to be built under the contract, the Contractor will be paid for the additional work of excavation, including backfilling, and of repaving if required and ordered. On Water Department contracts, permits for use of water where a street opening is not involved, shall be obtained directly from the Water Department. Should the Contractor at any time waste water, the permit for its use will be revoked. No charge will be made for the water actually used for construction work.

65. Prevention of Dust and Smoke.—a. The Contractor shall keep the surface of the sidewalks and streets affected by his work, including decking and temporary paving, in a clean and neat condition. He shall sprinkle with water or otherwise treat the surface sufficiently to keep the dust laid during the progress of work. Piles of dirt or other material shall not be left on the surface. The abovementioned requirements are not intended to take the place of the usual duties of the Department of Streets but to supplement them. No fires of any kind or burning of debris on the site or adjacent to it will be permitted; the debris shall be disposed of off the site of the work.

b. The contractor shall be required to comply strictly with the provisions of the Air Pollution Code (Title 3 of the Philadelphia Code).

66. Explosives.—If any blasting is involved in the performance of the contract, the Contractor must obtain a blasting permit from the Department of Licenses and Inspections. Permits will be issued only upon approval of the Fire Marshal and posting of bond or Certificate of Insurance covering personal injuries and property damage. Blasting may be done only by licensed blasters duly licensed by this City. Storage of explosives and transportation of explosives to the site also require permits, which are issued by the Department of Licenses & Inspections subject to prior approval of the Fire Marshal.

67. Work in Freezing Weather.—Masonry of all kinds, pointing, grouting, plastering, and other work subject to the action of frost shall not be done when exposed to freezing weather, except under conditions where the Engineer may specifically direct or permit such work, subject to the heating of materials, the protection of finished work, and such other measures as may be deemed necessary. If operations are suspended on account of freezing weather, the entire work shall be properly protected until the resumption of work is permitted. If a suspension of the work on account of freezing weather or from any other cause is necessary, the site shall be cleaned up and left in good order during this period of such suspension.

F. SURFACE, SUBSURFACE, AND OVERHEAD STRUCTURES

68. Completeness of Data.—The term "structures" used in these Contract Provisions shall apply to all surface, subsurface, and overhead structures of whatever character within the zone of influence of the work, including buildings situated in or adjacent to the excavation. Where these structures are shown or indicated on the Plans, the information given is in accordance with the best information in the possession of the Department, but is approximate only. The data are not warranted to be either complete or correct, and the Contractor shall assume all risks resulting from the conditions differing from the approximation shown.

69. Support and Protection.—All structures, unless specifically designated by the Engineer to be abandoned or relocated, shall be supported and protected at all times from injury, including damage from freezing, and maintained continuously in service. Should any injury occur while the work is in progress and the structures are under the protection of the Contractor, he shall fully restore such structures to as good condition as existed before the injury was done. All the above work, including also such changes of structures as are for the Contractor's own convenience in executing the work, shall be done without additional compensation, unless otherwise specifically provided for in the Contract Documents.

70. Structures Interfering with Construction.—If, in the course of the work, it is found that any of the existing structures occupy space required by the structure or its appurtenances to be constructed under the contract, or that they are so situated as to render it impracticable, in the opinion of the Engineer, to do the work called for under the contract in the manner specified, the Contractor shall excavate and uncover the portions of the structures within the payment lines for excavating under his contract and shall maintain such structures in service and shall notify the Engineer, who will arrange for the relocation, changing, or removal of the interfering pipes or structures within a reasonable time. The Contractor shall not move nor disturb the structures in any way without consultation with the owners and the approval of the Engineer. Structures belonging to the public utility companies, which are ordered by the Engineer to be removed or relocated, will be so removed or relocated and permanent supports placed, in general by their owners, without cost to the Contractor. The Contractor, however, shall support and protect them up to the time of their removal, shall co-operate with their owners during the process of relocation, and shall maintain and protect them if and when they are relocated within the zone of influence of his work. This work shall be done without additional compensation. Sewers, water pipes, electrical conduits, and other City-owned structures shall be constructed, relocated, or reconstructed as shown on the Plans or as may be ordered in the course of the work. Payment for this work will be made at the applicable prices in the contract unless otherwise specifically provided for. If approval be given by the Engineer to a request by the Contractor to effect a temporary or permanent relocation of structures, for his own convenience, and satisfactory arrangements can be made with the owners thereof, the work may be done at the expense of the contractor.

71. Abandonment of Structures.—In the case of structures the service of which is permanently abandoned, the Engineer will designate which of the materials are to be salvaged and which are to be abandoned in the trench. The Contractor shall remove and deliver to a designated point of storage materials ordered to be salvaged, and payment therefor will be made at the appropriate prices of the contract, unless otherwise specifically provided. He shall allow owners of privately-owned structures reasonable facilities for salvaging their property. Structures designated as abandoned shall become the property of the Contractor, and shall be removed from the work.

72. **Co-operation with Public Utility Companies.**—Notice shall be given by the Contractor to all individuals, companies, and the proper City officials owning or having charge of structures along any part of the work, of his intention to commence operations along such part of the route, at least one week in advance, and a copy of such notice shall be filed with the Engineer. The Contractor shall co-operate with other contractors and with the employees, officers, and agents of the City Departments and of the various companies which own, operate, or have supervision over the structures encountered, and shall conform to the reasonable requirements of the owners of such structures in regard to their safe maintenance. The Contractor shall give to authorized representatives of said Departments and companies free access at all times to the excavation and site to inspect the condition and support of their structures. Suitable arrangements shall be provided to facilitate access to valves and manholes. Ventilation openings shall be provided where gas is likely to accumulate. Where structures are to be constructed under the facilities of any public utility the Contractor shall arrange with the utility company for the removal or support and maintenance of such facilities.

73. **Gas Pipes.**—Any necessary alterations to the gas mains and gas service pipes, including temporary or permanent relocations thereof, will be made by the Philadelphia Gas Works Division, United Gas Improvement Company without expense to the Contractor. Owing to the liability of explosion of gas from leaky pipes within a covered excavation, the Company will by-pass the gas service in temporary pipes laid outside such excavation, in advance of the construction work. The mains and services that have been removed may be replaced in their permanent position after the backfilling has been sufficiently compacted.

74. **Traffic Control Apparatus.**—The Contractor shall support and maintain in their present locations, or in approved temporary locations, any existing traffic control masts, signals, apparatus, and their connecting cables, in condition to permit the uninterrupted functioning of the signals during the progress of the work, on temporary poles if necessary, and in a manner satisfactory to the Department of Streets. If the existing signal apparatus is supported on poles and these poles are moved to a temporary location during the progress of the work, the Contractor shall either erect temporary signal poles in the approximate locations of the original poles and erect the signals thereon, or shall extend the electrical connection to the poles as relocated, as may be ordered by the Engineer. Upon the restoration of surface conditions, the Contractor shall restore the equipment, including cables and electrical connections, to its original position and condition. This work, except new masonry, shall be done without additional compensation. Masonry piers will be paid for at the applicable unit prices.

75. **Vaults.**—The City will secure the vacation of vaults interfering with construction work without expense to the Contractor; but reasonable time shall be allowed the owners for the removal of materials and of any mechanical or other equipment that may be installed therein. These vaults will be vacated to the extent necessary, in the opinion of the Engineer, to do the work called for under this contract, including underpinning. The Contractor shall make arrangements with the owners of such vaults in regard to his occupation thereof, and shall give the owners at least two weeks' notice of his intention to remove or break into the walls.

76. **Street Lighting Units.**—Whenever it is necessary to remove, relocate, or adjust street lighting units, or poles with street lighting units attached and their approved necessary appurtenances, the work will be done by a person designated by the Street Lighting Section of the City's Department of Streets and/or the Philadelphia Electric Company, at no expense to the Contractor.

However, when directed by the Engineer, the Contractor will be required to pay the person who did the work for such costs. The Contractor will be reimbursed by the City, for the net amount of the expenditure, upon submission of a receipted bill for each street lighting unit paid for by him. This possible expenditure does not appear as an item in the proposal, and shall not be included in the bid price.

INDEX

to

Contract Provisions

A	Clause		D	Clause
Accidents.....	22		Danger Signals.....	56
Additional Work, Payment for.....	37		Default by Contractor.....	26
Advertising Signs, Prohibited.....	58		Defective Work:	
Agreement, Part of Contract Documents.....	15		Investigation of.....	47
Architect, Definition of.....	16		Repair of.....	31, 48
Assessment Bills.....	44		Definitions.....	16
Award of Contract.....	9		Department, Definition of.....	16
			Detour Signs.....	57
			Drawings, Shop or Working, by Contractor.....	34
			Dust and Smoke, Prevention of.....	66
B			E	
Bids:			Electrical Installations, Subject to Inspection of Architecture and Engineering Division....	46
Comparison of.....	8		Employment Opportunities, Equal.....	14
Informal.....	5		Engineer:	
Method of Submitting.....	4		Definition of.....	16
Withdrawal of.....	4		Status and Authority of.....	32
Bidders, Qualifications of.....	2		Equipment Contracts, Procedure.....	29
Blasting.....	66		Equipment, Loaned or Rented by City.....	20
Bonds, Performance and Labor and Materialmen's	11		Equipment, Payment for.....	41
Borings:			Estimates:	
Correctness not Guaranteed by City.....	3		Current.....	41
Record of, Excepted from Contract Documents.....	15		Semi-Final.....	42
Buildings, Temporary.....	55		Final.....	43
			Examination of Contract Documents and Site....	3
			Execution of Contract.....	10
			Explosives.....	66
			Extension of Time of Contract.....	20
			Extra Work, Payment for.....	37
C			F	
Cancellation of Contract.....	18		Fire Alarm Boxes, Access to.....	53
Certified Check:			Fire Hydrants, Access to.....	53
As Security for Execution of Contract....	6		Force Account.....	40
Changes:			Freezing Weather.....	67
Payment for.....	37			
Provision for.....	35			
Charges of Law Department.....	7			
City Datum.....	35			
Claims.....	23			
Commission on Human Relations.....	14			
Commissioner, Operating, Definition of.....	16			
Comparison of Bids.....	8			
Concurrent Contracts, Procedure.....	29			
Contingent Work:				
Payment for.....	37			
Prices for.....	39			
Contract: (See also "Contractor")				
Award of.....	9			
Basis, Calendar Day.....	21			
Basis, Working Day.....	21			
Cancellation of.....	14, 18			
Delays.....	21			
Execution of.....	10			
Security for Execution of.....	6			
Time of Beginning and Completing Work...	21			
Violations of.....	26			
Contract Documents.....	15			
Contract Security.....	11			
Contractor: (See also "Contract")				
Assume all Risks and Responsibility.....	22			
Co-operate with Public Utility Companies...	72			
Defend the City from Suits.....	23			
Definition of.....	16			
Furnish Shop or Working Drawings.....	34			
Indemnifying City Against Claim.....	23			
Maintain and Guarantee Completed Work...	31			
Maintain Office.....	19			
Make Changes as Ordered for Safety of Work	19			
Notify Engineer in Time to Permit Inspection	46			
Obligations of.....	19			
Perform Work to Satisfaction of Engineer...	19			
Contractor's Plant to be Approved.....	54			
Contractor's Representative.....	19			
Co-operation with other Contractors.....	29			
Current Estimates.....	41			
			G	
			Gas Pipes.....	73
			Guarantee against Defective Work.....	31
			I	
			Informal Bid.....	5
			Inspection.....	46
			Inspector:	
			Definition of.....	16
			Work to be Done in Presence of.....	46
			Insurance, Requirements.....	24
			Investigation of Work.....	47
			L	
			Labor and Materialmen's Bond.....	11
			Labor-Management Relationships.....	13
			Law Department, Charges.....	7
			Laws and Ordinances.....	12
			Licenses.....	28
			Light.....	63
			Lighting Units, Removal, Relocation of, Etc....	76
			Lines and Grades.....	35

M	Clause	S	Clause
Maintenance:		Safety Provisions.....	59
Of Traffic.....	51	Sanitary Provisions.....	59
Of Work and Contractor's Guarantee.....	31	Shop Drawings.....	34
Masonry Lines, Definition of.....	16	Signs, Contract Identification.....	58
Masonry, Protection of, in Freezing Weather.....	67	Site, Examination of.....	3
Materials and Workmanship.....	45	Special Specifications, Part of Contract Documents.....	15
Materials, Inspection of.....	46	Specifications of Materials.....	45
Materials, Loaned by City.....	20	Specifications, Engineer to Interpret.....	32, 33
Measurement.....	35	Standard Contract Requirements.....	1
		Storage Space.....	60
		Structures:	
N		Abandonment of.....	71
Night Work.....	62	Interfering with Construction.....	70
		Shown on Plans not Warranted to be Correct.....	68
O		Support and Protection.....	69
Ordinances and Laws.....	12	Surface, Subsurface, and Overhead.....	68
		Underground and Overhead, Correctness not Guaranteed by City.....	3
P		Subcontractor, Definition of.....	16
Patented Appliances, Products, or Processes.....	25	Subcontractors.....	27
Payments:		Subcontracts.....	27
Current Estimates.....	41	Suits and Claims.....	23
Scope of.....	37	Sunday Work.....	61
Performance Bonds as Contract Surety.....	11	Survey Monuments and Bench Marks Moved.....	35
Performance of Work, Contractor's Obligation.....	19		
Permits.....	28	T	
Plans:		Temporary Buildings.....	55
Definition of.....	16	Time for Completion of Contract.....	21
Part of Contract Documents.....	15	Traffic Control Apparatus.....	74
Plans and Specifications, Engineer to Interpret.....	32, 33		
Power and Light.....	63	U	
Private Property, Work on.....	50	Unauthorized Acts of City Representative.....	17
Property, Access to.....	51		
Proposals:		V	
Part of Contract Documents.....	15	Vaults.....	75
Quantities are Approximate.....	38	Violations of Contract.....	26
Prosecution of Work, General.....	49		
Public Utility Companies, Co-operation with.....	72	W	
		Water, Use of.....	64
Q		Withdrawal of Bid.....	4
Qualification of Bidders.....	2	Work, Definition of.....	16
Quantities are Approximate.....	38	Work in Freezing Weather.....	67
		Work, Prosecution of, General.....	49
R		Workmanship.....	45
Restoration of Conditions.....	30		
Right-of-way.....	50		

PHILADELPHIA GAS WORKS
Montgomery Station



1800 North Ninth Street, Philadelphia, Pennsylvania 19122
Telephone: (215) CE 6-7000

May 14, 1976

Mr. Robert Silver, Commissioner
Department of Public Property
1020 Municipal Services Building
Philadelphia, Pa. 19107

Re: Airport High Speed Line
UMTA Project No. PA-03-0043
City Project No. 20-594-2-2
Relocation of Gas Facilities
PGW File No. 12.2.7

Dear Mr. Silver:

PGW hereby proposes to install gas facilities as stated in Exhibit C-1 to replace the gas facilities whose removal is caused by the construction of the Airport High Speed Line (AHSL).

For reasons with which you are familiar and which the City has continuously recognized for many years, it is our considered opinion that PGW is the only organization qualified to do this work and we have proven our ability to undertake it.

Pursuant to the terms set forth in the Basic Agreement between the City of Philadelphia and Philadelphia Gas Works dated January 1, 1973, relating to projects of this kind, PGW proposes to perform this work at the actual cost to PGW of work and labor performed and property and equipment delivered.

Since the principal financing of this project will be borne by the federal government (80%), the Commonwealth of Pennsylvania (16-2/3%) and the City of Philadelphia (3-1/3%), the Department of Public Property will obtain the respective shares of the federal and state funds for Items 1 through 4 as shown in Exhibit C-1 of the agreement.

EXHIBIT "C"

Federal Government Share at 80%	\$680,424
State Government Share at 16-2/3%	\$141,783
City of Philadelphia Share at 3-1/3%	<u>\$ 28,323</u>
Department of Public Property \$18,114	
Philadelphia Gas Works \$10,209	
Total	\$850,530

The City's portion of \$28,323 will be shared by the Department of Public Property and PGW, using the formula for depreciation in the Basic Agreement referred to above, with the Department of Public Property paying \$18,114 to PGW.

The estimated amount of compensation to be paid to PGW by the Department of Public Property, acting as coordinator in the transfer of the federal and state funding sources, shall amount to 100% of the relocation costs payable by the federal and state governments (\$822,207) and, with the inclusion of the Department of Public Property's share of the City's portion of \$18,114, will reimburse PGW a total of \$840,321 for the entire project.

PGW shall prosecute the work to be performed under this contract to the fullest and most rapid extent possible consistent with safety to persons and property, and with accuracy of construction in an effort not to delay the construction of the Airport High Speed Line.

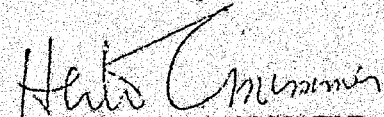
Payment shall be made on a monthly basis, or on a less frequent basis if PGW so elects, upon submission of duly certified invoices by PGW and approval thereof by the Commissioner of Public Property.

May 14, 1976

PGW's books are kept in accordance with the appropriate classification system prescribed by the Pennsylvania Public Utility Commission. All of the expenditures hereby proposed are properly classified as capital charges under this system.

PGW is an authorized self-insurer under the Workmen's Compensation Act. If, for any reason, this authorization as a self-insurer is not extended or is revoked, PGW will furnish to the Department of Public Property certification from an authorized insurance company evidencing the issuance of policies of insurance in compliance with the Workmen's Compensation Act.

Very truly yours,


HERTEL C. MISSIMER
Engineer of Distribution Design

HCM/mcl
Attachments

PHILADELPHIA GAS WORKS
Montgomery Station



1800 North Ninth Street, Philadelphia, Pennsylvania 19122
Telephone: (215) CE 6-7000

CERTIFICATION SHEET

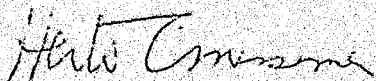
Airport High Speed Line

The gas main relocations or replacements for the above Project contain no Betterment.

Relocation shall mean the adjustment of utility facilities required by the mass transit project, such as removing and reinstalling the facility, including necessary rights-of-way, on new location, moving or rearranging existing facilities or changing the type of facility, including any necessary safety and protective measures. It shall also mean constructing a replacement facility functionally equal to the existing facility, where necessary for continuous operation of the utility service, the project economy, or sequence of mass transit construction.

Betterments shall mean and include any upgrading to the facility being relocated made solely for the benefit of and at the election of the utility, not attributable to the mass transit construction.

HCM/mcp


HERTEL C. MISSIMER
Engineer of Distribution Design

Preliminary Cost Estimate of Gas Main Relocation Work
Caused By
Airport High Speed Line

<u>Item No.</u>	<u>Location</u>	<u>Estimated Cost</u>
1	58th Street	\$330,170
2	60th Street	\$176,540
3	63rd Street	\$213,220
4	70th Street	<u>\$124,600</u>
Total		\$850,530

NOTE: All estimates based upon current costs. Allowance to be made for future changes in the value of this work.

HCM/mcl
5/14/76

EXHIBIT C-II

Preliminary Detailed Estimated Cost Analyses
of Gas Main Relocation Work
Caused By
Airport High Speed Line

File No. 12.2.7
May 14, 1976

PGW Labor - (Salaries and Wages, Administration and Supervision)

Contract - (Excavation, Installation, Backfill and Paving Restoration - does not include Piping and Appurtenances) - Contractor

PGW Material - (All Pipe and Appurtenances)

PGW Paving - (Excluding Paving Under "Contract")

PGW Equipment - (Transportation, Machinery and Tools)

PGW Sundries - (Engineering Services, Petty Cash, Accounts-Payable, Permit Fees, Telephone Expenses, Payroll Taxes, Consultant Fees)

PGW Accounting - (Labor, Salaries and Wages, Administration, Indirect Overhead and Supervision)

Description	PGW	Contract	PGW	PGW	PGW	PGW	PGW	Total
	Labor		Material	Paving	Equipment	Sundries	Accounting	
A. 58th St., S. of Woodland Ave.								
1. 457' - 30" Main	\$33,120.	\$69,330.	\$38,020.	\$550.	\$4,070.	\$5,945.	\$ 455.	\$151,490
2. 456' - 20" Main	33,560.	20,120.	28,310.	2,290.	4,020.	7,090.	290.	95,680.
3. Additional Bridge Supports for 30" & 20" Mains	-	89,000	-	-	-	-	-	89,000
B. Lindbergh Blvd., 60th to 300' EEC								
1. 415' - 20" Main (M.S.)	27,890.	41,510.	24,430.	1,570.	3,350.	5,065.	315.	104,130.
2. 285' - 20" Main (S.S.)	19,150.	28,510.	16,780.	1,080.	1,840.	3,935.	215.	71,510.
3. Retaining Assembly	420.	-	130.	150.	100.	95.	5.	900.

Preliminary Detailed Estimated Cost Analyses

Of Gas Main Relocation Work

Caused by

Airport High Speed Line

Description	PGW	PGW	PGW	PGW	PGW	PGW	PGW	Total
	Labor	Contract	Material	Paving	Equipment	Sundries	Accounting	
C. 63rd St. 25' to 650' S. of Eastwick Ave.								
1. 1,235' - 20" Main	44,740.	102,690.	45,460.	4,820.	5,980.	8,880.	650.	213,220.
D. 70th St., Lindbergh Blvd. to Norwicht Dr.								
1. 1,472' - 12" Main	13,760.	76,830.	24,670.	1,090.	1,330.	6,550.	370.	124,600.
TOTAL	\$172,640.	\$427,990.	\$177,800.	\$11,550.	\$20,690.	\$37,560.	\$2,300.	\$850,530.



City's Share of Preliminary Estimated Cost of Gas Main Relocation Work
Caused by
Airport High Speed Line

No.	Location	Size Replaced	Footage		Unit	Cost Total	City Share	Remaining Life		City's Share to be borne by		
			Base	Var.				Yrs.	%	PGM	Public Prop.	
A. 58th St., S. of Woodland Ave.												
1.	30" Main	(30" Stl. 190'	240'	24'	331.49	79,557.60	2,649.26	43	57	\$1,139.19	\$ 1,510.07	
					331.49	69,281.41	2,307.07	21	58	968.97	1,338.10	
2.	20" Main	(20" Stl. 205'	240'	20'	209.82	43,013.10	1,432.33	63	37	902.37	529.96	
		(20" Stl. 240'	24'		209.82	55,392.48	1,844.56	43	57	793.17	1,051.39	
3.	Additional Bridge Supports for 30" and 20" Mains	-	-	-	-	69,000.00	2,963.70	-	-	1,363.31*	1,600.39*	
B. Lindergh Blvd., 60th St. to 300' EEC												
1.	20" Main (South Side)	(20" Stl. 246'	25'	3'	250.91	67,996.61	2,264.28	52	48	1,177.43	1,086.85	
		(20" Stl. 281'	23'		250.91	7,778.21	259.02	8	92	20.73	238.28	
2.	20" Main (North Side)	20" Stl. 218'	22'		250.91	60,218.40	2,005.27	14	72	561.48	1,443.79	
3.	Retaining Assembly	20"	-	-	-	900.00	29.97	-	-	-	29.97	
C. 63rd St., 25' to 650' S. of Eastwick Ave.												
1.	20" Main	16" Stl. 90'	9'		140.00	13,860.00	461.53	6	88	55.39	406.14	
		16" Stl. 570'	57'		140.00	87,780.00	2,923.07	5	90	292.31	2,630.76	
		16" Stl. 65'	6'		140.00	9,940.00	331.00	7	86	46.34	284.66	
		16" Stl. 38'	4'		140.00	5,880.00	195.80	11	78	43.08	152.72	
		16" Stl. 230'	23'		140.00	35,420.00	1,179.48	52	48	613.33	566.15	
		16" Stl. 50'	5'		140.00	7,700.00	256.41	29	71	74.36	182.05	
		12" Stl. 138'	14'		84.65	12,866.80	428.46	6	88	51.42	377.04	
		12" Stl. 81'	1'		84.65	761.85	25.36	5	90	2.54	22.82	
		12" Stl. 75'	7'		84.65	6,941.30	231.13	7	86	32.36	196.77	
		12" Stl. 762'	76'		84.65	70,936.70	2,362.19	59	41	1,393.70	968.49	
		12" Stl. 50'	5'		84.65	4,655.75	155.03	29	71	44.96	110.07	

City's Share of Preliminary Estimated Cost of Gas Main Relocation Work
Caused by
Airport High Speed Lane

Location	Size Replaced	Base	Var.	Total	Unit	Cost		City Share	Remaining Life		City's Share to be borne by	
						Total			Age Yrs.	Factor %	PGM	Public Prop.
70th St., Lindbergh Blvd. to Norwitch Dr. 1. 12" Main	12" Stl.	1,400'	140'	1,540'	84.65	130,361.00	4,341.02	11	78	955.03	3,385.99	
		4,843'	484'	5,327'		\$860,241.21	\$28,645.93			\$10,531.47	\$18,114.46	

PGM and Dept. of Public Property shares calculated by using same ratio to total City Share as for 30" and 20" Mains.

Preliminary Estimated Cost of Gas Main Relocation Work Caused by
Airport High Speed Line

No.	Location	Estimated Cost of Replacement System			Estimated Cost of Practical Minimum Footage Allowing for Difference in Size of Pipe		
		Footage	Size	Unit Cost	Footage	Size	Unit Cost
Total Cost (Even Dollars)							
A. 58th St., S. of Woodland Ave.							
1.	30" Main	457'	30"	331.49	457'	30"	151,490.
2.	20" Main	456'	20"	209.82	456'	20"	95,680.
3.	Additional Bridge Supports for 30" & 20" Mains						89,000.
				\$336,170.			
B. Lindbergh Blvd., 60th to 300' EEC							
1.	20" Main (Southside)	415'	20"	250.91	415'	20"	104,130.
2.	20" Main (Northside)	285'	20"	250.91	285'	20"	71,510.
3.	1 - Retaining Assembly	1-Unit	20"		1-Unit	20"	900.
				\$176,540.			
C. 63rd St., 25' to 650' S. of Eastwick Ave.							
1.	20" Main	1,235'	20"	172.65	1,235'	20"	213,220.
				\$850,530.			
D. 70th St., Lindbergh Blvd. to Norwich Dr.							
1.	12" Main	1,472'	12"	84.65	1,472'	12"	124,600.
				\$850,530.			

Proportion of Preliminary Estimated Cost of Gas Main Relocation Work
Caused by
Airport High Speed Line

File No. 12,221
May 14, 1976

Item	Description	Federal	State	City	Total	Total Less PGW Share
		(80%)	(16 2/3%)	(3 1/3%)		
A.	58th St., S. of Woodland Ave.					
1.	30" Main	121,192.00	25,253.32	2,196.51	2,848.17	151,490.
2.	20" Main	76,544.00	15,949.86	1,604.79	1,581.35	95,680.
3.	Additional Bridge Supports for 30" & 20" Mains	71,200.00	14,836.30	1,363.31*	1,600.39*	89,000.
B.	Lindbergh Blvd., 60th St. to 300' EEC					
1.	20" Main (South side)	83,304.00	17,358.47	2,142.40	1,325.13	104,130.
2.	20" Main (North side)	57,208.00	11,920.72	937.49	1,443.79	71,510.
3.	Retaining Assembly	720.00	150.03	--	29.97	900.
C.	63rd St., 25' to 650' S. of Eastwick Ave.					
1.	20" Main	170,576.00	35,543.77	1,200.56	5,899.67	213,220.
D.	70th St., Lindbergh Blvd. to Norritch Dr.					
1.	12" Main	99,680.00	20,770.82	763.19	3,385.99	124,600.
	TOTAL	\$580,424.00	\$141,783.29	\$10,208.25	\$18,114.46	\$850,530.
						\$840,321.75

* PGW and Dept. of Public Property shares were calculated by using same ratio to total City Share as developed for the 30" and 20" mains at this locations.

PROCUREMENT DEPARTMENT
CONTRACT SUMMARY AND ENDORSEMENT

TO THE LAW DEPARTMENT

The attached bid and award described below is referred to you for certification as to form, and where no annual surety bond is on file, to have Contractor post satisfactory bond.

CONTRACT NO.	CONTRACTOR	AMOUNT OF AWARD	ANNUAL SURETY BOND
7229 72060	Phila. Gas Works		

OFFICE OF THE CITY CONTROLLER

ENDORSEMENT

OFFICE OF THE DIRECTOR OF FINANCE - ACCOUNTING DIVISION
 Examined:
James Pleaves 4-1-77
(For the Director of Finance) (Date)

OFFICE OF THE CITY CONTROLLER
 Examined:

(For the City Controller) (Date)

Funds being available under appropriations to the following agencies to pay the amounts indicated, viz., I approve this contract as to availability of funds for the purchase orders listed below.

Francis J. Lindinger 4-1-77
(For the Director of Finance) (Date)

FR 4-1-77 (For the City Controller) (Date)

P. O. NO.	ACCOUNT CODES	DEPARTMENT OR AGENCY	AMOUNT
770751	2177 20 41 48 250 NO	Public Property	840,321.00



REGION III

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION

134 WALNUT STREET
PHILADELPHIA, PA 19106

April 4, 1977

Mr. Richard S. Starr, P.E.
Project Manager
City of Philadelphia
1020 Municipal Services Bldg.
Department of Public Property
Philadelphia, PA 19107

RECEIVED
177 JUN 23 AM 10:35
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

RE: Airport High Speed Line
UMTA Project No. PA-03-0043
City Project No: 20-594-2-2
City/PECO Agreement to Agree

Dear Mr. Starr:

In reply to your letter of April 1, 1977, you are advised that UMTA concurs in the proposed agreement with Philadelphia Electric Company for the above referenced project. Our concurrence is issued based on the following understanding:

The City will submit, for UMTA's prior concurrence, 1) all contractual arrangements including the unit cost per acre for each easement right as required per paragraph #1; and, 2) all force account work and construction proposals by Philadelphia Electric Company in accordance with the paragraph #9 of the agreement.

Sincerely,

Devendra M. Soni

DEVENDRA M. SONI
Acting Regional Engineer

DOCKETED
APPLICATION DOCKET
JUN 28 1977
ENTRY No. *BW*

DOCUMENT
FOLDER

A-19, 5/18/77, off

'77 JUN 23 AM 10:35

7-3345

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

THIS AGREEMENT made this 28th day of MARCH

A.D. 1977, by and between PHILADELPHIA ELECTRIC COMPANY, a Corporation of the Commonwealth of Pennsylvania, hereinafter called "Electric" of the first part and CITY OF PHILADELPHIA, a municipal corporation of the Commonwealth of Pennsylvania, hereinafter called "City" of the second part.

WHEREAS, Electric owns a certain strip of ground adjoining the Chester Branch of Reading and proposes to construct thereon a part of its 230 KV transmission line which shall extend between its Grays Ferry Substation to its Eddystone Generating Station; and

WHEREAS, City proposes to construct a part of its proposed Airport High Speed Line on the said Chester Branch of Reading, which shall parallel said property of Electric from 60th Street to south of 92nd Street and requires the use of a part of Electric's ground for its facilities and the pipe lines of Mobil Oil Corporation and Arco Oil Corporation; and

WHEREAS, said Airport High Speed Line will require electrification and it has been ascertained that joint construction of the said 230 KV transmission line and the said Airport High Speed Line electrification hereinafter referred to as "joint electrification", along a common corridor is practicable and as a result could incorporate some economic and aesthetic advantages; and

WHEREAS, Electric is agreeable to grant to City the rights necessary to utilize said ground of Electric and is also agreeable to said joint electrification;

NOW, THEREFORE, WITNESSETH, it is mutually understood and agreed as follows:

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
JUN 28 1977
ENTRY No. BW

A-20, 5/18/77, 08/14

1. Easement rights necessary to accommodate said Airport High Speed Line and Mobil Oil Corporation and Arco Oil Corporation pipe lines on Electric's property shall be granted by Electric to City and the respective companies and Electric will dedicate to the City for a consideration of ONE DOLLAR (\$1.00), two (2) parcels of ground located in the vicinity of 63rd Street and 70th Street. The easements and dedication shall be UNDER and SUBJECT to the following:

(a) approval, if any, of the Pennsylvania Public Utility Commission as may be required by law;

(b) Electric's use and also Gulf Oil Corporation's use, in accordance with Agreement dated July 24, 1973;

(c) to the lien of the First and Refunding Mortgage dated as of May 1, 1923, of The Counties Gas and Electric Company (to which Philadelphia Electric Company is successor) to Fidelity Trust Company (to which the Fidelity Bank is successor) as the same has been heretofore and may hereafter be amended and supplemented for the security of the presently outstanding bonds of Philadelphia Electric Company and other and additional bonds which may hereafter be issued and outstanding under said mortgage as so amended and supplemented.

The costs of such easement rights shall be borne by the City and shall be based on the per acre cost to Electric of property condemned from the Redevelopment Authority of the City of Philadelphia at this location; Electric shall, however, credit easement costs to City on a per acre basis for the easement rights acquired from Reading or others by City for Electric, if necessary, for the said joint electrification or other use. In no event shall Electric be obligated to pay for additional easement rights.

2. At the present time, Electric has as occupants of a portion of its property, the Gulf Oil Corporation and the Pennsylvania Department of Transportation. To the extent that the facilities or operations of these occupants may be affected by the construction of said Airport High Speed Line, Electric agrees to cooperate with City to secure any subsidiary agreement with these occupants in order to permit City to construct said Airport High Speed Line. Any cost related to adjustment of the facilities or operations of these occupants will be borne by City.

3. Electric agrees to said joint electrification provided:

(a) City shall obtain for Electric all necessary perpetual easement rights on property of Reading in order to accommodate said joint electrification which rights shall be granted at no cost and expense to Electric, but shall be credited pro-rata as more particularly provided in paragraph 1 herein.

(b) Electric shall in no way be obligated to pay any costs exceeding those estimated to build an independent 230 KV transmission line on its property.

(c) Electric and City enter into a separate Agreement setting forth all terms and conditions for said joint electrification.

4. The actual construction of said Airport High Speed Line shall be done in such a manner as to maintain continuity of Electric's facilities.

5. Any construction of Electric's facilities must be done in such a manner as to maintain continuity of service on the Reading (Chester Branch) Railroad and the Airport High Speed Line system.
6. Construction of any Electric facility shall be reserved to Electric. Electric will permit any work on the Airport High Speed Line facilities to be done by City or its agent.
7. Construction of any railroad facilities shall be done with proper protection to Electric's facilities.
8. Each party shall construct, own, operate and maintain its facilities. Electric shall own and maintain any structure(s) jointly used and City shall contribute to the costs of structure(s) as determined under joint electrification agreement referred to in 3(c) above.
9. City hereby agrees to reimburse Electric for any and all costs incurred in connection with relocation of Electric's facilities necessitated due to the construction of the Airport High Speed Line, as set forth in Schedule "A" attached hereto or any additions thereto.
10. Electric hereby agrees to indemnify, defend and hold harmless City from any and all occurrences caused by Electric or its contractors upon the jointly occupied property. Conversely, City hereby agrees to indemnify, defend and hold harmless Electric from any and all occurrences caused by City or its contractors upon the jointly occupied property. In the event there is contributory negligence on the part of Electric and City, any liability shall be assumed on a 50-50 basis.

11. Electric agrees to permit City to:

(a) erect fencing of a type and design satisfactory to Electric's Engineering Department, along the entire length of Electric's southerly property line as same is affected by the Airport High Speed Line;

(b) landscape property of Electric in the vicinity of the Airport High Speed Line, subject however to approval thereof by Electric's Appearance Coordinating Committee.

12. In the event that the said Airport High Speed Line is subsequently abandoned by City, all rights affecting the property of Electric shall be extinguished whereupon a Release will be executed by City abrogating the easements in its entirety, thereby rendering the property of Electric free and clear thereof.

13. Electric shall file a copy of this Agreement with the Pennsylvania Public Utility Commission, promptly upon the execution thereof; the 33rd day after such filing shall be the effective date hereof, unless prior to such date, proceedings shall be initiated as provided in Section 911 of the Pennsylvania Public Utility Law; and in the event of the institution of such proceedings then this Agreement shall become effective as to Electric only after approval by the Pennsylvania Public Utility Commission.


This Agreement shall be binding on the parties hereto for a period of five (5) years from the date of execution or such time as the City provides Electric with notice of its intention to utilize said property for construction of said Airport High Speed Line, at which time it shall submit to Electric, for Electric's approval, plans showing the location of said High Speed Line facilities on Electric's property in relation to Electric's facilities on

its property.


This Agreement is subject to such appropriate ordinance or ordinances as may be necessary to implement the conditions set forth above.


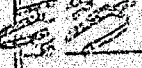
IN WITNESS WHEREOF, Electric and City have caused their respective common or corporate seals to be hereunto affixed, duly attested, the day and year first above written.

Attest:


Secretary

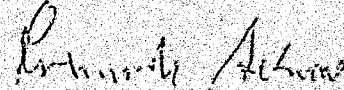
PHILADELPHIA ELECTRIC COMPANY

BY 
Vice-President

APPROVED

ENG
CO
BY


Attest:

CITY OF PHILADELPHIA

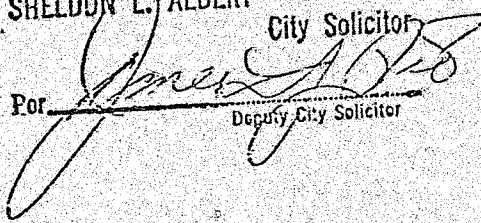
BY 

Approved as to form

SHELDON L. ALBERT

City Solicitor

For



Deputy City Solicitor

SCHEDULE "A"

RELOCATION OF PHILADELPHIA ELECTRIC COMPANY FACILITIES
FOR PROPOSED AIRPORT HIGH SPEED LINE

Airport High Speed
Line Stationing

- | | |
|---------------------------------------|---|
| 213+00 to 214+00 | Relocate control house, access drive, and other facilities at Elmwood Substation. |
| 255+50 to 260+40 | Raise 230 kv transmission line conductors in the vicinity of the new 63rd Street bridge. |
| 299+40 to 308+70 | Raise 230 kv transmission line conductors in the vicinity of the new 70th Street bridge. |
| 335+60 to 336+60 | Raise 230 kv transmission line conductors at Island Road Substation. |
| 255+50 to 437+00 | Relocate 13.2 kv distribution lines at all bridge crossings and between 63rd Street and the proposed AHSL crossing of Bartram Avenue. |
| 214+00 | Raise crossarms and conductor of the Eddy-stone-Waneeta 138 kv line in the vicinity of Elmwood Substation. (Design prepared by others.) |
| 230+80 to 236+50 | Relocate 13.2 kv distribution line at relocated Penn Central 60th Street freight branch. |
| Stationing determined by Final Design | Relocation or modification of any transmission or distribution facility where conflicts may occur as design progresses. |

struct thereon a part of its 230 KV transmission line which shall extend between its Grays Ferry Substation to its Eddystone Generating Station; AND

WHEREAS, City proposes to construct a part of its proposed Airport High Speed Line on the said Chester Branch of Reading, which shall parallel said property of Electric from 60th Street to south of 92nd Street and requires the use of a part of Electric's ground for its facilities and the pipe lines of Mobil Oil Corporation and Arco Oil Corporation; AND

WHEREAS, said Airport High Speed Line will require electrification and it has been ascertained that joint construction of the said 230 KV transmission line and the said Airport High Speed Line electrification hereinafter referred to as "joint electrification", along a common corridor is practicable and as a result could incorporate some economic and aesthetic advantages; AND

WHEREAS, Electric is agreeable to grant to City the rights necessary to utilize said ground of Electric and is also agreeable to said joint electrification;

NOW, THEREFORE, WITNESSETH, it is mutually understood and agreed as follows:

1. Easement rights necessary to accomodate said Airport High Speed Line and Mobil Oil Corporation and Arco Oil Corporation pipe lines on Electric's property shall be granted by Electric to City and the respective companies and Electric will dedicate to the City for a consideration of ONE DOLLAR (\$1.00), two (2) parcels of ground located in the vicinity of 63rd Street and 70th Street. The easements and dedication shall be UNDER and SUBJECT to the following:

(a) approval, if any, of the Pennsylvania Public Utility Commission as may be required by law;

(b) Electric's use and also Gulf Oil Corporation's use, in accordance with Agreement dated July 24th, 1973;

(c) to the lien of the First and Refunding Mortgage dated as of May 1, 1923, of The Counties Gas and Electric Company (to which Philadelphia Electric Company is successor) to Fidelity Trust Company (to which the Fidelity Bank is successor) as the same has been heretofore and may hereafter be amended and supplemented for the security of the presently outstanding bonds of Philadelphia Electric Company and other and additional bonds which may hereafter be issued and outstanding under said mortgage as so amended and supplemented.

The costs of such easement rights shall be borne by the City and shall be based on the per acre cost to Electric of property condemned from the Redevelopment Authority of the City of Philadelphia at this location; Electric shall, however, credit easement costs to City on a per acre basis for the easement rights acquired from Reading or others by City for Electric, if necessary, for the said joint electrification or other use. In no event shall Electric be obligated to pay for additional easement rights.

2. At the present time, Electric has as occupants of a portion of its property, the Gulf Oil Corporation and the Pennsylvania Department of Transportation. To the extent that the facilities or operations of these occupants may be affected by the construction of said Airport High Speed Line, Electric agrees to cooperate with City to secure any subsidiary agreement with these occupants in order to permit City to construct said Airport High Speed Line. Any cost related to adjustment of the facilities or operations of these occupants will be borne by City.

3. Electric agrees to said joint electrification provided:

(a) City shall obtain for Electric all necessary perpetual easement rights on property of Reading in order to accommodate said joint electrification which rights shall be granted at no cost and expense to Electric, but shall be credited pro-rata as more particularly provided in paragraph 1 herein.

(b) Electric shall in no way be obligated to pay any costs exceeding those estimated to build an independent 230 KV transmission line on its property.

(c) Electric and City enter into a separate Agreement setting forth all terms and conditions for said joint electrification.

4. The actual construction of said Airport High Speed Line shall be done in such a manner as to maintain continuity of Electric's facilities;

5. Any construction of Electric's facilities must be done in such a manner as to maintain continuity of service on the Reading (Chester Branch) Railroad and the Airport High Speed Line system;

6. Construction of any Electric facility shall be reserved to Electric. Electric will permit any work on the Airport High Speed Line facilities to be done by City or its agent.

7. Construction of any railroad facilities shall be done with proper protection to Electric's facilities;

8. Each party shall construct, own, operate and maintain its facilities. Electric shall own and maintain any structure(s) jointly used and City shall contribute to the costs of structure(s) as determined under joint electrification agreement referred to in 3 (c) above.

9. City hereby agrees to reimburse Electric for any and all costs incurred in connection with relocation of Electric's

facilities necessitated due to the construction of the Airport High Speed Line, as set forth in Schedule "A" attached hereto or any additions thereto.

10. Electric hereby agrees to indemnify, defend and hold harmless City from any and all occurrences caused by Electric or its contractors upon the jointly occupied property. Conversely, City hereby agrees to indemnify, defend and hold harmless Electric from any and all occurrences caused by City or its contractors upon the jointly occupied property. In the event there is contributory negligence on the part of Electric and City, any liability shall be assumed on a 50-50 basis;

11. Electric agrees to permit City to:

(a) erect fencing of a type and design satisfactory to Electric's Engineering Department, along the entire length of Electric's southerly property line as same is affected by the Airport High Speed Line;

(b) landscape property of Electric in the vicinity of the Airport High Speed Line, subject however to approval thereof by Electric's Appearance Coordinating Committee.

12. In the event that the said Airport High Speed Line is subsequently abandoned by City, all rights affecting the property of Electric shall be extinguished whereupon a Release will be executed by City abrogating the easements in its entirety, thereby rendering the property of Electric free and clear thereof.

13. Electric shall file a copy of this Agreement with the Pennsylvania Public Utility Commission, promptly upon the execution thereof; the 33rd day after such filing shall be the effective date hereof, unless prior to such date, proceedings shall be initiated as provided in Section 911 of the

Pennsylvania Public Utility Law; and in the event of the institution of such proceedings then this Agreement shall become effective as to Electric only after approval by the Pennsylvania Public Utility Commission.

This Agreement shall be binding on the parties hereto for a period of five (5) years from the date of execution or such time as the City provides Electric with notice of its intention to utilize said property for construction of said Airport High Speed Line, at which time it shall submit to Electric, for Electric's approval, plans showing the location of said High Speed Line facilities on Electric's property in relation to Electric's facilities on its property.

This Agreement is subject to such appropriate ordinance or ordinances as may be necessary to implement the conditions set forth above.

IN WITNESS WHEREOF, Electric and City have caused their respective common or corporate seals to be hereunto affixed, duly attested, the day and year first above written.

PHILADELPHIA
ELECTRIC
COMPANY

Attest: By
Secretary *Vice-President*

CITY OF
PHILADELPHIA

Attest: By

"SCHEDULE A"

RELOCATION OF PHILADELPHIA ELECTRIC COMPANY
FACILITIES FOR PROPOSED AIRPORT HIGH SPEED LINE

Airport High Speed Line
Stationing

213+00 to 214+00	Relocate control house, access drive, and other facilities at Elmwood Substation.
255+50 to 260+40	Raise 230 kv transmission line conductors in the vicinity of the new 63rd Street bridge.
299+40 to 308+70	Raise 230 kv transmission line conductors in the vicinity of the new 70th Street bridge.
335+60 to 336+60	Raise 230 kv transmission line conductors at Island Road Substation.
255+50 to 437+00	Relocate 13.2 kv distribution lines at all bridge crossings and between 63rd Street and the proposed AHSL crossing of Bartram Avenue.
214+00	Raise crossarms and conductor of the Eddy-stone-Wanceta 138 kv line in the vicinity of Elmwood Substation. (Design prepared by others.)
230+80 to 236+50	Relocate 13.2 kv distribution line at relocated Penn Central 60th Street freight branch.
Stationing determined by Final Design	Relocation or modification of any transmission or distribution facility where conflicts may occur as design progresses.

SECTION 2. The City Solicitor shall include in the agreement such other terms and conditions he deems necessary or appropriate to protect the best interests of the City of Philadelphia.

CERTIFICATION: This is a true and correct copy of
the original Ordinance approved by the Mayor on

DEC 6 1976

Charles H. Sawyer Jr

Chief Clerk of the Council

DEC 6 1976

58th STREET BRIDGE
ESTIMATED SEPTA COST

PART A

(Main Bridge Span and East approach Span) \$11,000 Labor and material

PART B

(West approach Span - provision for Airport High Speed Line) \$ 4,000

TOTAL \$15,000

RECEIVED

77 JUN 23 AM 10:36

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET

JUN 28 1977

ENTRY No. *BW*

Septas Exhibit #1, 5/18/77, M.L.