

Town of Stonington, Connecticut

Department of Public Works
152 Elm Street
Stonington, Connecticut



Project Manual & Specifications For:

Allen Street Drainage Improvements

Allen Street, Mystic

INVITATION TO BID No. 2022-007
RE-ISSUE DATE: March 18, 2022

Revised: March 18, 2022 (Issued for Re-Bid)
Revised: January 17, 2022
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July 13, 2021

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INVITATION TO BID

LEGAL NOTICE TO BID
TOWN OF STONINGTON
ALLEN STREET DRAINAGE IMPROVEMENTS RE-BID

ITB: #2022-007

Sealed bids for the Allen Street Drainage Improvements will be received at the Finance Department, Stonington Town Hall, 3rd Floor, 152 Elm Street, Stonington, Connecticut 06378 until 2:00 p.m. local time, **April 26, 2022** at which time they will be publicly opened and read aloud. Bids submitted after this time will not be accepted. The Project is located along Allen Street, Mystic, CT. The Work is estimated to cost about \$65,000. Each bidder must submit a sealed envelope, the outside of which must be clearly marked "**BID#2022-007 ENCLOSED – Allen Street Drainage Improvements Re-Bid**", and include the bidder's company name and address.

The full Invitation to Bid, and bidding documents, may be obtained on the Town's website, or on the CT DAS contracting portal at the following locations:

Town of Stonington	https://www.stonington-ct.gov/bids-rfps
State of Connecticut DAS	https://portal.ct.gov/das

Bid Documents are available digitally only. Neither the Owner nor Engineer will be responsible for full or partial sets of Bid Documents obtained from any other source.

Any addenda to the ITB will be posted to the Town's website and/or the CT DAS contracting portal. All firms are responsible for checking for new addenda.

A completed Bid Form and attachments listed therein must be submitted with the Bid. Bid security shall be furnished in accordance with the Instructions to Bidders. Bid Surety for 5% of the bid amount is required. The Bid Security shall be a proposal guaranty bond made in favor of the Town executed by a surety company authorized to do business in the State of Connecticut. Bid Security shall be made payable to Town of Stonington, Connecticut. Bids submitted without Bid Security may not be considered. No Bid may be withdrawn for 60 days after receipt of Bids unless released by the Owner. The successful bidder will be required to furnish Performance and Labor and Material Payment Bonds equal to 100% of the Contract amount.

No pre-bid conference or walk-through will be held. The project site is available for viewing at the bidder's convenience.

The successful Bidder is required to comply with all provisions of the Civil Rights Act of 1964, the Equal Opportunity Act of 1972, Executive Orders #3, No. 17, 11246, 11375 and 11478. Contractors shall comply with State Statutes concerning Employment and Labor Practices, if applicable, and Section 31-53 of the Connecticut Statutes, as amended (Prevailing Wages). The Town of Stonington and its Agencies and Commissions is an Affirmative Action/Equal Opportunity employer. Respondents must ensure that employees and applicants for employment are not discriminated against because of their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, genetic information, veteran status intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Respondent that such disability prevents performance of the work involved. The Town of Stonington complies with all Federal, State, and Local laws governing

nondiscrimination in employment in every location in the Town has facilities. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training. Respondents to this ITB agree and warrant that in the performance of the work contemplated under this ITB they will not discriminate or permit discrimination against any person or group of persons. Respondents agree to provide the State of Connecticut Commission on Human Rights and Opportunities with such information requested by the Commission concerning employment practices and procedures.

Any bidder that qualifies for the “LOCAL VENDOR PREFERENCE” must fill out a “Town-Based Business Affidavit Form” signed by an authorized representative of the bidder at the time of bid submittal in order to be considered for this preference. Failure to submit a Town Based Business Affidavit on the form provided by the Town of Stonington will result in disqualification of town-based business status and loss of any preference given to a town-based business on the part of such bidder as to its bid. The form is available on the Town’s website at www.stonington-ct.gov or can be obtained by contacting the Finance Office at 860-535-5070.

The Town of Stonington reserves the right to amend or terminate this Invitation to Bid, to reject any or all bidders, to waive any technical or legal deficiencies, to request additional information, to waive any informalities or non-material deficiencies in a response, to determine qualifications exclusively and finally in its sole discretion, to select any firm based on any combination of factors, and the Town's best interests, to negotiate with any firm submitting a bid for different or additional terms, and to take any and all other action that, in the Town’s sole judgment, will be in its best interests.

The Town of Stonington is an:

AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER

MBE/WBE AND SBE’s are encouraged to bid

TOWN OF STONINGTON INSTRUCTIONS TO BIDDERS

**INVITATION TO BID FOR
ALLEN STREET DRAINAGE IMPROVEMENTS RE-BID**

ITB: #2022-007

TIMELINE OF THE INVITATION TO BID PROCESS-KEY DATES

ITB Issue Date: March 18, 2022

Final Date to Submit Questions: April 12, 2022 4:00 p.m.

Final Posting of Responses to Questions: April 19, 2022 4:00 p.m.

Proposal Closing Date/Time: April 26, 2022, at 2:00 p.m.

Proposal Closing Place: Stonington Town Hall, 152 Elm Street, Stonington, CT 06378.

Proposal Opening Date/Time: April 26, 2022, at 2:00 p.m.

Proposal Opening Place: Finance Department, 152 Elm Street, Stonington, CT 06378.

I. SCOPE OF SERVICES

OWNER: Town of Stonington, Connecticut

Consulting Engineer: CLA Engineers, Inc., 317 Main Street, Norwich, CT 06360
(860)-886-1966, FAX: (860)-886-9165

General Description of the Work: The project generally consists of the installation of drainage improvements, subsurface infiltration, bituminous concrete paving and curb, and all work indicated on the Contract Drawings along Allen Street, Mystic, Connecticut.

II. QUALIFICATION OF CONTRACTORS

See qualification requirements under Article 3 of Instructions to Bidders.

III. INQUIRIES

All inquiries relative to the conditions and specifications listed herein as well as clarification of any information contained or referenced in this ITB must be submitted in writing to Kyle Haubert, of CLA Engineers, Inc., at khaubert@claengineers.com, via email no later than **4:00 PM** on **April 12, 2022**, with copy to James Sullivan, Director of Finance, Town of Stonington, at jsullivan@stonington-ct.gov.

The Town and/or Engineer will answer all relevant written questions by issuing one or more addenda, which shall become part of this INVITATION TO BID.

IV. SUBMISSION OF PROPOSALS

General Requirements: Respondents are asked to provide Proposals for the scope of work in accordance with all the terms and specification contained herein.

Respondents shall submit one (1) original and two (2) hard copies and one (1) electronic copy (a compiled Adobe PDF file) of their submittals.

Proposals shall contain the following at a minimum:

1. A brief qualification statement that demonstrates the technical expertise to provide the goods with the specifications outlined in this request.
2. A list of projects (3 minimum) with similar scope shall be provided, along with contacts identified for references.
3. A schedule indicating the time to deliver all requested goods and services.
4. Exhibits:
 - A) Proposer's Statement of References Form
 - B) Required Disclosures
 - C) Affirmative Action Affidavit
 - D) COI with Insurance Limits specified in Exhibit D

V. SELECTION PROCESS AND CRITERIA

Proposals will be evaluated on their qualifications and value by the Director of Public Works or her appointees using the following criteria:

1. Bid proposal adherence to technical specifications.
2. Ability to deliver goods and services in a timely fashion.
3. Proposed project schedule.
4. Value of proposed fees.
5. Compliance/completion with/of submission requirements noted above in Section IV.

VI. GENERAL TERMS AND CONDITIONS

1. The Town reserves the right to reject any and all proposals, to waive any informality, to request interviews of proposers prior to award and to select and negotiate the proposed services in the best interest of the Town.
2. The Town reserves the right to accept all or part of any proposal, and to negotiate a contract for services and cost with the selected firm or team.

3. The Selected firm shall guarantee to provide the goods at the price of the proposal for a period of not less than sixty (60) days from the deadline for submission of proposals.
4. Unless otherwise stated, Payment Requests are to be submitted no more than once per month. Each Payment Request shall be signed by the Selected firm and shall constitute the Selected firm's representation that quantity of work has reached the level for which payment is requested, and that the Selected firm knows no reason why payment should not be made as requested. The Payment Request shall include an itemization of all services provided, including unit list price, net price, extensions and total amount due. The Town shall approve by signature the amount that, in the opinion of the Town, is properly owing to the Selected firm.
5. Unless otherwise stated, payment will be made within thirty (30) days of the completion of the work, in an acceptable fashion, to the Town and receipt of invoice, whichever is later.
6. Town is exempt from all sales and Federal excise taxes.
7. None of the services covered by the contract shall be assigned in full or in part, or sub-contracted without the prior approval of the Town.
8. Unless otherwise specified all costs listed are firm for the term of the contract.
9. Proposal shall also mean quotation, bid, offer, qualification/experience statement, and services. Proposers shall also mean vendors, offerors, bidders, or any person or firm responding to the Invitation to Bid.
10. All contracts entered into by the Town shall be governed by the Laws of the State of Connecticut. Any disputes shall be resolved within the venue of the State of Connecticut.

AWARD TO OTHER THAN THE APPARENT LOW BIDDER: The Town of Stonington reserves the right to award the work to a proposer other than the one which submitted the lowest price if it deems such action to be in the best interest of the Town of Stonington.

**AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYERS
MBE/WBE AND SBE'S ARE ENCOURAGED TO BID**

TOWN OF STONINGTON, CONNECTICUT
INVITATION TO BID FOR
ALLEN STREET DRAINAGE IMPROVEMENTS RE-BID

ITB: #2022-007

VII. STANDARD INSTRUCTIONS TO PROPOSERS

INTRODUCTION

Interested parties should submit a proposal in accordance with the requirements and directions contained in this INVITATION TO BID. **Proposers are prohibited from contacting any Town employee, officer or official concerning this INVITATION TO BID, except as set forth in Section 3, below. A proposer's failure to comply with this requirement may result in disqualification.**

If there are any conflicts between the provisions of these Standard Instructions to Proposers and any other documents comprising this INVITATION TO BID, these Standard Instructions to Proposers shall prevail.

1. RIGHT TO AMEND OR TERMINATE THE INVITATION TO BID OR CONTRACT

The Town may, before or after proposal opening and in its sole discretion, clarify, modify, amend or terminate this INVITATION TO BID if the Town determines it is in the Town's best interest. Any such action shall be effected by a posting on the Town's website, <http://www.stonington-ct.gov/bids-rfps> and/or the [CT DAS Contracting Portal](#). **Each proposer is responsible for checking the Town's website and CT DAS Contracting Portal to determine if the Town has issued any addenda and, if so, to complete its proposal in accordance with the INVITATION TO BID as modified by the addenda.**

2. PROPOSAL SUBMISSION INSTRUCTIONS

Proposals must be received, by the date and time noted in the INVITATION TO BID prior to the date and time the proposals are scheduled to be opened publicly. Postmarks prior to the opening date and time do **NOT** satisfy this condition. The Town will not accept submissions by e-mail or fax. Proposers are solely responsible for ensuring timely delivery. The Town will **NOT** accept late proposals.

One (1) original and two (2) hard copies, along with a digital copy of all proposal documents must be submitted in sealed, opaque envelopes clearly labeled with the proposer's name, the proposer's address, the words **"BID#2022-007 ENCLOSED – Allen Street Drainage Improvements Re-Bid"**. The Town may decline to accept proposals submitted in unmarked

envelopes that the Town opens in its normal course of business. The Town may, but shall not be required to, return such proposal documents and inform the proposer that the proposal documents may be resubmitted in a sealed envelope properly marked as described above.

Proposal fee must be submitted on the Bid Form included in this INVITATION TO BID. All blank spaces for proposal prices must be completed in ink or be typewritten; proposal fee must be stated in both words and figures. The person signing the Proposal Form must initial any errors, alterations or corrections on that form. Ditto marks or words such as "SAME" shall not be used in the Proposal Form.

Proposals may be withdrawn personally or in writing provided that the Town receives the withdrawal prior to the date and time the proposals are scheduled to be opened. Proposals are considered valid, and may not be withdrawn, cancelled or modified, for sixty (60) calendar days after the opening date, to give the Town sufficient time to review the proposals, investigate the proposers' qualifications, secure any required municipal approvals, and execute a binding contract with the successful proposer.

An authorized person representing the legal entity of the proposer must sign the Proposal Form and all other forms included in this INVITATION TO BID.

3. QUESTIONS AND AMENDMENTS

Questions concerning the process and procedures applicable to this INVITATION TO BID are to be submitted **only in writing via email** and directed **only to**:

CLA Engineers, Inc., Email: khaubert@claengineers.com

Proposers shall copy Mr. James. Sullivan, jsullivan@stonington-ct.gov as well.

Proposers are prohibited from contacting any Town employee, officer or official concerning this INVITATION TO BID other than the designated official noted above. A proposer's failure to comply with this requirement may result in disqualification.

The appropriate Town representative listed above must receive any questions from proposers no later than the date specified under the time line. That representative will confirm receipt of a proposer's questions by e-mail.

The Town will answer all relevant written questions by issuing one or more addenda, which shall be a part of this INVITATION TO BID and the resulting Contract, containing all questions received and answers provided.

The Town will post any addenda on Town's website, <http://www.stonington-ct.gov/bids-rfps> and/or on the CT DAS contracting portal. **Each proposer is responsible for checking the websites to determine if the Town has issued any addenda and, if so, to complete its proposal in accordance with the INVITATION TO BID as modified by the addenda.**

No oral statement of the Town, including oral statements by the Town representatives listed above, shall be effective to waive, change or otherwise modify any of the provisions of this INVITATION TO BID, and no proposer shall rely on any alleged oral statement.

4. ADDITIONAL INFORMATION

The Town reserves the right, either before or after the opening of proposals, to ask any proposer to clarify its proposal or to submit additional information that the Town in its sole discretion deems desirable.

5. COSTS FOR PREPARING PROPOSAL

Each proposer's costs incurred in developing its proposal are its sole responsibility, and the Town shall have no liability for such costs.

6. OWNERSHIP OF PROPOSALS

All proposals submitted become the Town's property and will not be returned to proposers.

7. FREEDOM OF INFORMATION ACT

All information submitted in a proposal or in response to a request for additional information is subject to disclosure under the Connecticut Freedom of Information Act as amended and judicially interpreted. A proposer's responses may contain financial, trade secret or other data that it claims should not be public (the "Confidential Information"). A proposer must identify specifically the pages and portions of its proposal or additional information that contain the claimed Confidential Information by visibly marking all such pages and portions. Provided that the proposer cooperates with the Town as described in this section, the Town shall, to the extent permitted by law, protect from unauthorized disclosure such Confidential Information.

If the Town receives a request for a proposer's Confidential Information, it will promptly notify the proposer in writing of such request and provide the proposer with a copy of any written disclosure request. The proposer may provide written consent to the disclosure or may object to the disclosure by notifying the Town in writing to withhold disclosure of the information, identifying in the notice the basis for its objection, including the statutory exemption(s) from disclosure. The proposer shall be responsible for defending any complaint brought in connection with the nondisclosure, including but not only appearing before the Freedom of Information Commission, and providing witnesses and documents as appropriate.

8. REQUIRED DISCLOSURES

Each proposer must, in its Required Disclosures Form, see **Exhibit B**, make the disclosures set forth in that form. A proposer's acceptability based on those disclosures lies solely in the Town's discretion.

9. REFERENCES

Each proposer must complete and submit the Proposer's Statement of References Form included in this INVITATION TO BID, see **Exhibit A**.

10. LEGAL STATUS

If a proposer is a corporation, limited liability company, or other business entity that is required to register with the Connecticut Secretary of the State's Office, it must have a current registration on file with that office. The Town may, in its sole discretion, request acceptable evidence of any proposer's legal status.

11. PERFORMANCE SECURITY

The Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond in amounts equal to at least one hundred percent (100%) of the contract price as security for the faithful performance of the Contract, and for the payment of all persons performing labor on the project under this contract and furnishing materials, equipment and all other incidentals in connection with this contract. The Surety on such a bond shall be satisfactory to the Owner and the cost of the same shall be borne by the Contractor.

The Performance Bond and Labor and Material Payment Bond must be delivered to the Owner within ten (10) calendar days from the date when the Notice of Award is delivered to the bidder. The Notice of Award will be accompanied by the necessary Agreement and bond forms. If the bond forms are not delivered to the Owner within the required time frame the Award and Agreement may be considered null and void at the sole discretion of the Owner.

Prior to the starting of any work, the bonds must be approved by the Owner and be in the Owner's hands. The bonds must be from a surety company licensed and approved to do business in the State of Connecticut and shall remain in effect through the guarantee period.

12. PROPOSAL (BID) SECURITY

Each bid must be accompanied by a bid bond duly executed by the bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount of five (5) percent of the bid. Such bid bonds will be returned to all but the three lowest bidders within five days after the opening of bids, and the remaining bid bonds will be returned promptly after the Owner and the accepted bidder have executed the contract; or if no award has been made within 60 days after the date of the opening of the bids, upon demand of the bidder at any time there- after, so long as he has not been notified of the acceptance of his bid. The bid bond of the successful bidder will be retained until the payment bond and performance bond have been executed and approved, after which it will be returned.

13. PRESUMPTION OF PROPOSER'S FULL KNOWLEDGE

Each proposer is responsible for having read and understood each document in this INVITATION TO BID and any addenda issued by the Town. A proposer's failure to have reviewed all

information that is part of or applicable to this INVITATION TO BID, including but not only any addenda posted on the Town's website and/or CT DAS Contracting Portal, shall in no way relieve it from any aspect of its proposal or the obligations related thereto.

Each proposer is deemed to be familiar with and is required to comply with all federal, state and local laws, regulations, ordinances, codes and orders that in any manner relate to this INVITATION TO BID or the provision of goods or performance of the work described herein.

By submitting a proposal, each proposer represents that it has thoroughly examined and become familiar with the scope of work outlined/the goods described in this INVITATION TO BID, and it is capable of performing the work/delivering/installing the goods to achieve the Town's objectives. If applicable, each proposer shall visit the site, examine the areas and thoroughly familiarize itself with all conditions of the property before preparing its proposal.

14. TAX EXEMPTIONS

The Town is exempt from the payment of federal excise taxes and Connecticut sales and use taxes. Exemption from State sales tax per Conn. Gen. Stat. Chapter 219, § 12-412(1).

Federal Tax-Exempt number will be provided to the selected firm prior to execution of contract.

15. INSURANCE

The successful proposer shall, at its own expense and cost, obtain and keep in force at least the insurance listed in the Insurance Requirements that are a part of this ITB, as delineated in **Exhibit D**. The Town reserves the right to request from the successful proposer a complete, certified copy of each required insurance policy. A sample Certificate of Insurance should be submitted with bid proposal.

16. AWARD CRITERIA; PRELIMINARY SELECTION; CONTRACT EXECUTION

All proposals will be publicly opened and read aloud as received on the date, at the time, and at the place identified in this INVITATION TO BID. Proposers may be present at the opening.

The Town reserves the right to correct, after proposer verification, any mistake in a proposal that is a clerical error, such as a price extension, decimal point error or FOB terms. If an error exists in an extension of prices, the unit price shall prevail. In the event of a discrepancy between the price quoted in words and in figures, the words shall control.

The Town reserves the rights to accept all or any part of a proposal, reject all proposals, and waive any informalities or non-material deficiencies in a proposal. The Town also reserves the right, if applicable, to award the purchase of individual items under this INVITATION TO BID to any combination of separate proposals or proposers.

The Town will select the lowest responsible proposer, meaning that, in addition to price, due consideration will be given to factors such as a proposer's experience, references, capabilities,

past performance, and other relevant criteria.

The Town will not award the proposal to any business that or person who is in arrears or in default to the Town with regard to any tax, debt, contract, security or any other obligation.

The Town will issue a Preliminary Notice of Award. The preliminary notice of award may be subject to further negotiations with the proposer. **The making of a preliminary award to a proposer does not provide the proposer with any rights and does not impose upon the Town any obligations. The Town is free to withdraw a preliminary award at any time and for any reason. A proposer has rights, and the Town has obligations, only if and when a Contract is executed by the Town and the proposer.**

17. NONRESIDENT CONTRACTORS

If the successful proposer is a “nonresident contractor” as defined in Conn. Gen. Stat. § 12-430(7)(A) as amended, it shall comply fully with the provisions of § 12-430(7) and, prior to execution of the Contract, shall furnish the Town with proof that it is a “verified contractor” within the meaning of General Statutes Section 12-430(7) or that it has posted a bond with the Commissioner of Revenue Services in compliance with General Statutes Section 12-430(7). The successful proposer agrees to defend, indemnify, and hold harmless the Town, its employees, officers, officials, agents, volunteers and independent contractors, including any of the foregoing sued as individuals (collectively, the “Town Indemnified Parties”), from any and all taxes, interest and penalties that the State of Connecticut asserts are due with respect to the successful proposer’s activities under the Contract.

Connecticut General Statute §12-430(7) requires that:

When a non-resident contractor enters into a contract, they must post a 5% cash or guarantee bond for the total amount with the Commissioner of Revenue Services;

or

Any person dealing with a non-resident contractor without first obtaining a certificate of

compliance must deduct 5% from the amount payable to the non-resident contractor and submit it to the state.

If the requirements are not met, the general contractor will be liable for all Connecticut taxes imposed.

All questions shall be directed to the State of Connecticut Department of Revenue Services

Discovery Unit at 860-541-3280.

The successful proposer shall also be required to pay any and all attorney’s fees incurred by the Town Indemnified Parties in enforcing any of the successful proposer’s obligations under this section, whether or not a lawsuit or other proceeding is commenced, which obligations shall survive the termination or expiration of the Contract.

18. COMPLIANCE WITH LAWS

The successful proposer shall comply with all applicable laws, regulations, ordinances, codes and orders of the United States, the State of Connecticut and the Town related to its proposal and the performance of the Contract.

Immigration Laws

By submitting a proposal, each proposer confirms that it has complied, and during the term of the Contract will comply, with the Immigration Reform and Control Act (“IRCA”) and that each person it provides under the Contract will at all times be authorized for employment in the United States of America. Each proposer confirms that it has a properly completed Employment Eligibility Verification, Form I-9, for each person who will be assigned under the Contract and that it will require each subcontractor, if any, to confirm that it has a properly completed Form I-9 for each person who will be assigned under the Contract.

The successful proposer shall defend, indemnify, and hold harmless the Town, its employees, officers, officials, agents, volunteers and independent contractors, including any of the foregoing sued as individuals (collectively, the “Town Indemnified Parties”), against any and all proceedings, suits, actions, claims, damages, injuries, awards, judgments, losses or expenses, including fines, penalties, punitive damages, attorney’s fees and costs, brought or assessed against, or incurred by, the Town Indemnified Parties related to or arising from the obligations under IRCA imposed upon the successful proposer or its subcontractor. The successful proposer shall also be required to pay any and all attorney’s fees and costs incurred by the Town Indemnified Parties in enforcing any of the successful proposer’s obligations under this provision, whether or not a lawsuit or other proceeding is commenced. The successful proposer’s obligations under this section shall survive the termination or expiration of the Contract.

Non-Discrimination and Affirmative Action

In the performance of the Contract, the successful proposer will not discriminate or permit discrimination in any manner prohibited by the laws of the United States or of the State of Connecticut against any person or group of persons on the grounds of race, color, religious creed, age (except minimum age), marital status or civil union status, national origin, ancestry, sex, sexual orientation, mental retardation, mental disability or physical disability, including but not limited to blindness, unless the successful proposer shows that such disability prevents performance of the work involved.

In the performance of the Contract, the successful proposer will take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age (except minimum age), marital status or civil union status, national origin, ancestry, sex, sexual orientation, mental retardation, mental disability or physical disability, including but not limited to blindness, unless the successful proposer shows that such disability prevents performance of the work involved.

Any violation of these provisions shall be considered a material violation of the Contract and shall be grounds for the Town’s cancellation, termination or suspension, in whole or in part, of

the Contract and may result in ineligibility for further Town contracts.

Connecticut's Prevailing Wage Law Provision

If applicable, the contractor must be in full compliance with CGS Section 31-53 and 31-53(a) which applies to each contract for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration, or repair of any public works project by the state or its agents, or by any political subdivision of the State, CGS Section 31-53 (g) provides monetary thresholds which must be met before the law is applicable. In accordance with CGS Section 31-53, projects are subject to the payment of minimum prevailing wages where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of any public works project is \$1,000,000 or more and where the total cost of all work to be performed by all contractors and subcontractors in connection with any remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project is \$100,000 or more. For qualifying projects, all contractors and subcontractors shall submit to the Finance Department certified weekly payrolls for all contracts meeting the stated monetary limits. The certified payrolls shall be submitted to the Finance Department with the contractor's monthly certificate for payment. The contractor should familiarize themselves with all aspects of the provisions under state law in order to ensure full compliance.

Executive Orders

The contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgate June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgate February 15, 1973, concerning the listing of employment opening and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the contract as if they had been fully set forth in it. The contract may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgate April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions.

Occupational Safety and Health Administration Requirement

According to CGS, Section 31-53b (a) each contract entered into on or after July 1, 2007, for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public building project by the state or any of its agents, or by a political subdivision of the state or any of its agents, where the total cost of all work to be performed by all contractors and subcontractors in connection with the contract is at least \$100,000 shall contain a provision requiring that, not later than thirty days after the date such contract is awarded, each contractor furnish proof to the Labor Commissioner that all employees performing manual labor on or in such public building, pursuant to such contract, have completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, in the case of telecommunications employees, have completed at least ten hours of training in accordance with 29 CFR 1910.268. The aforesaid provisions shall be deemed to be incorporated into the Contract with the Town. The contractors should familiarize themselves with all aspects of state law and any applicable regulations pertaining to these requirements in order to ensure full compliance.

19. NON COLLUSION AFFIDAVIT

Each proposer shall submit a completed Proposer's Non-Collusion Affidavit Form that is part of this INVITATION TO BID.

20. CONTRACT TERMS

The following provisions will be mandatory terms of the Town's Contract with the successful proposer. If a proposer is unwilling or unable to meet, or seeks to clarify or modify, any of these Contract Terms, the proposer must disclose that inability, unwillingness, clarification and/or modification in its Proposal Form.

a. DEFENSE, HOLD HARMLESS AND INDEMNIFICATION

The successful proposer agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless the Town, its employees, officers, officials, agents, volunteers and independent contractors, including any of the foregoing sued as individuals (collectively, the "Town Indemnified Parties"), from and against all proceedings, suits, actions, claims, damages, injuries, awards, judgments, losses or expenses, including attorney's fees, arising out of or relating, directly or indirectly, to the successful proposer's malfeasance, misconduct, negligence or failure to meet its obligations under the INVITATION TO BID or the Contract. The successful proposer's obligations under this section shall not be limited in any way by any limitation on the amount or type of the successful proposer's insurance.

Nothing in this section shall obligate the successful proposer to indemnify the Town or its Indemnified Parties against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of the Town Indemnified Parties.

In any and all claims against the Town or its Indemnified Parties made or brought by any employee of the successful proposer, or anyone directly or indirectly employed or contracted with by the successful proposer, or anyone for whose acts or omissions the successful proposer is or may be liable, the successful proposer's obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by the successful proposer under workers' compensation acts, disability benefit acts, or other employee benefits acts.

The successful proposer shall also be required to pay any and all attorney's fees incurred by the Town or its Indemnified Parties in enforcing any of the successful proposer's obligations under this section. The successful proposer's obligations under this section shall survive the termination or expiration of the Contract.

As a municipal agency of the State of Connecticut, the Town will NOT defend, indemnify, or hold harmless the successful proposer.

b. ADVERTISING

The successful proposer shall not name the Town in its advertising, news releases, or promotional efforts without the Town's prior written approval.

If it chooses, the successful proposer may list the Town in a Statement of References or similar document required as part of its response to a public procurement. The Town's permission to the successful proposer to do so is not a statement about the quality of the successful proposer's work or the Town's endorsement of the successful proposer.

c. SUBCONTRACTING

Prior to entering into any subcontract agreement(s) for the work described in the Contract, the successful proposer shall provide the Town with written notice of the identity (full legal name, street address, mailing address (if different from street address), and telephone number) of each proposed subcontractor. The Town shall have the right to object to any proposed subcontractor by providing the successful proposer with written notice thereof within seven (7) business days of receipt of all required information about the proposed subcontractor. If the Town objects to a proposed subcontractor, the successful proposer shall not use that subcontractor for any portion of the work described in the Contract.

All permitted subcontracting shall be subject to the same terms and conditions as are applicable to the successful proposer. The successful proposer shall remain fully and solely liable and responsible to the Town for performance of the work described in the Contract. The successful proposer also agrees to promptly pay each of its subcontractors within thirty (30) days of receipt of payment from the Town or otherwise in accordance with law. The successful proposer shall assure compliance with all requirements of the Contract. The successful proposer shall also be fully and solely responsible to the Town for the acts and omissions of its subcontractors and of persons employed, whether directly or indirectly, by its subcontractor(s).

d. PREFERENCES

The successful proposer shall comply with the requirements of Conn. Gen. Stat. § 31-52(b), as amended. Specifically, the successful proposer agrees that in the employment of labor to perform the work under the Contract, preference shall be given to citizens of the United States who are, and have been continuously for at least three (3) months prior to the date of the Contract, residents of the labor market area (as established by the State of Connecticut Labor Commissioner) in which such work is to be done, and if no such qualified person is available, then to citizens who have continuously resided in Hartford County for at least three (3) months prior to the date hereof, and then to citizens of the State who have continuously resided in the State at least three (3) months prior to the date of the Contract.

e. LICENSES AND PERMITS

The successful proposer certifies that, throughout the Contract term, it shall have and provide proof of all approvals, permits and licenses required by the Town and/or any state or federal authority. The successful proposer shall immediately and in writing notify the Town of the loss or suspension of any such approval, permit or license.

f. CESSATION OF BUSINESS/BANKRUPTCY/RECEIVERSHIP

If the successful proposer ceases to exist, dissolves as a business entity, ceases to operate, files a petition or proceeding under any bankruptcy or insolvency laws or has such a petition or proceeding filed against it, the Town has the right to terminate the Contract effective immediately. In that event, the Town reserves the right, in its sole discretion as it deems appropriate and without prior notice to the successful proposer, to make arrangements with another person or business entity to provide the services described in the Contract and to exercise any or all of its rights at Law, in equity, and/or under the Contract.

g. AMENDMENTS

The Contract may not be altered or amended except by the written agreement of both parties.

h. ENTIRE AGREEMENT

It is expressly understood and agreed that the Contract contains the entire agreement between the parties, and that the parties are not, and shall not be, bound by any stipulations, representations, agreements or promises, oral or otherwise, not printed or inserted in the Contract or its attached exhibits.

i. VALIDITY

The invalidity of one or more of the phrases, sentences or clauses contained in the Contract shall not affect the remaining portions so long as the material purposes of the Contract can be determined and effectuated.

j. CONNECTICUT LAW AND COURTS

The Contract shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of Connecticut, and the parties irrevocably submit in any suit, action or proceeding arising out of the Contract to the jurisdiction of the United States District Court for the District of Connecticut or of any court of the State of Connecticut, as applicable.

k. NON-EMPLOYMENT RELATIONSHIP

The Town and the successful proposer are independent parties. Nothing contained in the

Contract shall create, or be construed or deemed as creating, the relationships of principal and agent, partnership, joint venture, employer and employee, and/or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms and conditions of the Contract. The successful proposer understands and agrees that it is not entitled to employee benefits, including but not limited to worker's compensation and employment insurance coverage, and disability. The successful proposer shall be solely responsible for any applicable taxes.

21. LOCAL VENDOR PREFERENCE

The Town has a local vendor preference ordinance. Any bidder that qualifies for the "LOCAL VENDOR PREFERENCE" must fill out a "Town-Based Business Affidavit Form" signed by an authorized representative of the bidder at the time of the bid submittal in order to be considered for this preference. Failure to submit a Town Based Business Affidavit on the form provided by the Town of Stonington will result in disqualification of town-based business status and loss of any preference given to a town-based business on the part of such bidder as to its bid. The form is available on the Town's website at www.stonington-ct.gov or can be obtained by contacting the Finance Department at 860-535-5070.

22. QUALIFICATIONS OF BIDDER

The Town may make whatever investigations it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Town all information and data for this purpose as the Town may request. The Town reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the Town that the bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.

END OF STANDARD INSTRUCTIONS TO PROPOSERS

TOWN OF STONINGTON, CONNECTICUT

**INVITATION TO BID FOR
ALLEN STREET DRAINAGE IMPROVEMENTS RE-BID**

ITB: #2022-007

PROPOSER'S STATEMENT OF REFERENCES FORM

Provide at least three (3) references:

BUSINESS NAME _____
ADDRESS _____
CITY, STATE _____
TELEPHONE: _____
INDIVIDUAL CONTACT NAME AND POSITION _____

BUSINESS NAME _____
ADDRESS _____
CITY, STATE _____
TELEPHONE: _____
INDIVIDUAL CONTACT NAME AND POSITION _____

BUSINESS NAME _____
ADDRESS _____
CITY, STATE _____
TELEPHONE: _____
INDIVIDUAL CONTACT NAME AND POSITION _____

END OF STATEMENT OF REFERENCES FORM

TOWN OF STONINGTON, CONNECTICUT

INVITATION TO BID FOR
ALLEN STREET DRAINAGE IMPROVEMENTS RE-BID
ITB: #2022-007

REQUIRED DISCLOSURES

1. Exceptions to/Clarifications of/Modifications of the INVITATION TO BID

_____ This proposal does not take exception to or seek to clarify or modify any requirement of the INVITATION TO BID, including but not only any of the Contract Terms set forth in the Standard Instructions to Proposers. **The proposer agrees to each and every requirement, term, provision and condition of this INVITATION TO BID.**

OR

_____ This proposal takes exception(s) to and/or seeks to clarify or modify certain of the INVITATION TO BID requirements, including but not only the following Contract Terms set forth in the Standard Instructions to Proposers. **Attached is a sheet fully describing each such exception.**

2. State Debarment List

Is the proposer on the State of Connecticut's Debarment List?

_____ Yes
_____ No

Department of Consumer Protection License No. _____
Connecticut Secretary of the State ID No. _____

3. Occupational Safety and Health Law Violations

Has the proposer or any firm, corporation, partnership or association in which it has an interest (1) been cited for three (3) or more willful or serious violations of any occupational safety and health act or of any standard, order or regulation promulgated pursuant to such act, during the three-year period preceding the proposal (provided such violations were cited in accordance with the provisions of any state occupational safety and health act or the Occupational Safety and Health Act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency or court having jurisdiction) or (2) received one or more criminal convictions related to the injury or death of any employee in the three-year period preceding the proposal?

_____ Yes
_____ No

If "yes," attach a sheet fully describing each such matter.

4. Arbitration/Litigation

Has either the proposer or any of its principals (current or former, regardless of place of employment) been involved for the most recent ten (10) years in any pending or resolved arbitration or litigation?

_____ Yes
_____ No

If “yes,” attach a sheet fully describing each such matter.

5. Criminal Proceedings

Has the proposer or any of its principals (current or former, regardless of place of employment) ever been the subject of any criminal proceedings?

_____ Yes
_____ No

If “yes,” attach a sheet fully describing each such matter.

6. Ethics and Offenses in Public Projects or Contracts

Has either the proposer or any of its principals (current or former, regardless of place of employment) ever been found to have violated any state or local ethics law, regulation, ordinance, code, policy or standard, or to have committed any other offense arising out of the submission of proposals or bids or the performance of work on public works projects or contracts?

_____ Yes
_____ No

If “yes,” attach a sheet fully describing each such matter.

7. Federal Debarment List

Is the proposer on the Federal Government’s Debarment List?

_____ Yes
_____ No
_____ Federal Duns #

8. MBE / WBE / SBE

Is the proposer a MBE?	_____ Yes	_____ No
Is the proposer a WBE?	_____ Yes	_____ No
Is the proposer a SBE?	_____ Yes	_____ No

END OF REQUIRED DISCLOSURES FORM

TOWN OF STONINGTON, CONNECTICUT

INVITATION TO BID FOR
ALLEN STREET DRAINAGE IMPROVEMENTS RE-BID

ITB: #2022-007

AFFIRMATIVE ACTION/EEO AFFIDAVIT

Concerning Equal Employment Opportunities and/or Affirmative Action Policy I/we, the respondent, certify to the TOWN OF STONINGTON that:

1. I/we are in compliance with the equal opportunity clause as set forth in Connecticut state law (Executive Order No. Three, <http://www.cslib.org/exeorder3.htm>).
2. I/we do not maintain segregated facilities.
3. I/we have filed all required employer's information reports.
4. I/we have developed and maintain written affirmative action programs.
5. I/we list job openings with federal and state employment services.
6. I/we attempt to employ and advance in employment qualified handicapped individuals.
7. I/we are in compliance with the Americans with Disabilities Act.
8. I/we (check one)
_____ have an Affirmative Action Program, or
_____ employ 10 people or fewer

Legal Name of Bidder: _____

Business Name: _____

Business Address: _____

Signature and Title of Person: _____

Subscribed and sworn to me _____

This ____ day of _____, 2021

Notary Public

My Commission Expires _____
date

END OF AFFIDAVIT FORM

TOWN OF STONINGTON, CONNECTICUT

INSURANCE REQUIREMENTS

Contractor shall purchase and maintain without interruption from the date of commencement of the Services until the date of final payment for the last Project to be completed and for the additional periods specified herein, the following insurance and all insurance that may be required under any Applicable Laws, written by insurance companies with a rating of at least an "A-VIII" in the latest addition of A.M. Best. If Contractor fails to obtain and keep in force the insurance required hereunder, Owner may obtain and maintain the required insurance in the name of Contractor and the cost thereof shall be payable by Contractor to Owner on demand. Failure to maintain the insurance coverage required or failure to comply fully with any of the insurance provisions as may be necessary to carry out the terms and provisions of the Agreement shall be deemed to be a material breach of the Agreement. Insurance requirements are independent of, and in addition to, Contractor's liability under the Agreement. The limits and coverages set forth in this Exhibit are the minimum requirements under the Agreement. Except for Professional Liability and Workers Compensation insurance which cannot have additional insureds, the inclusion of these minimum requirements shall not be interpreted to restrict the rights of the Additional Insureds to the stated minimum coverage amounts in the event the Contractor maintains coverage at higher limits. Nothing in the Agreement shall be deemed to limit Contractor's liability under the Agreement to the limits of the insurance coverages required hereunder. Contractor shall be solely responsible for payment of all deductible or retention amounts pertaining to any insurance required hereby. If any policy is written on a "Claims Made" basis, the policy must be continually renewed for a minimum of two (2) years from the completion date of the contract. If the policy is replaced and/or the retroactive date is changed, then the expiring policy must be endorsed to extend the reporting period for claims for the policy in effect during the contract for two (2) years from the completion date. Capitalized terms in this Exhibit that are not specifically defined in this Exhibit shall have the meanings set forth in the Agreement to which this Exhibit is attached.

1. **Commercial General Liability** ("CGL") insurance on an "occurrence" basis for bodily injury and property damage that may arise out of or result from Contractor's operations and completed operations under the Agreement, whether such operations be by Contractor or by anyone directly or indirectly employed by the Contractor, or by anyone for whose acts the Contractor may be liable. Such insurance shall include, along with other coverages available to the Contractor or under the CGL policy, each of the following:
 - (a) At a minimum, the following limits and coverages:
 - (i) \$1,000,000 each occurrence or the full per occurrence limits of the policy, whichever is greater
 - (ii) \$1,000,000 personal and advertising injury or the full personal and advertising injury limits of the policy, whichever is greater

- (iii) \$5,000,000 general aggregate or the full general aggregate limits of the policy, whichever is greater
 - (iv) \$300,000 damage to rented premises
 - (v) \$10,000 Medical Expenses
 - (b) Coverage for ongoing operations, independent Contractors, and any persons or entities performing work on behalf of Contractor.
 - (c) Products and completed operations coverage, which coverage shall be maintained in effect for a period equivalent to the statute of repose for the state in which the Project is located.
 - (d) An appropriate endorsement acceptable to Owner stating that "limits apply per project."
 - (e) Contractual liability coverage.
 - (f) Contain a severability or separation of insureds clause.
 - (g) The insurance maintained by Contractor shall be primary and noncontributory, and any other insurance or self-insurance maintained by Owner or the Additional Insureds is in excess and shall not contribute to Contractor's insurance in all instances regardless of any like insurance that Owner or the Additional Insureds may have.
 - (h) No exclusion or limitation for residential construction.
 - (i) Waiver of Subrogation endorsement in favor of Owner.
2. **Commercial Automobile Liability** coverage to include owned, hired and non-owned automobile liability insurance covering all use of all automobiles, trucks and other motor vehicles utilized by Contractor, including each of the following:
- (a) A combined single limit for bodily injury and property damage of \$1,000,000 per accident.
 - (b) Coverage for upset, overturn and collision coverage related to pollution events (applying to the vehicle, trailer or other attachments to vehicle and extend to cargo/waste carried and to Contractors or others providing services to Contractor).
 - (c) Waiver of Subrogation endorsement in favor of Owner.
3. Follow-form **umbrella (excess) liability** insurance with a limit of \$5,000,000 each occurrence in excess of the general liability, employer's liability, workers' compensation liability, and business automobile liability coverages required of Contractor under this Exhibit. Such insurance shall contain a provision that it will not be more restrictive than the primary insurance. Aggregate limits of liability shall apply separately with respect to the Project.
4. **Workers' Compensation insurance**, including employer's liability, for all persons whom Contractor employs (or uses as contract labor if the Contractor is uninsured) in carrying out any Work. Such insurance shall be in strict compliance

with the requirements of the most current and applicable workers' compensation insurance laws in effect from time to time in the state(s) where the Services are performed, and shall include the following:

- (a) Coverage A (Workers' Compensation) - Statutory
 - (b) Coverage B (Employer's Liability)
At a minimum, the following limits and coverages:
 - (i) \$500,000 for each accident, for bodily injury by accident
 - (ii) \$500,000 for each employee, for bodily injury by disease
 - (iii) \$500,000 for each disease policy limit
 - (c) Waiver of Subrogation endorsement in favor of Owner.
 - (d) Contain endorsements that provide:
 - (i) Voluntary Compensation
5. **Property insurance** providing coverage for property in which Contractor retains the risk of loss including their own equipment, (stationary or mobile), tools (including employee tools), supplies, materials, or any other property owned or leased by Contractor. If Contractor chooses to self-insure any of the property described under this Paragraph, it is agreed that Contractor shall hold Owner and its representatives, agents and employees harmless for any loss sustained by the Contractor of its equipment, tools, supplies, materials and other property of Contractor whether owned or leased.
6. **Additional Insureds:** Commercial General Liability, Umbrella Liability and Comprehensive Automobile Liability insurance policies will name the Owner, and its respective employees, agents and representatives as additional insureds. Certificates of Insurance showing such coverages and additional insureds, along with copies of appropriate additional insured endorsements will be filed with the Owner on or before the execution of the Agreement. At any time requested by the Owner, the Contractor will provide to the Owner a copy of any of the aforementioned policies, and any endorsements or amendments thereto.
7. **Contractor's pollution liability insurance:** N/A
8. **Notice of Cancellation:** The Contractor shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Exhibit. The Contractor shall provide such written notice within five (5) business days of the date the Contractor is first aware of the cancellation or expiration or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first. Each insurance policy will state that the insurance company agrees to investigate and defend the insured against all claims for damages to the extent that all alleged damages might be covered by insurance.
9. **Contractors and Contractors Insurance:** Contractor shall require that each Contractor and sub-contractor under contract with the Contractor comply with

the insurance requirements above, except that a Contractor or sub-contractor that provides no professional services for any Project shall not be required to provide Professional Services Liability Insurance. Before permitting any of its Contractors or sub-contractors to perform any Services, Contractor shall obtain a certificate of insurance from each such Contractor and sub-contractor evidencing that such Contractor or sub-contractor, as applicable, has obtained the required minimum insurance and has added those entities as additional insureds with respect to the Commercial General Liability, umbrella liability, and Commercial Automobile Liability insurance, and all other insurances as required herein. All policies of Contractors and sub-contractors shall include a waiver of any right of subrogation of the insurers thereunder against Contractor, the Owner and the other Additional Insureds.

INSURANCE REQUIREMENTS FOR SUBCONTRACTORS

The Contractor shall ensure that all tiers of their subcontractors shall procure and maintain insurance in like form and amounts including the Additional Insured requirements, as set forth above. Copies of the certificates of insurance must be provided to the Town prior to the subcontractor entering the jobsite.

CERTIFICATES ON INSURANCE & POLICY ENDORSEMENTS

Original, completed Certificates of Insurance must be presented to the Town prior to contract issuance, and must name the Town as an additional insured. The Contractor agrees to provide replacement/renewal certificates at least 60 days prior to the expiration of any policy. Should any of the above-described policies be cancelled before the expiration date, written notice must be given to the Town 30 days prior to cancellation. *A copy of the insurance endorsement naming the Town as an additional insured must also be provided to the Finance Director along with copies of the endorsements within the policy naming the Town as an additional insured.* Required limits are scheduled out below:

REQUIRED LIMITS

		(Minimum Limits)
General Liability*	Each Occurrence	\$1,000,000
	General Aggregate	\$5,000,000
	Products/Completed Operations Aggregate	\$5,000,000
	Personal and ADV Injury	\$1,000,000

	Damage to Rented Premises	\$ 300,000
	Medical Expense (anyone person)	\$ 10,000
Auto Liability*	Combined Single Limit	
	Each Accident	\$1,000,000
	Aggregate	\$1,000,000
Umbrella*	Each Occurrence	\$5,000,000
Excess Liability)	Aggregate	\$5,000,000
Contractor's Pollution Liability Insurance	Each Occurrence / Aggregate	N/A
Workers' Compensation and Employers' Liability	WC Statutory	
	Limits EL Each	\$500,000
	EL Disease Each Employee	\$500,000
	EL Disease Policy Limit	\$500,000

EJCDC INSTRUCTIONS TO BIDDERS

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1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

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Article 1 – DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. Issuing Office – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered. **In this case the Town of Stonington Finance Department at Stonington Town Hall, 152 Elm Street, Stonington, CT, 06378.**

Article 2 – COPIES OF BIDDING DOCUMENTS

- 2.01 Bidding Documents may be obtained from the location stated in the advertisement. Neither the Owner nor Engineer will be responsible for full or partial sets of Bid Documents obtained from any other source.
- 2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

Article 3 – QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder's qualifications to perform the Work, within 5 days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below.
- A. Evidence of Bidder's authority to do business in the State of Connecticut.
- B. List of major equipment available for this contract.
- 3.02 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

Article 4 – EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

- 4.01 Not Applicable
- 4.02 Underground Facilities
- A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.

- 4.03 Not Applicable
- 4.04 Not Applicable
- 4.05 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates. *The Bidder must perform these investigations within the bid advertisement period and at a time at the discretion of the Owner.*
- 4.06 Not applicable
- 4.07 It is the responsibility of each Bidder before submitting a Bid to:
- A. examine and carefully study the Bidding Documents, and the other related data identified in the Bidding Documents;
 - B. visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
 - C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;
 - D. Not Applicable
 - E. Not Applicable
 - F. agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
 - G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
 - H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
 - I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has

discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

Article 5 – PRE-BID CONFERENCE

5.01 There will be no pre-bid conference for this project.

Article 6 – SITE AND OTHER AREAS

6.01 The Site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

Article 7 – INTERPRETATIONS AND ADDENDA

- 7.01 No interpretation of the meaning of the Drawings, Specifications, or other prebid documents will be made to any bidder orally. Every request for such interpretation must be in writing as indicated in the Town of Stonington Instructions to Bidders Section III Inquiries. Interpretations or clarifications considered necessary in response to such questions will be issued by Addenda. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.
- 7.03 Potential Bidders are responsible for checking the Town of Stonington website at <https://www.stonington-ct.gov/bids-rfps> and/or the CT DAS Contracting Portal for any addenda and updates regarding this Bid.

Article 8 – BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price and in the form of a Bid bond (on the form attached) issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.
- 8.02 Bid security shall be returned to Bidders in accordance the Town of Stonington Instruction to Bidders Section VII Standard Instructions to Bidders Item 12.
- 8.03 Not applicable

Article 9 – CONTRACT TIMES

- 9.01 The number of days within which the Work is to be substantially completed and ready for final payment is set forth in the Agreement.

Article 10 – LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages are set forth in the Agreement.

Article 11 – SUBSTITUTE AND “OR-EQUAL” ITEMS

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or those substitute or “or-equal” materials and equipment approved by Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or “or-equal” item. No item of material or equipment will be considered by Engineer as a substitute or “or-equal” unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each such request shall conform to the requirements of Paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

Article 12 – SUBCONTRACTORS, SUPPLIERS AND OTHERS

- 12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner

may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

- 12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.
- 12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

Article 13 – PREPARATION OF BID

- 13.01 The Bid Form and required Proposal Forms are included with the Bidding Documents.
- 13.02 All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each part of the Bid Proposal, bid item, and unit price item listed therein. The Bid price(s) shall be written in both words and figures, and in the case of a discrepancy between the two the amount in words shall govern.
- 13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.
- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
- 13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 13.06 A Bid by an individual shall show the Bidder's name and official address.
- 13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 13.08 All names shall be printed in ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.

- 13.10 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

Article 14 – BASIS OF BID; COMPARISON OF BIDS

14.01 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.
- B. The total of all estimated prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with Paragraph 11.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

14.02 Allowances

- A. For cash allowances the Bid price shall include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 11.02.B of the General Conditions.

Article 15 – SUBMITTAL OF BID

15.01 Not Applicable

15.02 Sealed Bids shall be submitted in accordance with the Stonington Instructions to Bidders Section IV Submission of Proposals and Section VII Standard Instructions to Proposers.

- 15.03 If at any time of the scheduled Bid opening, *The Finance Department* is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the Bid opening will be postponed until 2:00 p.m. the next business day. Bids will be accepted until that date and time. Bidders/Proposers are advised to check the Town Web site for information.

Article 16 – MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids or authorized postponement thereof.

16.02 Not Applicable

Article 17 – OPENING OF BIDS

- 17.01 Bids will be opened at the time and place indicated in the Advertisement or Invitation to Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

Article 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

Article 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT

- 19.01 Owner reserves the right to reject any or all Bids or any part of any Bid, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 19.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.
- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents.
- 19.06 If Contract is to be awarded, Owner will award the Contract to the responsible Bidder who's Bid, conforming with all the material terms and conditions of the Instructions to Bidders, is lowest, price and other factors considered. The lowest price will be determined based on the "Total Base Bid Price" plus or minus any "Alternate" amounts as selected by the Owner. If detailed in the bid form, factors such as discounts, transportation costs, and life cycle costs may be used to determine which bidder, if any, is to be offered the award.
- 19.07 The Town of Stonington reserves the right to award in part, to reject any and all, in whole or in part, for misrepresentation or if the respondent is in default of any prior Town contract, or if the

Respondent limits or modifies any of the terms and conditions and/or specifications of the Request. The Town also reserves the right to waive technical defects, irregularities and omissions if, in its judgment, the best interest of the Town will be served.

- 19.08 Award to Other Than the Apparent Low Bidder: The Town of Stonington reserves the right to award the work to a proposer other than the one which submitted the lowest price if it deems such action to be in the best interest of the Town of Stonington.

Article 20 – CONTRACT SECURITY AND INSURANCE

- 20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by such bonds.

Article 21 – SIGNING OF AGREEMENT

- 21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement along with the other Contract Documents which are identified in the Agreement as attached thereto. Within 10 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

Article 22 – SALES AND USE TAXES

- 22.01 Owner is exempt from Connecticut state sales and use taxes on materials and equipment to be incorporated in the Work. (Exemption Number will be provided after execution of the agreement). Said taxes shall not be included in the Bid. Refer to Paragraph 6.10 of the Supplementary Conditions for additional information.

Article 23 – RETAINAGE

- 23.01 Provisions concerning Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

Article 24 – EMPLOYMENT OF LABOR

- 24.01 The wages paid to mechanics, laborers or workmen employed upon the work herein contracted to be done shall be at a rate equal to the rate of wages prevailing for the same work in the same trade or occupation in the **Stonington** area as determined by the labor Commissioner of the State of Connecticut. See Section 31.53 of the General Statutes of the State of Connecticut, Revision of 195S, as amended.
- 24.02 Public Act 79-325 passed by the 1979 Legislature covers exemptions from Section 31.53 of the General Statutes. Under the new exemptions, effective October 1985, the regulations that the

prevailing wage must be paid for work performed by contractors and subcontractors in connection with work on public facilities will not apply:

To public work alterations, repair, refinishing projects with total cost of less than \$100,000.

To public works new construction with a total cost of less than \$1,000,000.

All Bidders are informed that the project is considered REPAIR/ALTERATION construction.

24.03 All Bidders are advised to inform themselves and to comply with the requirements of Federal, State and local laws governing the employment of labor.

24.04 The Contractor shall provide certified payroll sheets to the Owner which include all employees involved with the project for each payroll period during the course of the project.

Article 25 – PROVISIONAL ITEMS

25.01 Provisional items are delineated in the bid form. Quantities for provisional items may or may not be used in whole or in part at the sole discretion of the Owner. This shall in no way affect the established contract unit prices. All bid unit prices for provisional items shall be added to establish the total bid amount.

Article 26 – SAFETY STANDARDS

26.01 Bidder agrees to comply with all of the latest Federal and State Safety Standards and Regulations and certifies that all work required in this bid will conform to and comply with said standards and regulations. Bidder further agrees to indemnify and hold harmless the Town for all damages assessed against the Town as a result of Bidder's failure to comply with said standards and/or regulations.

26.02 Safety and Health Standards: Successful bidders must demonstrate compliance with all applicable OSHA standards including without limitations the following standards:

29 CFR 1926.650 “Excavations-Scope, application, and definitions”

29 CFR 1926.651 “Excavations-Specific Excavation Requirements”

29 CFR 1926.652 “Excavations-Requirements for Protective Systems”

29 CFR 1926.Subpart P Appendix F – “Selection of Protective Systems”

29 CFR 1910.1200 “Hazard Communication”

29 CFR 1910.146 “Permit Required Confined Spaces”

DOT “Pipeline Safety Regulations Part 192”

26.03 The successful bidder shall provide written documentation of the companies Drug & Alcohol policy in accordance with DOT 49 CFR part 199 and DOT 49 CFR part 40

26.04 The successful bidder shall provide written “competent person” training documentation.

26.05 The contractor is responsible for ensuring OSHA compliance, and his responsibility includes supervising and monitoring work site conditions for OSHA compliance. If the contractor uses

subcontractors the contractor is responsible for ensuring that the subcontractors fulfill their obligations with respect to employee safety, particularly including those which affect the entire site.

- 26.06 The Owner shall consider OSHA violations(s) over the past five years in determining the ability of the Contractor to comply with OSHA requirements and in determining whether contractor is a responsible bidder. If there has been an OSHA violation within the past five (5) years (measured from the date of the bid), the contractor shall provide copies of the citation(s), all documents regarding final determination of such citations including settlement any explanation(s) of such violation(s).

BID PROPOSAL FORMS

Copyright © 2007 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

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BID FORM

Town of Stonington

Allen Street Drainage Improvements Re-Bid
Bid No. 2022-007

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

**Town of Stonington Finance Department
Stonington Town Hall
152 Elm Street, Stonington, CT, 06378**

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for **60** days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

Addendum No.

Addendum Date

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Not Applicable

E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and drawings identified in the

Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Unit prices are to be written in both words and figures. In case of discrepancy, the unit price shown in words will govern.

BASE BID:

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1.	Maintenance and Protection of Traffic	L.S.	L.S.	_____	_____

UNIT PRICE IN WORDS: _____

2.	Sedimentation and Erosion Control	L.S.	L.S.	_____	_____
----	-----------------------------------	------	------	-------	-------

UNIT PRICE IN WORDS: _____

3.	<u>Provisional Item</u> Gravel Fill	20	C.Y.	_____	_____
----	--	----	------	-------	-------

UNIT PRICE IN WORDS: _____

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
4.	<u>Provisional Item</u> 3/4" Crushed Stone	20	C.Y.	_____	_____

UNIT PRICE IN WORDS: _____

5.	Processed Gravel Base	40	C.Y.	_____	_____
----	-----------------------	----	------	-------	-------

UNIT PRICE IN WORDS: _____

6.	Bituminous Concrete Lip Curbing	125	L.F.	_____	_____
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UNIT PRICE IN WORDS: _____

7.	Bituminous Concrete Driveways	700	S.F.	_____	_____
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UNIT PRICE IN WORDS: _____

8.	Two Course Bituminous Concrete	100	S.Y.	_____	_____
----	-----------------------------------	-----	------	-------	-------

UNIT PRICE IN WORDS: _____

9.	12" PVC	50	L.F.	_____	_____
----	---------	----	------	-------	-------

UNIT PRICE IN WORDS: _____

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
10.	Catch Basins (Type "C" or "C-L")	3	EA.	_____	_____

UNIT PRICE IN WORDS: _____

11.	Precast Concrete Drywells	L.S.	L.S.	_____	_____
-----	---------------------------	------	------	-------	-------

UNIT PRICE IN WORDS: _____

12.	Catch Basin Hood	1	EA.	_____	_____
-----	------------------	---	-----	-------	-------

UNIT PRICE IN WORDS: _____

13.	Furnish & Install Topsoil	225	S.Y.	_____	_____
-----	---------------------------	-----	------	-------	-------

UNIT PRICE IN WORDS: _____

TOTAL BASE BID PRICE: _____

TOTAL BASE BID PRICE IN WORDS: _____

ADD ALTERNATE:

The undersigned bidder further proposes and agrees that, should the following alternate be accepted by the Owner, the amount of the Total Base Bid, as heretofore stated shall be **INCREASED** by the amount of the alternate.

Unit prices are to be written in both words and figures. In case of discrepancy, the unit price shown in words will govern.

This work shall include the following:

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1.	Processed Gravel Base	15	C.Y.	_____	_____

UNIT PRICE IN WORDS: _____

2.	Two Course Bituminous Concrete	65	S.Y.	_____	_____
----	-----------------------------------	----	------	-------	-------

UNIT PRICE IN WORDS: _____

TOTAL ADD ALTERNATE PRICE: _____

TOTAL ADD ALTERNATE PRICE IN WORDS: _____

This contract is to be awarded as outlined in Article 19 of the Instructions to Bidders. This contract is to be awarded to that responsible Bidder whose total bid is the lowest number of dollars for the above items.

Unit Prices have been computed in accordance with Paragraph 11.03.B of the General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

Provisional items are delineated in the bid form. Quantities for provisional items may or may not be used in whole or in part at the discretion of the Owner. This shall in no way affect the established contract unit prices. All bid unit prices for provisional items shall be added to establish the total bid amount.

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security in the form of a Bid Bond (EJCDC No. C-430);
 - B. List of Proposed Subcontractors;
 - C. List of Proposed Suppliers;
 - D. Non-Collusion Affidavit of Prime Bidder;
 - E. Non-Discrimination in Employment
 - F. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
 - G. Contractor's License No.: _____ [or] Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;
 - H. Required Bidder Qualification Statement with Supporting Data;
 - I. A Form W-9;
 - J. Exhibits A, B, C and;
 - J. Certificate of Insurance

ARTICLE 8 – DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

- 9.01 This Bid is submitted by:
- If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____
(CORPORATE SEAL)

Attest _____

Date of Qualification to do business in Connecticut is ____/____/____.

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____
(SEAL)

By: _____
(Signature of first joint venture partner - attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____
(SEAL)

By: _____

(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

9.02 Bidder's Business Address _____

Phone No. _____ Fax No. _____

E-mail _____

SUBMITTED on _____, 20_____.

BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name and Address of Principal Place of Business*):

OWNER:

**Town of Stonington
152 Elm Street
Stonington, CT, 06378**

BID

Bid Due Date: _____

Description: **Allen Street Drainage Improvements Re-Bid**

BOND

Bond Number: _____

Date (*Not earlier than Bid due date*): _____

Penal sum _____ \$ _____
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

Bidder's Name and Corporate Seal (Seal)

Surety's Name and Corporate Seal (Seal)

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information he desires.

1. Name of Bidder:
2. Permanent main office address:
3. When organized:
4. If a corporation, where incorporated:
5. How many years have you been engaged in the contracting business under your present firm or trade name?
6. General character of work performed by your company:
7. Have you ever failed to complete any work awarded to you? If so, where and why?
8. Have you ever defaulted on a contract? If so, where and why?
9. List projects similar to this that your organization completed within the last 5 years? The contractor shall attach a summary of such work that identifies:
 - Name of Owner
 - Date of Work
 - Contract Amount
 - Brief Description of Work
10. Experience in construction work similar in importance to this project.
12. Background and experience of the principal members of your organization including the officers.

PROPOSED SUBCONTRACTORS

THE BIDDER SHALL STATE THE NAMES OF ALL THE SUBCONTRACTORS THAT HE PROPOSES TO USE. ATTACH ADDITIONAL SHEETS IF NEEDED.

If none, write "None" _____

*Description of Work _____

Proposed Subcontractor, Name _____

Address _____

*Description of Work _____

Proposed Subcontractor, Name _____

Address _____

*Description of Work _____

Proposed Subcontractor, Name _____

Address _____

*Insert description of work and subcontractors' names as may be required.

This is to certify that all names of the above-mentioned subcontractors are submitted with full knowledge and consent of the respective parties.

The Bidder warrants that none of the proposed subcontractors have any conflict of interest as respects this contract.

Bidder _____
(Fill in Name)

By _____
(Signature and Title)

PROPOSED SUPPLIERS

THE BIDDER SHALL STATE THE NAMES OF PROPOSED MATERIAL SUPPLIERS FOR THE PROJECT. ATTACH ADDITIONAL SHEETS IF NEEDED.

If none, write "None" _____

*Description of Material _____

Proposed Supplier, Name _____

Address _____

*Description of Material _____

Proposed Supplier, Name _____

Address _____

*Description of Material _____

Proposed Supplier, Name _____

Address _____

*Insert description of work and suppliers names as may be required.

This is to certify that all names of the above-mentioned suppliers are submitted with full knowledge and consent of the respective parties.

The Bidder warrants that none of the proposed suppliers have any conflict of interest as respects this contract.

Bidder _____

(Fill in Name)

By _____

(Signature and Title)

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____)
) ss.
County of _____)

_____, being first duly sworn, deposes and says that:

- (1) He is (owner, partner, officer, representative or agent) of _____, the Bidder that has submitted the attached bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from Bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Owner or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

(Title)

Subscribed and sworn to before me
this _____ day of _____ 20 ____.

(Title)

My Commission expires _____, 20 ____.

NON-DISCRIMINATION IN EMPLOYMENT

State of _____)
County of _____) ss

_____, being first duly sworn, deposes and says that:

(1) He is (owner, partner, officer, representative, or agent), of _____
_____, the bidder that has submitted the attached bid;

(2) Said bidder (has _____) (has not _____) previously performed work subject to the President's Executive Order No. 11246, or any preceding similar Executive Order.

Signed _____

Title

Subscribed and Sworn to before me

this _____ day of _____ 20 ____.

Title

My Commission expires _____, 20 ____.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the corporation named as Principal in the within bond; that _____, who signed the said bond on behalf of the Principal was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was his duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing body.

(Corporate Seal)

Title: _____

AGREEMENT AND BOND FORMS

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between Town of Stonington (“Owner”) and
To Be Determined (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Storm drainage improvements, subsurface infiltration chamber installation, bituminous concrete paving and curb installations and all other work as indicated on the Contract Drawings and in the Project Manual & Specifications.**

ARTICLE 2 – THE PROJECT

- 2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: **“Invitation to Bid No. 2022-007, Allen Street Drainage Improvements Re-Bid”**

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by CLA Engineers, Inc. (Engineer), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed within **90** days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within **90** days after the date when the Contract Times commence to run.
- B. The Owner may suspend the contract time if weather conditions warrant.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$500.00** for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$250.00** for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work other than Unit Price Work, a lump sum of: \$ Not Applicable

All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

UNIT PRICE WORK

To be Determined Based on Bid Proposal

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the Last day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
 - a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 0 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price (with the exception of 2 percent that shall be held by the Owner for a 6 month period) as recommended by Engineer as provided in said Paragraph 14.07. The 2 percent retainage shall be released by the Owner after 6 months if final work has remained in acceptable condition.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Not Applicable
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor’s safety precautions and programs.
 - F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - J. The Contractor will purchase and maintain without interruption insurances in the form of and amounts outlined in Exhibit “D” of the Information to Bidders until final payment for the project.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
1. This Agreement (pages 1 to 8, inclusive).
 2. Performance bond.
 3. Payment bond.
 4. Town of Stonington Invitation to Bid, Allen Street Drainage Improvements, ITB: #2022-007, including Exhibits “A” through “D”. (not attached to this agreement)
 5. Instructions to Bidders (pages 1 to 10, inclusive). (*not attached to this agreement*)
 6. General Conditions (pages 1 to 48, inclusive). (*not attached to this agreement*)
 7. Supplementary Conditions (pages 1 to 10, inclusive). (*not attached to this agreement*)
 8. All Technical Specification, wage requirements, and Specifications as listed in the table of contents of the Project Manual & Specifications dated November 10, 2021. (*not attached to this agreement*)
 9. Drawings consisting of 2 sheets with each sheet bearing the following general title: “Allen Street Drainage Improvements”, dated March 18, 2022, as revised. (*not attached to this agreement*)
 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor’s Bid Proposal Forms & Supplemental Information (*on file, not attached to this agreement*)
 - b. Contractor’s Certificate of Insurance (*on file, not attached to this agreement*)
 11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Non-Discrimination*

- A. The Contractor represents and warrants that it will not discriminate against any employee or applicant for employment because of race, color, gender, age, religion, national origin, or citizenship status, disability, sexual orientation, veteran or marital status and that it shall comply with all of the applicable laws against discrimination and all rules, regulations and orders issued thereunder or in implementation thereof.

ARTICLE 11 – INSURANCE & INDEMNIFICATION

11.01

- A. The Contractor shall maintain the insurance described in **Exhibit D** for so long as this Agreement is in effect and for such longer periods as are reflected in **Exhibit D**, and indemnify the Town in accordance with Section 11.01 (B) of this Agreement. Contractor shall provide the Town’s Finance Director with certificates of insurance denoting levels of coverage per **Exhibit D**, **as well as a copy of the insurance policy endorsements naming the Town as an additional insured.**
- B. The Contractor agrees, to the fullest extent permitted by law, to indemnify, and hold harmless the Town, its employees, officers, officials, and board or commission members, including any of the foregoing sued as individuals (collectively, the “Town Indemnified Parties”), from and against all proceedings, suits, actions, claims, damages, injuries, awards, judgments, losses or expenses, including reasonable attorney’s fees and defense costs, to the extent caused by Contractor’s malfeasance, misconduct, negligent acts, errors, or omissions or failure to meet its obligations under the Contract. The Contractor’s obligations under this section shall not be limited in any way by any limitation on the amount or type of the successful proposer’s insurance.
- C. In any and all claims against the Town or its Indemnified Parties made or brought by any employee of the Contractor, or anyone directly or indirectly employed or contracted with by the Contractor, or anyone for whose acts or omissions the Contractor is or may be liable, the Contractor’s obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by the Contractor under workers’ compensation acts, disability benefit acts, or other employee benefits acts.

- D. The Contractor shall also be required to pay any and all reasonable attorney's fees incurred by the Town or its Indemnified Parties in enforcing any of the Contractor's obligations under this section. The Contractor's obligations under this section shall survive the termination or expiration of the Contract.
- E. As a municipal agency of the State of Connecticut, the Town will NOT defend, indemnify, or hold harmless the Contractor.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, 2022 (which is the Effective Date of the Agreement).

OWNER:

Town of Stonington

By: _____

Danielle Chesebrough

Title: First Selectman

Attest: _____

Title: _____

Address for giving notices:

Town of Stonington Department of Public Works

152 Elm Street

Stonington, Connecticut 06378

CONTRACTOR

T.B.D.

By: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

License No.: _____

GENERAL CONDITIONS

Copyright © 2007 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
 12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
 13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
44. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 2. a preliminary Schedule of Submittals; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve

as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

- A. Standards, Specifications, Codes, Laws, and Regulations
 - 1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
 3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:
1. is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
 2. is of such a nature as to require a change in the Contract Documents; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

- B. *Engineer’s Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner’s obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer’s findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor’s cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

- A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
 - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.
- B. *Not Shown or Indicated:*
 1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.
- G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
 4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

- b. by any other person for any other reason;
- 5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
- 6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

- 1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
- 2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
- 3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
- 4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
- 5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
- 6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

- A.** In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

- A.** Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
- 1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;

2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
 3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
 4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
 5. allow for partial utilization of the Work by Owner;
 6. include testing and startup; and
 7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.
- B. Owner shall purchase and maintain such equipment breakdown insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee.
- C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.
- D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under this Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies

and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:
1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.
- B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 – CONTRACTOR’S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner’s written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.
1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
 - 3) it has a proven record of performance and availability of responsive service.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
 2. *Substitute Items:*
 - a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
 - b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
 - d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
 - 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.
- B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.
- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for

evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- F. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.
- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and

damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

- D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.
- b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work*

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design

concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
1. written notice thereof will be given to Contractor prior to starting any such other work; and
 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

- A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a

Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 1. deny the Claim in whole or in part;
 2. approve the Claim; or
 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
 5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:*
 - 1. Contractor agrees that:
 - a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance:*
 - 1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:
1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right

for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. repair such defective land or areas; or
 - 2. correct such defective Work; or
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed

by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

- d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. Reduction in Payment:

- 1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 - 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due:*

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's

recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
 2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer; or
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within

30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
 - 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 - 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. C-700, 2007 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

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SC-1.01.A.3. Add the following language to the end of Paragraph 1.01.A.3:

The Application for Payment form to be used on this Project is EJCDC No. C-620 or AIA Document G720. The Owner must approve all Applications for Payment before payment is made.

SC-1.01.A.9. Add the following language to the end of Paragraph 1.01.A.9:

The Change Order form to be used on this Project is EJCDC No. C-941 or a form provided by or otherwise acceptable to the Owner. Owner's approval is required before Change Orders are effective.

SC-2.03.A. Delete Paragraphs 2.03.A in its entirety and insert the following:

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the One Hundred and Twentieth day after the day of Bid opening or the Thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

SC-4.02. Add the following new paragraphs immediately after Paragraph 4.02.B:

- C. No reports of explorations or tests of subsurface conditions at or contiguous to the Site, or drawings of physical conditions relating to existing surface or subsurface structures at the Site, are known to Owner.

SC-4.06. Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

- A. No reports or drawings of Hazardous Environmental Conditions at or contiguous to the Site are known to the Owner or Engineer.
- B. Not used.

SC-4.07. Add the following new section immediate after Paragraph 4.06.I:

4.07 Archeological Finds / Significantly Important Archeological Resources

- A. For the Contractor's information, the Engineers have no information suggesting that the Project sites are of archeological significance. .
- B. Should the Contractor or Engineer discover evidence of remains, such as stone masonry building foundations, bones or other items of archaeological significance, Contractor shall report these findings to 1. Owner, 2. Local Historical Society, 3. State Historic Preservation

Office (860) 256-2761, and 4. Resident Engineer or Inspector, and shall exercise the utmost care to ensure that these areas remain undisturbed. Contractor shall allow recovery of such finds by the authorities, shall not remove such artifacts under penalty of law, and shall prevent constriction or private vehicles from crossing over these areas. In addition, when directed by the Engineer, cover these areas with 1-ft common fill to the limits directed by the Engineer. Be advised that graves and any associated human remains are protected by Connecticut State law (C.G.S. Section 10-388 and 10-390). Any possible human skeletal remains must be reported to the State Archaeologist (860) 486-5248 and the State's Chief Medical Examiner (860) 679-3980 immediately upon discovery. If the State Archaeologist is unavailable, please contact the State Historic Preservation Office at the number above for immediate assistance.

SC-5.01. Add the following new paragraph immediately after Paragraph 5.01.C:

- D. The Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond in amounts equal to at least one hundred percent (100%) of the contract price as security for the faithful performance of the Contract, and for the payment of all persons performing labor on the project under this contract and furnishing materials, equipment and all other incidentals in connection with this contract. The Surety on such a bond shall be satisfactory to the Owner and the cost of the same shall be borne by the Contractor. Prior to the starting of any work, the bonds must be approved by the Owner and be in the Owner's hands. The bonds must be from a surety company licensed and approved to do business in the State of Connecticut and shall remain in effect through the guarantee period

SC-5.04. Add the following new paragraph immediately after Paragraph 5.04.B:

- C. Contractor/Vendor agrees to maintain in force at all times during which work/services are to be performed, the insurance coverages and limits outline in the Town of Stonington Standard Instructions to Bidders Exhibit D.

SC-6.05.C. Amend the paragraph by making two subparagraphs under the title C. Engineer's Evaluation. The paragraph text is retitled, 6.05.C.2 After Effective Date of Agreement. A new paragraph is added before this paragraph to read as follows:

1. During Bidding. The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute materials and equipment approved by the Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or "or-equal" item. Request for Engineer's clarification of materials and equipment considered "or-equal" prior to the Effective Date of the Agreement must be received by the Engineer at least 5 days prior to the date for receipt of Bids. No item of material or equipment will be considered by Engineer as a substitute unless written request for approval has been submitted by Bidder

and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of Paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

SC-6.06. Add a new paragraph immediately after Paragraph 6.06.G:

- 6.06.H: The Contractor shall not award work valued at more than fifty (50%) percent of the Contract Price to Subcontractor(s), without prior written approval of the Owner.
- 6.06.I: The apparent low bidder (within 5 days of the bid opening) shall submit to the Owner a list of all proposed subcontractors. Subcontractors shall be submitted by the low bidder and evaluated by the Owner in accordance with article 12 of the Instructions to Bidders.

SC-6.10. Add a new paragraph immediately after Paragraph 6.10.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Connecticut and of cities and counties thereof on all materials to be incorporated into the Work.
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-6.11.B. Add the following language at the end of paragraph 6.11.B:

The materials or refuse or other debris used in the construction of the work, shall be legally disposed away from the site in such manner so that will not endanger or interfere with persons or the work being performed.

SC-6.11.C. Delete Paragraphs 6.11.C in its entirety and insert the following:

C. Cleaning:

1. The Contractor shall exercise every precaution and means to prevent and control dust arising out of all construction operations from becoming a nuisance to abutting property owners or surrounding neighborhoods. Pavements adjoining the pipe trench shall be

- kept broomed off and washed clean of excess materials wherever and whenever directed. Repeated daily dust control treatment shall be provided to satisfactorily prevent the spread of dust until permanent pavement repairs are made and until earth stockpiles have been removed, and all construction operations that might cause dust have been completed. No extra payment will be made for dust control measures, compensation shall be considered to be included in the prices stipulated for the appropriate items as listed in the bid.
2. In case the Contractor fails or neglects to promptly remove all surplus materials, tools, and incidentals after backfilling, leaving the street or surrounding area clean and free of debris, and do the required repaving when ordered, the Owner may, after 24 hours notice, cause the work to be done and the cost thereof deducted from any payment due to the Contractor.
 3. After the work is completed, the pipes, manholes, and structures shall be carefully cleaned free of debris and dirt, broken masonry, and mortar, and left in first class condition, ready to use. All temporary or excess materials shall be disposed of off-site and the work left broom clean, to the satisfaction of the Owner.
 4. Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

SC-6.16. Add a new paragraph immediately after Paragraph 6.16.A:

- B. The Contractor is required to provide the Owner with a telephone number which can be used during emergencies, 24 hours per day, seven days per week, to reach the Contractor.

SC-14.02.A.3. Delete paragraph 14.02.A.3 in its entirety and insert the following:

3. The amount of retainage with respect to progress payments will be as stipulated in the Instructions to Bidders or Form of Agreement. No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

SC-14.02.A.4. Add the following new Paragraph after Paragraph 14.02.A.3:

4. The Application for Payment form to be used on this Project is EJCDC No. C-620 or AIA Document G720. The Owner must approve all Applications for Payment before payment is made.

SC-14.02.A.5. Add the following new Paragraph after Paragraph 14.02.A.4:

5. The Contractor and all Subcontractors must submit weekly Connecticut Certified Payroll Forms in accordance with the requirements set forth in the Prevailing Wage Requirements & Rates Section with each Application for Payment. Applications for Payment will not be processed until all of the required signed certified payrolls forms from the Contractor and all Subcontractors have been submitted to the Owner.

SC-14.02.E. Add the following new Paragraph after Paragraph 14.02.D.3:

E. CGS 49.41a - Enforcement of Payment by General Contractor to Subcontractor and Subcontractor to his Subcontractors

- a. The general contractor, within thirty days after payment to the contractor by the state or a municipality, shall pay any amounts due any subcontractor, whether for labor performed or materials furnished, when the labor or materials have been included in a requisition submitted by the contractor and paid by the state or a municipality; each subcontractor shall pay any amounts due any of its subcontractors, whether for labor performed or materials furnished, within thirty days after such subcontractor receives a payment from the general contractor which encompasses labor or materials furnished by such subcontractor.
- b. Each payment requisition submitted in accordance with the requirements of subsection (a) of this section, except for any such payment requisition submitted pursuant to a contract administered by or in conjunction with the Department of Transportation, shall include a statement showing the status of all pending construction change orders, other pending change directives and approved changes to the original contract or subcontract. Such statement shall identify the pending construction change orders and other pending change directives, and shall include the date such change orders and directives were initiated, the costs associated with their performance and a description of any work completed. As used in this section, "pending construction change order" or "other pending change directive" means an authorized directive for extra work that has been issued to a contractor or a subcontractor.
- c. If payment is not made by the general contractor or any of its subcontractors in accordance with such requirements, the subcontractor shall set forth his claim against the general contractor and the subcontractor of a subcontractor shall set forth its claim against the subcontractor through notice by registered or certified mail. Ten days after the receipt of that notice, the general contractor shall be liable to its subcontractor, and the subcontractor shall be liable to its subcontractor, for interest on the amount due and owing at the rate of one per cent per month. In addition, the general contractor, upon written demand of its subcontractor, or the subcontractor, upon written demand of its subcontractor, shall be required to place funds in the amount of the claim, plus interest of one per cent, in an interest-bearing escrow account in a bank in this state, provided the general contractor or subcontractor may refuse to place the funds in escrow on the

- grounds that the subcontractor has not substantially performed the work according to the terms of his or its employment. In the event that such general contractor or subcontractor refuses to place such funds in escrow, and the party making a claim against it under this section is found to have substantially performed its work in accordance with the terms of its employment in any arbitration or litigation to determine the validity of such claim, then such general contractor or subcontractor shall pay the attorney's fees of such party.
- d. No payment may be withheld from a subcontractor for work performed because of a dispute between the general contractor and another contractor or subcontractor.
 - e. This section shall not be construed to prohibit progress payments prior to final payment of the contract and is applicable to all subcontractors for material or labor whether they have contracted directly with the general contractor or with some other subcontractor on the work.

SC-17.05 Add a new paragraph immediately after Paragraph 17.05.A:

- B. Contractors shall observe and comply with all Federal, State and local laws, ordinances and regulations. Contractors shall indemnify and save harmless the Town, all of its officers, agents and servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation or negligence whether by the bidder, his employees, his consultant and/or their employees.

SC-18 Add a new Article 18, "STREET AND SIDEWALK ACCESS," after Article 17.

18.01 *Streets and Sidewalks to be Kept Open*

- A. The Contractor shall at all times attempt to keep the streets and highways in which he may be working open for pedestrian and vehicular traffic.
- B. As required or directed by the Owner, the Contractor shall install in selected locations suitable plank crossings, substantially built and reinforced to sustain vehicular traffic across excavations. No separate payment will be made for this work, the cost of which shall be included in the prices stipulated for the appropriate items in the work as listed in the bid.

18.02 *Emergency Access*

- A. The Contractor shall provide all necessary emergency vehicle crossings at principal intersections or ways usually traveled by emergency apparatus with provisions for the apparatus so it can travel along the line of the pipe installations.
- B. If it becomes necessary at any time to temporarily barricade a street or cause detours to be put up, or rerouting of traffic, the Fire and Police Departments, Board of Education, and

ambulance company shall be notified by the Contractor, and their consent obtained before any such action is initiated.

18.03 *Bus Line Interference*

- A. Whenever it may be necessary to interfere with any bus lines, notice shall be given to the corporation owning the same, and reasonable time will be given to said corporation to arrange the schedule for operation of the bus line, as it may be necessary.

SC-19 Add a new Article 19, “TEMPORARY POWER,” after Article 18.

- 19.01 The Contractor shall make all the necessary arrangements with the power company for providing temporary electric power for his use. All unauthorized sources of power, such as from neighboring homes, shall be prohibited.

SC-20 Add a new Article 20, “BLASTING,” after Article 19.

- 20.01 Blasting shall be prohibited

SC-21 Add a new Article 21, “CONTRACTOR TO CHECK DIMENSIONS AND SCHEDULES,” after Article 20.

- 21.01 The Contractor will be required to check all dimensions and quantities shown on the drawings or schedules given to him by the Owner, and shall notify the Owner of all errors therein which he may discover by examining and checking the same. The Contractor shall not take advantage of any error or omissions in these specifications, drawings, or schedules. The Owner will furnish all instructions should such error or omissions be discovered, and the Contractor shall carry out such instructions as if originally specified.

SC-22 Add a new Article 22, “PROTECTION OF TREES,” after Article 21.

- 22.01 The Contractor shall take special care to preserve and protect from injury all trees located along the lines of construction, and no such trees shall be cut down, trimmed, or otherwise cut unless called for on the Plans or without permission from the Owner.

SC-23 Add a new Article 23, “LIGHTS, BARRIERS, WATCHMEN AND INDEMNITY,” after Article 22.

- A The Contractor shall erect and maintain such barriers, lighting, warning lights, danger warning signals, and signs that will prevent accidents during the construction work and protect the work and insure the safety of personnel and the public at all times and places; the Contractor shall indemnify and protect the Owner and the Engineer in every respect from injury or damage whatsoever caused by any act of neglect by the contractor or his subcontractors, or their servants or agents, including any claims arising out of failure to

erect and maintain sufficient railing or fence as required by Section 13A-111 Connecticut General Statutes from claims or defect in violation of 12A-14q Connecticut General Statutes.

- B The fact that the Department of Public Works may retain control of the premises, or that it or its agents may take action to erect or maintain railings or fences shall not relieve the Contractor's obligations hereunder.
- C In addition to the above, when and as necessary, or when required by the Owner, the Contractor shall post sign and employ watchmen or flagmen for the direction of traffic at the site and for excluding at all times unauthorized persons from the work site.
- D The Contractor shall be responsible for excluding at all times from the land within the easement areas, all persons not directly connected with the work.

SC-24 Add a new Article 24, "NIGHTWORK," after Article 23.

- A Nightwork, or work on Saturdays, Sundays, or legal holidays requiring the presence of an engineer or inspector, will not be permitted except as designated by the Owner in case of an emergency. Should it be necessary for the Owner to operate an organization for continuous nightwork or for emergency nightwork, the lighting, safety and other facilities which are deemed necessary shall be provided by the Contractor. Compensation for this work shall be considered as having been included in the prices stipulated for the appropriate items of work as listed in the bid, and no extra compensation will be paid by the Owner.

SC-25 Add a new Article 25, "TRAFFIC CONTROL," after Article 24.

- A. The Contractor shall schedule and perform his work so as to cause minimum interference to traffic and to safeguard all highways and traffic therein, and to cause absolutely no interference to fire and emergency vehicles. Construction equipment and materials shall be located as to not endanger the work or obstruct traffic.
- B. Every reasonable means shall be made to reduce, to a minimum, interference with and inconvenience to business concerns on account of the construction work.
- C. The Contractor shall provide and maintain all signs, barricades, and traffic control equipment that may be required for the satisfactory performance of providing traffic control.

SC-26 Add a new Article 26, "LENGTH OF TRENCH TO BE OPENED," after Article 25.

- A. The length of trench opened at any time from the point where ground is being broken to complete backfill and also the amount of space in the streets or public and private lands occupied by equipment or supplies, shall not exceed the length or space considered

reasonably necessary and expedient by the Owner. In determining the length of the open trench or spaces for equipment, material, and supplies and other necessities, the Owner will consider the nature of the lands or streets where work is being done, types and methods of construction and equipment being used, inconvenience to the public or to private parties, possible dangers and other matters. All work must be constructed with a minimum of inconvenience and danger to all parties concerned.

- B. Whenever the trench obstructs pedestrians and vehicular traffic, or any public or private property, the Contractor shall take such means as is necessary to maintain such traffic and access. Until such time as the work may have attained sufficient strength to support backfill, or if for any reason it is not expedient to backfill the trench immediately, the Contractor shall construct and maintain suitable plank crossings and bridge crossings to carry essential traffic in or to the street or property in question, as specified or directed.
- C. Suitable lights, signs, and such required items to direct traffic shall be furnished and maintained by the Contractor.
- D. The Contractor shall keep streets free from obstructions, debris, and all other materials. The Owner may, at any time, order the removal of any such material from the work area - and should the Contractor fail to do so within 24 hours after such notice of removal of the same, the Owner may cause the material, debris, or other matter to be removed by some other such persons as he may employ, at the Contractor's expense. The cost thereof may be deducted from any payments due the Contractor under this contract. In special cases where public safety demands, the Owner may remove such materials without prior notice.

SC-27 Add a new Article 27, "CONTRACTOR TO LAYOUT WORK," after Article 26.

- A. The Owner will establish such general reference points as in his judgment will enable the Contractor to proceed with the work. The Contractor, at his own expense, shall provide all materials and equipment and such qualified helpers as the Owner may require for setting the general reference points and shall protect and preserve all stakes, benches, and other markers used to identify the reference points. The Contractor shall lay out all the Contract work from the above and shall be responsible for the accuracy of all lines, grades, and measurements. He will be required to employ at no extra expense to the Owner, a Connecticut registered land surveyor or registered professional engineer who shall perform all layout work for the construction of the Contract work, including all lines, grades, and measurements.

SC-28 Add a new Article 28, "EXISTING UTILITIES OR CONNECTIONS," after Article 27.

- A. The location of existing underground pipes, conduits, and structures as shown has been collected from the best available sources and the Owner together with his agents, does not

imply or guarantee the data and information in connection with underground pipes, conduits, structures, and such other parts, as to their completeness, nor their locations as indicated. The contractor shall assume that there are existing water, gas, and other utility connections to each and every building en-route, whether they appear on the drawings or not. Any expense and/or delay occasioned by utilities and structures or damage thereto, including those not shown, shall be the responsibility of the Contractor, at no additional expense to the Owner.

- B. Before proceeding with construction operations, the Contractor shall make such supplemental investigations, including exploratory excavations by hand digging, as he deems necessary to uncover and determine the exact locations of utilities and structures and shall have no claims for damages due to encountering subsurface structures or utilities in locations other than those shown on the drawings, or which are made known to the Contractor prior to construction operations. The Contractor shall be responsible and liable for all damages to existing utilities and structures.

SC-29 Add a new Article 29, “FIRE AND POLICE NOTIFICATION,” after Article 28.

- A. If it becomes necessary at any time to temporarily barricade a street or cause detours to be put up, or rerouting of traffic, the Fire and Police Departments, SEAT, Board of Education, and American Ambulance shall be notified by the Contractor, and their consent obtained before any such action is initiated.

SC-30 Add a new Article 30, “CLEANING FINISHED WORK AND THE SITE,” after Article 29.

- A. After the work is completed, the pipes, manholes, and structures shall be carefully cleaned free of debris and dirt, broken masonry, and mortar, and left in first class condition, ready to use. All temporary or excess materials shall be disposed off-site and the work left broom clean, to the satisfaction of the Owner.
- B. In completing his operations, the Contractor shall immediately remove all surplus material, tools, and other property belonging to him, leaving the entire street or surroundings free and clean and in good order, at no additional expense to the Owner. The Contractor shall exercise special care in keeping the rights-of-way and private lands upon which work is performed free and clean of all debris, and shall remove all tools and other property when they are not in use.

TECHNICAL SPECIFICATIONS

INDEX TO TECHNICAL SPECIFICATIONS

SECTION	TITLE
1.00	General Requirements
2.01	Maintenance & Protection of Traffic
2.03	Work On Or Near Private Property
2.04	Dewatering, Control and Diversion of Water
2.06	Calcium Chloride For Dust Control
2.08	Clearing and Tree Removal
2.09	Sedimentation and Erosion Control
3.02	Trench Earth Excavation & Backfill
3.04	Gravel Fill
3.05	Removal of Pavement
3.07	Processed Gravel Base
3.08	Gravel Pipe Bedding
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5.01	Storm Drainage Pipe
5.02	Catch Basins
5.12	Precast Concrete Drywell
5.25	Catch Basin Hood
8.01	Furnish and Install Topsoil
9.16	Pavement Markings and Signing

SECTION 1.00
GENERAL REQUIREMENTS

1.01 SUMMARY OF WORK

1.01.1 Description:

The work required under this contract generally includes the following:

Storm drainage improvements, subsurface infiltration chamber installation, bituminous concrete paving and curb installations and all other work as indicated on the Contract Drawings and in the Project Manual & Specifications.

The contractor shall purchase, provide, and install all materials and equipment necessary to complete the work specified.

The entire work provided for in these technical specifications and on the Drawings shall be constructed and finished in every respect in a good workmanlike and substantial manner. It is not intended that the Drawings shall show every detail piece of material or equipment, but such parts and pieces as may be in accordance with the best practices and regulatory requirements, even though not shown, shall be furnished and installed. All materials and equipment shall be new unless specifically stated otherwise in these Contract Documents.

1.01.2 Location of Site:

The work site for this contract lies along *Allen Street, Mystic, Connecticut* as shown on the Contract Drawings.

1.01.3 Project Time Frame & Work Sequence

The start of construction for this project is anticipated to be on or about April 1, 2022.

Work shall be sequenced so as to allow for the uninterrupted flow of vehicular traffic and of the existing drainage system.

All costs associated with sequencing of work and coordination shall be included in the bid prices for other items.

The Contractor shall submit a construction schedule and modify it from time to time as need arises. The Construction schedule shall be based on the specified completion time. The Construction Schedule shall show the order of work including such significant tasks as construction of lines, connections, backfill and compaction, temporary and permanent restoration. The Construction Schedule shall be submitted for the Owner's approval prior to start of Construction and updated at the time of submitting each request for progress payment.

1.01.4 Survey Assistance:

Furnish helpers on an as needed basis to assist the Engineer in checking work.

1.01.5 Project Coordination

The work included in these Contract Documents is to be performed under the responsibility of a single prime contract. The Contractor is responsible for the coordination of all the work, whether performed by its own personnel or its subcontractor, and will maintain such procedures as necessary to keep its workman and suppliers informed of project progress so as not to unnecessarily delay completion of the Work.

1.01.6 Standard Specifications

The Standard Specifications for Roads, Bridges, and Incidental Construction, Supplemented Form 818, dated July 2020 of the State of Connecticut, as specifically referenced to in the Technical Specifications, shall apply and be considered a part of this specification as though it were bound herein. The Standard Specification is available from the:

Department of Transportation
Engineer of Contracts
2800 Berlin Turnpike
P.O. Box 317546
Newington, CT 06131-7546

<https://portal.ct.gov/DOT/IT/ConnDOT-Publications-Manuals>

1.02 MEASUREMENT AND PAYMENT

The following Sections describe the measurement of, and payment for, the work to be done under the respective items listed in the Bid.

Each lump sum price stated shall constitute full compensation as herein specified, for each item of work completed in accordance with the Drawings and specifications.

No separate payments will be made for cleaning up. Such clean-up shall be considered incidental to the item to which it applies and shall be included in the price for the item.

The prices for those items which involve excavation shall include compensation for disposal of surplus excavated material, handling water, and the installation of all necessary sheeting and bracing.

SECTION 2.01
MAINTENANCE AND PROTECTION OF TRAFFIC

1.0 DESCRIPTION

The Contractor shall maintain traffic in the project area to the satisfaction of the Owner. The Contractor must maintain pedestrian and vehicular traffic and permit access to businesses, factories, residences, and intersecting streets. Where detours will be required, the Owner may require the Contractor to submit a proposed detour plan for all portions of the work to the Owner. This submittal shall be made at least seven days prior to commencing construction. It shall be the sole responsibility of the Contractor to keep the Local Agencies (including but not limited to the Police and Fire Departments) prewarned at least 72 hours in advance of changes in traffic patterns due to reduction of pavement widths or closing of streets. The Contractor shall supply, install, maintain, adjust, move, relocate, and store all signs, suitably lighted barricades, traffic cones and traffic delineators, as necessary to carry out the traffic routing plan and maintain vehicular and pedestrian traffic. All of this work shall meet with the requirements of the State of Connecticut, Local Agencies and the Owner.

The Contractor shall furnish, light, and maintain such signs as may be directed, or may be necessary for the safe regulation, or convenience of traffic. Said signs shall be adequate for the regulation, safety and convenience of traffic. The Contractor shall provide, erect, and maintain suitably lighted barricades, warning lights, etc., as needed, or as directed in order to keep people, animals and vehicles from excavations, obstacles, etc. Traffic signs shall be designed and installed in accordance with MUTCD where applicable. The Contractor shall be required to employ trafficmen and take other such reasonable means of precautions as the Owner may direct, or as may be needed to prevent damage or injury to persons, vehicles, or other property, and to minimize the inconvenience and danger to the public by his construction operations. He shall arrange his operations to provide access to properties along the street including temporary bridges to driveways, and provide access to fire hydrants, manholes, gate boxes, or other utilities. Whenever any trench obstructs traffic in or to any public street, private driveway, or property entrance, the Contractor shall take such steps as required to maintain necessary traffic and access including temporary bridging if required. The Contractor shall confine his occupancy of public or traveled ways to the smallest space compatible with the efficient and safe performance of the work contemplated by the contract.

The Contractor shall observe and obey all local and state laws, ordinances, regulations and permits in relation to the obstruction of streets and highways, keeping passageways open and protecting traffic where there may be danger from blasting or other construction activities.

Suitable lighted barriers or barricades shall be furnished by the Contractor and put up and maintained at all times during the night or daytime, around all open ditches, trenches, excavations, or other work potentially dangerous to traffic. Such barricades shall be securely supported and braced at least 3 feet high above the ground. Barricades shall be placed on all sides and throughout

the entire length and width of all open ditches, trenches, excavations, or other work which must be barred to the general public. Barricades shall be properly painted to the satisfaction of the Owner in order to retain a high degree of visibility to vehicular and pedestrian traffic.

Suitably lighted barricades shall be defined as barricades lit by flashers in accordance with this paragraph or other lighting methods approved by the Owner in lieu thereof. Flashers shall be placed along the entire length of the barricades at an interval no greater than 8 feet, center to center. Flashers shall be power operated, lens directed, enclosed light units which shall provide intermittent light from 70 to 120 flashes per minute, with the period of light emittance occurring not less than 25 percent of each on-off cycle, regardless of temperature. The emitted light shall be yellow in color and the area of light on at least one face of the unit shall be not less than 12 square inches. The discernible light shall be bright enough to be conspicuously visible during the hours of darkness at a minimum distance of 800 feet from the unit under normal atmospheric conditions. For units which beam light in one or more directions, the foregoing specifications shall apply 10 degrees or more to the side and 5 degrees or more above and below the photometric axis.

The Contractor shall furnish and securely fasten flashing units to signs, barricades, and other objects in such numbers and for such lengths of time as are required for the maintenance and protection of traffic, or as the Engineer may order. The flasher shall be in operation during all hours between sunset and sunrise, and during periods of low visibility. The Contractor shall maintain, relocate and operate barricades and flashers throughout the life of the contract. No special payment will be made for barricades or flashers.

Should the Contractor or his employees neglect to set out and maintain barricades or lights, as required in these specifications, the Owner immediately, and without notice, may furnish, install and maintain barricades or lights. The cost thereof shall be borne by the Contractor any may be deducted from any amount due or to become due to the Contractor under this contract.

If the Contractor's operations or occupancy of any public street or highway, or the uneven surfaces over any trenches being maintained by the Contractor shall interfere with the removal or sanding of snow or ice by the public authorities or adjoining land owners, in an ordinary manner with regular highway equipment, the Contractor shall be required to perform such services for the public authorities or adjoining owners without charge. If the Contractor fails to do so, he shall reimburse the said authorities or adjoining owners for any additional cost to them for doing such occasioned by conditions arising from the Contractor's operations, occupancy, or trench surfaces, together with any damage to the equipment of said parties by those conditions, or claims of any parties for damage or injury or loss by reason of failure to remove snow or ice or to sand icy spots under these conditions.

4.0 MEASUREMENT AND PAYMENT

"Maintenance and Protection of Traffic" will be paid monthly in proportion to the amount of work done as determined by the Owner. Said payments will be a proportionate amount of the Lump

Sum Price bid for the Maintenance and Protection of which shall include all costs for furnishing lighted barricades and traffic protection devices and for labor, equipment and services involved in the erecting, maintaining, moving, adjusting, relocating and storing of signs, flashers, lights, barricades, traffic cones, traffic delineators and other devices furnished by the Contractor, as well as the cost of all labor and equipment involved in the maintenance of traffic lanes and detours ordered or included in the approved scheme for maintenance of traffic. Sufficient signing for all approved detours shall be erected to adequately guide traffic around construction.

Connecticut D.O.T. certified traffic control flagman required shall be included as part of this lump sum item which price shall include all compensation, insurance, benefits, vehicles and any other cost or liability incidental to the furnishing of the certified flagman ordered.

The use of flagman by the Contractor to control the movements of his own vehicles (owned, rented or contracted for, or those delivering materials and equipment), for the protection of said vehicles, his workmen or other traffic shall not be measured for payment but shall be included in the Lump Sum Price for the Item "Maintenance and Protection of Traffic".

The Contractor will be required under the Contract Lump Sum Price for "Maintenance and Protection of Traffic" to maintain and protect the traffic throughout the entire duration of the contract. No claim for additional payment due to unusual construction conditions encountered or delay caused by the Contractor or other outside agencies shall be considered.

SECTION 2.03
WORK ON OR NEAR PRIVATE PROPERTY

1.0 DESCRIPTION

The work under this Section includes the protection of private property and the restoration of areas near or on private property.

Every effort shall be made to protect private or public property during construction. All damaged areas shall be replaced in kind by the Contractor at no additional cost to the Owner.

2.0 MATERIALS

All materials not specifically described in other Sections, but required for work included in this Section, shall be new, first quality of their respective kinds, and subject to the approval of the Owner.

3.0 CONSTRUCTION METHODS

All areas affected by the construction outside of the work limits shall be repaired to the complete satisfaction of the Owner. This work shall also include the reinstallation of all mailboxes, signs, and posts that may be affected during construction. Should these items become damaged by the construction, the Contractor shall replace the damaged items at no additional cost to the Owner.

4.0 MEASUREMENT AND PAYMENT

No separate measurement or payment shall be made for this item and all costs in connection there with shall be included in other contract items.

SECTION 2.04
DEWATERING, CONTROL AND DIVERSION OF WATER

1.0 DESCRIPTION

The work covered under this Section includes furnishing all labor, equipment and materials, and performing all operations in connection with the dewatering, control and diversion of water, and all other operations necessary to maintain in a dry condition all excavation and work areas of this Contract.

The Contractor shall be responsible for performing all required dewatering in such a manner as to prevent injury to persons or public health, or damage to existing facilities of the work in progress.

1.1 SUBMITTALS

The Contractor must submit their plan for dewatering and tide management to the Owner and Engineer for review and approval prior to the start of construction. The Owner and Engineer shall provide commentary and/or approval within 5 business days after submittal.

2.0 MATERIALS

The Contractor shall be responsible for providing, maintaining, operating and removing all dewatering, and other facilities, including all pumping and appurtenant equipment, required to maintain in a dry condition the areas in which construction of this Contract is to be conducted. Materials shall be as shown on the Contract Drawings and as follows:

- A. Hay bales and silt fence shall be as called for on the Plans.
- B. Crushed stone as required shall be No. 3 stone in accordance with M.01.02 of the Standard Specifications.
- C. Stone for Riprap shall conform to the requirements of Article M.12.02 of the Standard Specifications.
- D. Geotextile silt bags for pump discharges shall be ACF Heavy Duty Dirtbag® 55 or approved equal.
- E. Temporary bypass piping shall be as determined by the Contractor. The Contractor shall determine the required wall thickness, schedule, or pressure class as applicable basined on the anticipated pressures within the temporary bypass system.
- F. Any pumps needed to dewater excavations or for other dewatering activities for the project shall be as determined by the Contractor.

- G. Plugs or materials for pipe plugging as necessary shall be as determined by the contractor. Inflatable plugs may be used. Plug must be temporary and removable to allow stormwater to pass through the culvert as needed.

3.0 CONSTRUCTION METHODS

Dewatering and control and diversion of water activities shall conform to the requirements of the State of CT DEEP 2002 Connecticut Guidelines for Soil Erosion and Sediment Control Manual.

A. DEWATERING EXCAVATIONS:

The excavations for work required under this Contract are to some extent below existing ground water levels. The Contractor shall provide, operate and maintain all pumps, drains, well points, screens or any facility necessary for the control, collection and disposal of all surface and subsurface water encountered in the performance of the Contract work. All excavations shall be performed in the dry.

Any damage to existing facilities or new work resulting from the failure of the Contractor to maintain the work areas in a dry condition shall be repaired by the Contractor, as directed by the Owner, at no additional expense to the Owner. Pumping shall be continuous where specified or directed, or as necessary to protect the work and to maintain satisfactory progress.

The Contractor's pumping and dewatering operation shall be carried out in such a manner that no loss of ground will occur. All pipelines or structures not stable against up-lift during construction or prior to completion shall be thoroughly braced or otherwise protected against movement or damage.

Water being disposed of by the pumping and dewatering operations shall be disposed of in such a manner to avoid injury to persons or public or private property, or to the work completed or in progress. Dewatering shall be accomplished by approved methods which have a successful record of dewatering similar excavations and subsurface conditions similar to those expected to be encountered in the work.

B. DIVERSION OF WATER:

The Contractor shall be responsible for providing and maintaining all ditching, grading, sheeting and bracing, pumping and appurtenant work for the temporary diversion of water courses and protection from flooding as necessary to permit the construction of work in the dry.

Upon completion of the Contract work, the Contractor shall remove all temporary construction and shall do all necessary earthwork and grading to restore the area disturbed to their original condition or to such other condition as indicated or directed by the Owner.

Water shall not be permitted to flow into or through excavations in which work is underway or had been partially completed. The Contractor shall not restrict or close off the natural flow of water in such a way that ponding or flooding will occur, and shall at all times prevent flooding of public and private property. All damages resulting from flooding or restriction of flows shall be the sole responsibility of the Contractor, at no additional expense to the Owner.

The Contractor shall be responsible during the course of his work to provide all erosion protection and siltation prevention facilities required by the Contract and to carry out his operation by methods acceptable to the applicable local, State or Federal agencies.

4.0 MEASUREMENT AND PAYMENT

No separate measurement or payment shall be made for this item and all costs in connection there with shall be included in other contract items.

SECTION 2.06
CALCIUM CHLORIDE FOR DUST CONTROL

1.0 DESCRIPTION

This item shall consist of furnishing calcium chloride and spreading it on the subgrade or in other areas of a project under construction, for the purpose of reducing dust conditions.

2.0 MATERIALS

Calcium chloride shall conform to the requirements of AASHTO M 144, except that the pellet form and the flake form shall be equally acceptable.

3.0 CONSTRUCTION METHODS

Calcium chloride shall be applied only at the locations, at such times and in the amount as may be directed by the Engineer. It shall be spread in such manner and by such devices that uniform distribution is attained over the entire area on which it is ordered placed.

4.0 MEASUREMENT AND PAYMENT

No separate measurement or payment shall be made for this item and all costs in connection there with shall be included in other contract items.

SECTION 2.08
CLEARING AND TREE REMOVAL

1.0 DESCRIPTION

This work shall consist of clearing the ground of trees, stumps, brush, rubbish and all objectionable material in accordance with these specifications or as directed by the Owner. This work shall also include the clearing of the ground necessary for the construction and installation of drainage structures. Included in this work shall be the preservation from injury or defacement of vegetation and objects designated to remain.

3.0 CONSTRUCTION METHODS

Within the excavation lines all trees shall be cut off and stumps removed and disposed of away from the site to a depth of not less than 12 inches below the finish graded surface.

In areas other than within excavation lines and where clearing is necessary for the construction and installation of various highway appurtenances, all trees and stumps shall be cut flush with the ground; and all dead or uprooted trees, brush, roots, or otherwise objectionable material shall be removed as directed unless otherwise indicated on the plans.

The Contractor shall dispose of all trees, stumps, brush, etc., which have been cut by the Contractor's or Owner's forces, in a satisfactory manner away from the site.

4.0 MEASUREMENT AND PAYMENT

No separate measurement or payment shall be made for this item and all costs in connection there with shall be included in other contract items.

SECTION 2.09
SEDIMENTATION AND EROSION CONTROL

1.0 DESCRIPTION

The work and materials required by this Section consists of the furnishing of all plant, labor, equipment and materials and in performing all operations in connection with providing and maintaining in an acceptable condition, the various erosion and sediment control devices specified below in accordance with these Specifications and as directed by the Owner.

The Contractor shall furnish all equipment, labor, materials and related work necessary for the proper execution of the intent of this Section. The Contractor shall operate and maintain and provide means and devices necessary to minimize, to the greatest extent possible, erosion within the work area of this Contract and to prevent the entrance of any silt laden runoff from the work areas into any standing or moving bodies of water on or adjacent to the Work.

The Contractor shall be responsible for the maintenance of all sedimentation and erosion control measures throughout the duration of construction and until all disturbed areas have been stabilized.

Sedimentation and erosion control measure shall be in accordance with the Contract Drawings and shall conform to the requirements of the State of CT DEEP 2002 Connecticut Guidelines for Soil Erosion and Sediment Control Manual.

2.0 MATERIALS

Materials for sedimentation and erosion control measures shall be in accordance with 2.19 of the Standard Specification, the Contract Drawings, and the following:

Filter fabric fence shall conform to the requirements of Section 7.55.02.

Hay bales shall conform to the requirements of Section 2.19.02.

3.0 CONSTRUCTION METHODS

Installation of sedimentation and erosion control measures shall be in accordance with 2.19 of the Standard Specification, the Contract Drawings, and the following:

All sediment and erosion control devices shall be properly installed, in a manner acceptable to the Owner, as necessary to minimize erosion within the work area of this contract and to prevent the entrance of any silt laden runoff from the work areas into any standing or moving bodies of water on or adjacent to the work, or as directed by the Owner.

The filter fabric fence shall be installed as recommended by the manufacturer. The bottom of the fabric shall be buried by either digging a six (6") inch on the ground and placing six inches of soil on the fence fabric. All erosion control devices shall be removed when ordered by the Owner after the regulated disturbed area has been reestablished. The Contractor's attention is called to particular notes on the drawings regarding erosion and sedimentation control and coordination with public agencies.

4.0 MEASUREMENT AND PAYMENT

The cost of this work shall be measured and paid for as a lump sum for "Sedimentation and Erosion Control" and shall include all materials, equipment, tools, and labor incidental to the completion of this item.

SECTION 3.02
TRENCH EARTH EXCAVATION AND BACKFILL

1.0 DESCRIPTION

A. WORK INCLUDED:

The work covered under this Section includes:

1. Performing all operations of excavating, backfilling, compacting, grading and all other work necessary for the construction of pipelines, structures, and appurtenant work in accordance with the Drawings and Specifications.
2. Installation of sheeting and shoring as required.
3. Excavation of pavements and surplus and unsuitable materials, and disposal in approved locations, away from the site.
4. Protection of existing pipelines, utilities, structures and new work.
5. Compaction of trench bottoms, backfills and subgrades.

B. DEFINITIONS:

1. Earth excavation shall mean the excavation, removal, stockpiling and/or satisfactory disposal away from the site of all materials other than rock, ledge, or topsoil within the limits set forth or as directed.
2. Materials to be excavated shall include organic and inorganic silts, peat, clays, sand, gravel; pavement; cobbles and boulders less than 1 cubic yard in volume; soft or disintegrated rock; brick and concrete masonry; and all other obstructions not included in other sections.
 - a. Materials unsuitable for use as backfill are defined as organic matter, silt, peat or any combination thereof having unsuitable in-situ bearing properties; and all materials that are too loose or saturated to provide satisfactory bearing when used for backfill.
 - b. If unsuitable material is encountered at the depths indicated on the Drawings for bottom limit of excavation, the Contractor shall immediately notify the Owner and shall not proceed further until instructions are given.

2.0 MATERIALS

A. TREES AND SHRUBBERY:

1. Existing trees and shrubbery to remain shall be protected from injury.
2. Except as otherwise directed, cutting and trimming of existing trees will not be permitted.
3. All existing trees to remain and any which may be damaged by construction operations shall be boxed and protected, and all such protection shall be maintained until completion of the work.

B. EXISTING UTILITIES

1. Excavation and backfill operations shall be done in such a manner as to prevent cave-ins of excavations or the undermining, damage, or disturbing of existing utilities and structures or of new work.
2. Any excavation improperly backfilled or where settlement occurs shall be reopened to the depth required, then refilled with new materials and compacted and the surface restored to the required grade and condition, at no additional cost to the Owner.
3. **The Contractor shall "Call-Before-You-Dig" (811) at least 72 hours prior to any excavation.**

C. PROPERTY:

Any damage due to excavation, backfilling, or settlement of the backfill, or injury to persons or damage to property occurring as a result of such damage, shall be the responsibility of the Contractor. All costs to repair such damage, in a manner satisfactory to the Owner, shall be borne by the Contractor, at no additional cost to the Owner.

3.0 CONSTRUCTION METHODS

A. SURFACE PREPARATION:

1. Existing pavements and base courses shall be cut and removed to obtain sound, vertical edges at the lines indicated for trenching.
2. The Contractor shall remove and dispose of the existing pavements in the course of his work. Care shall be taken so that existing pavement material is not mixed with excavated material to be used for backfill.

3. The Contractor shall protect existing pavements and base courses which are to remain, and repair any damage caused by excavations at no expense to the Owner.
4. Existing pipelines, utilities and structures shall be protected by the Contractor so that no damage occurs during excavation operations.
5. All material shall be kept a safe distance back from the edge of excavation to avoid overloading of the sides of excavation and prevent slides or cave-ins.

B. CONTROL OF WATER:

1. All excavations shall be kept dry at all times, and all construction work shall be performed in the dry, unless otherwise authorized or directed by the Owner. See section entitled "Dewatering Control and Diversion of Water" for the specific requirements governing dewatering of excavations.
2. Grading shall be accomplished to prevent surface water from flowing into excavations.
3. Accumulated water shall be removed by pumping or other approved methods.
4. The pipelines shall not be used for trench draining.
5. The work shall be protected from flooding at all times.
6. Any material which becomes unsuitable as a result of the Contractor's lack of dewatering or improper dewatering shall be removed by the Contractor and replaced with earth borrow, as directed and approved by the Owner at no additional expense to the Owner.

C. EXECUTION:

The Contractor shall:

1. Excavate to the lines and grades shown on the Drawings. Excavations shall be accurately graded to allow satisfactory construction of the work.
2. Immediately after excavation to the indicated trench bottom, compact exposed bottom surface with two (2) passes of an approved plate-type vibrating compactor.
3. Trench bottom shall again be thoroughly compacted just prior to the installation of pipelines.
4. Perform manual excavation adjacent to and below existing structures and utilities to prevent disturbance of or damage to the existing structures and utilities.

5. Provide temporary support to existing subsurface utilities as approved by the respective utility companies or to other facilities adjacent to or cross through excavation at no additional expense to the Owner.
6. Take all necessary measures to prevent lateral movement or settlement of the existing structures or work in progress.
7. Provide sheeting and shoring in all locations where required to maintain excavations in a safe condition and to meet all safety regulations.
 - a. The Owner may order additional sheeting and shoring where in his opinion safety regulations are being violated or the excavation is not in a safe condition.
 - b. There will be no additional payment for providing sheeting, shoring or trenching box.
 - c. No excessive trench widths will be allowed to avoid the use of sheeting.
 - d. Shoring and bracing shall be left in place as directed by the Owner to maintain stability as backfilling progresses.
8. If an excavation is made deeper or wider than that shown on the Drawings, unless directed in writing by the Owner, there will be no extra payment for such unauthorized excavation. Backfill of all unauthorized excavations shall be made by the Contractor with either selected materials from excavations or from earth borrow, as directed by the Owner, and at no expense to the Owner.

3.2 BACKFILLING

A. PREPARATION:

1. The Contractor shall:
 - a. Complete all excavation and pipe laying operations.
 - b. Perform all required tests before backfilling.
 - c. Encase pipe in concrete as required by the Engineer.
 - d. Begin backfilling as soon as practical with approved backfill material or earth borrow as directed.

B. EXECUTION:

1. All backfill placed in trenches containing non concrete encased pipe below a level 12 inches above the top shall be placed in layers not exceeding 4 inches in loose depths. This material shall be excavated material (except as authorized), compactable, not frozen and free from clods of earth stones larger than 2 inches in diameter or unsuitable materials. This backfill shall be termed Selected Backfill and shall be deposited uniformly on both sides of the duct and shall be thoroughly compacted by tamping under and on each side of the pipe to provide uniform support around the pipe, free from voids.
2. The balance of backfill in all trenches and excavations shall be compactable materials as approved, not frozen and without stones larger than 8 inches in their greatest dimension. It shall be spread in layers not exceeding 12 inches in loose depth, and each layer shall be compacted by at least 4 passes of an approved plate-type vibratory compactor. All trench backfilling shall be carefully placed to avoid disturbance of new work and if existing structures. The moisture content of backfill shall be such that proper compaction will be obtained. Puddling or jetting of backfill with water will not be permitted.
3. Backfilling against masonry or concrete shall only be done when approved. Backfilling against concrete other than encased pipelines within 7 days after placement will not be allowed. Symmetrical backfill loading adjacent to structures shall be maintained. During backfilling and compacting operations, care should be exercised so that equipment used will not overload the structures. Backfill adjacent to structures shall be placed in layers not more than 9 inches in loose depth, and each layer thoroughly compacted with at least 4 passes of an approved plate-type vibratory compactor.
4. The Owner shall check all pipelines during backfilling operations for displacement. Poor alignment and displaced or defective pipes shall be corrected or replaced at no additional cost to the Owner.

3.3 COMPLETION

1. After backfilling excavation, the Contractor shall maintain the filled surface in good condition, with a smooth level, leaving adjacent surfaces undisturbed. Any subsequent settling shall be immediately repaired by the Contractor and such maintenance shall be provided by the Contractor for the remainder of the Contract, at no additional expense to the Owner.
2. The finished surfaces of filled excavations shall be compacted, and reasonably smooth and free from surface irregularities. Subgrade upon which either topsoil is to be placed or pavements are to be constructed shall be maintained in a satisfactory condition until the finish courses are placed. The storage or stockpiling of materials on finished subgrade will not be permitted.

3. Prior to paving upon the subgrade, all soft or unsuitable material shall be removed and replaced with suitable material from excavation or earth borrow, as approved by the Owner. All low sections, holes, or depressions shall be brought to the required grade with approved material. The entire subgrade shall be shaped to line, grade and cross section and thoroughly compacted.
4. All unsuitable material or backfill material in excess of the amount required for the satisfactory completion of backfill operations shall be removed and disposed of by the Contractor off the site.

4.0 MEASUREMENT AND PAYMENT

Payment for earth excavation for pipelines, appurtenances and structures shall be included in the prices bid for those sections referring to pipe and appurtenances and shall not be measured for payment. Trench Earth excavation shall be all earth excavation required for the installation of all work to the designed grade under the piping, manholes and structures. (Designed depth or grade is equal to 12" below pipes and structures).

Trench Earth Excavation and Backfill will include any directed below-grade excavations made to satisfactorily excavate and remove unsuitable materials, but will not include unauthorized excavations beyond or below the payment lines indicated or directed. Removal of existing bituminous pavements, curbing and sidewalks and sawcutting pavement will also be included under this item.

Backfill of material utilizing borrow as defined under the section entitled "Gravel Fill" shall not be measured or paid for under the above item.

There shall be no separate payment for providing sheeting, shoring, bracing, or trenching box. Payment for these items as specified shall be included in the price bid for those sections referring to pipe and appurtenances and shall not be measured for payment.

SECTION 3.04 GRAVEL FILL

1.0 DESCRIPTION

This material shall be used to replace unsuitable backfill material as specified in Section 3.02 of these contract specifications, and elsewhere as indicated on the plans, required by the specifications or as ordered by the Engineer. It shall consist of gravel conforming to the requirements of these specifications.

2.0 MATERIALS

Gravel fill shall conform to the requirements of Article M.02.01 of the Standard Specifications.

3.0 CONSTRUCTION METHODS

Gravel shall be placed and compacted in accordance with Article 3.04.03 of the Standard Specifications.

4.0 MEASUREMENT AND PAYMENT

Gravel fill will be measured in place after compaction by the Engineer. It shall be placed as directed by the Engineer.

The pay limits for gravel fill shall be as specified on the Contract Drawings. No payment will be made for gravel fill outside the specified payment limits.

This item is for replacement of excavated rock, for replacement of excavated material deemed unsuitable for refill by the Owner, and for miscellaneous fill where directed by the Owner.

Payment for this item will be the contract unit price per cubic yard bid for "Gravel Fill", which price shall include all materials, tools, equipment, labor and incidental work for providing, placing and compacting gravel fill as specified.

SECTION 3.05
REMOVAL OF PAVEMENT

1.0 DESCRIPTION

Pavement removal shall consist of the satisfactory removal of pavements as required for construction of improvements under this contract. It shall include asphalt, bituminous concrete pavements and bases as required by the contract or as directed by the Engineer.

3.0 CONSTRUCTION METHODS

Pavement shall be cut to neat lines as required by the contract drawings, or as directed by the Engineer. Pavement shall be excavated to the dimension shown on the plan. Excavated material shall be disposed of as directed by the Engineer and in the same manner as described for surplus material elsewhere in these specifications. No sections or pieces of pavement shall be used in trench backfill and pavement shall be kept separate from other excavated material.

4.0 MEASUREMENT AND PAYMENT

This item will not be measured for payment.

No separate payment will be made for removal of bituminous pavement, and all costs in connection therewith shall be included in the unit price bid for pipeline and appurtenances as it applies.

SECTION 3.07 PROCESSED GRAVEL BASE

1.0 DESCRIPTION

The Contractor shall furnish and place processed gravel base to the compacted thickness shown on the contract drawings and to supplement the Cold Reclaimed Asphalt base material, prior to placement of permanent pavement.

The processed gravel base shall be placed on the prepared existing subgrade or blended with the Cold Reclaimed Asphalt base material prior to placing of the pavement.

2.0 MATERIALS

Gravel base shall conform to the requirements of Subarticle M.05.01,1, M.05.01-2, M.05.01-3 of the standard specifications, Form 816.

3.0 CONSTRUCTION METHODS

Gravel base shall be placed and compacted in accordance with Article 3.04.03 of the Standard Specification - Form 816.

4.0 MEASUREMENT AND PAYMENT

The quantity measured for payment under this Section will be the number of cubic yards of processed gravel satisfactorily furnished, placed, compacted, and graded to as indicated or directed, measured in place. Contractor shall provide verification for quantity used with trucking slips or other acceptable method.

No payment shall be made for processed gravel placed outside the specified payment limits.

Payment for processed gravel base shall be made at the contract unit price per cubic yard for compacted gravel base placed to the lines and grade specified. "Processed Gravel Base", said price to include all costs of furnishing and placement of processed gravel base, preparation of subgrade and all other materials, labor and equipment necessary to satisfactorily complete the work.

SECTION 3.08 GRAVEL PIPE BEDDING

1.0 DESCRIPTION

The work under this item shall consist of the furnishing, placing and compacting of pipe bedding in accordance with these Specifications and the details shown on the Contract Drawings at the locations shown thereon or as directed by the Engineer.

2.0 MATERIALS

Pipe bedding shall be provided from off-site sources in the quantities required for completion of the work and shall be as approved by the Owner.

Solid Drainage Culvert:

Gravel pipe bedding for solid storm drainage shall be gravel conforming to the requirements of Article M.08.03 of the Standard Specifications.

Perforated Drainage Culvert:

Pipe bedding for perforated storm drainage shall be Crushed stone which shall consist of hard, durable fragments of crushed rock and shall be free from clay, organic matter or other objectionable material. Crushed stone shall conform to the gradation table for ¾" crushed stone as specified in Article M.01.01 of the Standard specifications.

3.0 CONSTRUCTION METHODS

Pipe Bedding shall be placed in accordance with the details and at the locations indicated on the Contract Drawings or as directed by the Engineer. It shall be placed carefully and evenly on both sides of the structure/pipe/conduit being cushioned.

It shall be deposited in layers not over 6 inches thick and each layer shall be thoroughly compacted to not less than 95% of the specified ASTM maximum dry density before the addition of other layers.

All percentages of compaction specified herein shall be related to the maximum dry density as established by Method D ASTM Designation D1557-70 and verified in the field by ASTM Designation D1556-68, D2167-66, or an approved Nuclear density testing device. Prior to placing, at least one (1) laboratory test shall be made on a representative sample of each of the fill and backfill materials proposed to be furnished for the earthwork operations; to determine gradation and moisture-density characteristics. These tests will be made by a testing laboratory selected by the Owner and at the Owner's expense.

Field density tests to determine the actual in-place densities being attained will be made at the Owner's expense and in sufficient quantity to determine that the required compaction is being

attained. All retesting necessitated by failure of the backfill to comply with the minimum percent of compaction shall be performed by a laboratory selected by the Owner and the re-testing cost will be paid for by the Contractor.

4.0 MEASUREMENT AND PAYMENT

No separate measurement of payment shall be made for this item and all costs in connection therewith shall be included the appropriate piping unit price for which this item is being provided.

SECTION 3.10 CRUSHED STONE

1.0 DESCRIPTION

The Contractor shall furnish and place all crushed stone as directed by the Engineer.

2.0 MATERIALS

Crushed Stone shall be 3/4 inch in size conforming to the requirements of Article M.01.01 and No. 6 crushed stone gradation table of M.01.02-2 of the Standard Specifications. Crushed stone shall be free from dust, foreign matter and organic material.

3.0 CONSTRUCTION METHODS

Crushed Stone Bedding shall be placed in accordance with the details and at the locations indicated on the Contract Drawings or as directed by the Engineer. It shall be placed carefully and evenly on both sides of the structure/pipe/conduit being cushioned.

It shall be deposited in layers not over 6 inches thick and each layer shall be thoroughly compacted to not less than 95% of the specified ASTM maximum dry density before the addition of other layers.

4.0 MEASUREMENT AND PAYMENT

Crushed stone will be measured in place after compaction. It shall be placed as directed by the Engineer.

Payment for this item will be made at the Contract unit price per cubic yard bid for "¾" Crushed Stone", which price shall include all materials, tools, equipment, labor and incidental work for providing, placing and compacting crushed stone as specified.

Crushed stone used for underdrains, drywells, subsurface storage, or for perforated pipe drainage trench shall not be measured or paid for separately. All costs for crushed stone used in these items shall be included the appropriate unit price for which this material is being provided.

SECTION 4.04
BITUMINOUS CONCRETE LIP CURBING

1.0 DESCRIPTION

The work under this Section shall be the construction of bituminous concrete lip curbing consisting of machine laid bituminous concrete constructed on the edge of the pavement in conformance with these specifications to the dimensions and details as shown on the Contract Drawings at the locations directed by the Owner.

2.0 MATERIALS

Materials for this work shall conform to the requirements of Article M.04 curb mix and any other applicable Articles.

3.0 CONSTRUCTION METHODS

Construction methods shall conform to the requirements of Article 8.15.03, and any other applicable Articles.

4.0 MEASUREMENT AND PAYMENT

Bituminous Concrete Lip Curbing shall be measured for payment by the Engineer by the linear foot installed in place as directed by the Engineer. Bituminous curbing not in the immediate area of construction which is damaged by the Contractor's negligence shall not be measured for payment.

Payment for installing bituminous lip curbing shall be at the Contract unit price bid per linear foot for "Bituminous Concrete Lip Curbing". Said price shall include installation of machine or hand laid curbing, preparation of roadway, bituminous concrete base and surface course under curbing, processed gravel, tack coat and all materials, labor and equipment necessary to satisfactorily complete the work.

SECTION 4.05 BITUMINOUS CONCRETE DRIVEWAYS

1.0 DESCRIPTION

Due to the proposed roadway improvements, driveway aprons will require replacement or modifications. This work will be performed as deemed necessary by the Owner.

The work under this Section shall include the removal of existing bituminous aprons and the construction of a two course bituminous concrete, driveway placed on an 6" processed gravel base in accordance with these specifications.

The work covered by this Section includes replacement of driveway aprons as determined by the Owner.

2.0 MATERIALS

The materials for the bituminous concrete mixture, the sources of supply, formula for mix, mix tolerances, approval of mix formula, and the control of the mixture shall conform to the requirements of Section M.04 of the Standard Specifications for HMA S0.50 and HMA S0.375.

The materials for processed gravel base shall conform to the requirements of Subarticles M.05.01,1, M.05.01-2, and M.05.01-3 of the Standard Specification.

3.0 CONSTRUCTION METHODS

The existing bituminous driveway apron shall be saw cut at a location determined in the field by the Owner and removed. A 6" gravel base shall be installed and compacted. A bituminous concrete binder and surface course shall be installed over the compacted gravel surface as shown on the Contract Drawings.

The methods employed in performing the work and all equipment, tools, machinery and other plant used in handling material and executing any part of the work shall conform to all the requirements of Section 4.06.03 of the Standard Specification.

4.0 MEASUREMENT AND PAYMENT

This work shall be measured for payment by the number of square feet, surface area, of the pavement installed to the specified thickness.

"Bituminous Concrete Driveways", measured as provided above, will be paid for at the Contract unit price bid per square foot completed and accepted in place, which price shall include saw cutting, removal and disposal of existing driveway bituminous base and surface coarse, furnishing

and installing gravel base and bituminous surface course, all materials, equipment, tools, labor and work incidental thereto.

The Contractor shall include in the cost of this construction all resetting to grade prior to paving of existing or newly constructed grates, frames, covers, valve boxes, access covers, and other items which normally must have a fixed relationship to finished grade unless specified items for resetting appear in the bid proposal.

Also included in this work is the removal of existing driveway aprons as needed to perform this work.

SECTION 4.06 TWO COURSE BITUMINOUS CONCRETE

1.0 DESCRIPTION

The work under this Section shall be the construction of a 3" thick, two-course bituminous concrete pavement placed on the designated thickness of compacted gravel base in accordance with the limits and to the dimensions shown on the contract drawings, specified herein, or as directed by the Engineer.

2.0 MATERIALS

The materials for the bituminous concrete mixture, sources of supply, formula for mix, mix tolerances, approval of mix formula and the control of the mixture shall conform to the requirements of Article M.04, Form 818.

- a. Bituminous concrete surface course shall conform to Article M.04, HMA S0.375.
- b. Bituminous concrete base course shall conform to Article M.04, HMA S0.5.
- c. Tack coat shall consist of CSS-1H oil.
- d. Processed gravel base is specified in Section 3.07 of these Contract Specifications.

3.0 CONSTRUCTION METHODS

Bituminous concrete shall be placed in accordance with Article 4.06.03.

The existing pavement shall be saw cut back 1 foot from the edge of the disturbed pavement or as directed on the Contract Drawings or in the field, in a straight line using approved power tools, tack coat shall be applied to the edge of existing pavement where it meets the new pavement to be placed.

Contact surfaces of curbing, gutters, manholes, etc., shall be painted with a thin uniform coat of hot asphalt cement, or asphalt cement, or asphalt cement dissolved in naphtha, just before the material is placed against them.

All pavement surfaces that have been in place longer than five calendar days shall receive a tack coat between courses. The surface shall be swept clean and tack coated with CSS-1H at .035 gals. per square yard.

3.1 QUALITY ASSURANCE

The Owner or his authorized representative shall have access at any time to all parts of the producing plant for:

- 1) Inspection of the condition and operations of the plant and laboratory.
- 2) Confirmation of the adequacy of equipment in use.
- 3) Verification of the character and portions of the mixture.
- 4) Determination of temperatures being maintained in the preparation of the mixtures.
- 5) Inspection of incidental related procedures.

4.0 MEASUREMENT AND PAYMENT

This work shall be measured for payment by the number of square yards of the pavement installed to the specified thickness shown on the Drawings and as specified and within the pavement limits.

"Two Course Bituminous Concrete", measured as provided above, will be paid for at the Contract unit price bid per ton of two course bituminous concrete completed and accepted in place, which price shall include all materials, equipment, tools, labor and work incidental thereto.

The Contractor shall include in the cost of this construction all resetting to grade existing or newly constructed catch basins, manholes, grates, frames, covers, valve boxes, access covers, and other items which normally must have a fixed relationship to finished grade.

The Contractor shall include in the cost of this item sweeping and tack coating between courses, as required. All surfaces that have been in place longer than five calendar days shall receive a tack coat. No separate payment shall be made for tack coating.

Included in the cost of this item shall be the saw cutting of all bituminous concrete pavements and providing tack coat along all cut edges.

SECTION 5.01 STORM DRAINAGE PIPE

1.0 DESCRIPTION

The work under this Section shall consist of furnishing and installing Storm Drainage Pipe, elbows and other fittings as required with aggregate backfill material of the type, size and lengths called for on the Contract drawings or as ordered, at the locations and to the lines and grades designated on the Contract Drawings, or as directed by the Owner and in conformity with these specifications.

2.0 MATERIALS

Pipes of the type indicated on the Contract drawings, joint sealant and materials, bedding materials, and elbows or special fittings, shall conform to the applicable requirements of Section M.08.01 of the Standard Specification.

- A. Reinforced Concrete Pipe (RCP) shall conform to the requirements of Section M.08.01-7
- B. Corrugated polyethylene pipe (CPP or HDPE) shall conform to the requirements of Section M.08.01-18. Pipe shall have a smooth interior surface (Type S), either solid or with perforations and shall conform to AASHTO M252 or M294.
- C. Polyvinyl Chloride pipe (PVC) shall conform to the requirements of Section M.08.01-20

3.0 CONSTRUCTION METHODS

Unless otherwise directed by the Owner, all pipe shall be installed in pipe bedding in accordance with the details as shown on the Contract Drawings and in conformance with the applicable portions of Article 6.86.03 of the Standard Specification.

4.0 MEASUREMENT AND PAYMENT

This work will be measured for payment according to the actual number of linear feet of pipe of the various sizes and types installed and accepted and measured in place. Said unit prices shall include the cost of furnishing and installing the pipe, bedding, trench excavation and backfill, shaping and compacting the bedding, sheeting and bracing, shoring, trench boxes, support of pipes or structures over the excavation, required aggregate backfill material, testing, pipe repair or replacement, maintaining flow in existing pipes, making all cross connections with existing pipes, culverts, catch basins, etc., and all labor, materials, tools, or equipment necessary or incidental to complete the installation of the pipe.

Payment will be made according to the contract unit price bid for the actual number of linear feet of the applying size and type pipe installed, and accepted, which price shall include all labor, materials, tools, equipment incidental thereto.

SECTION 5.02 CATCH BASINS

1.0 DESCRIPTION

The work under this item shall include the construction of all catch basins in conformity with the lines, grades, dimensions and details shown on the Contract Drawings, or as ordered by the Owner and in accordance with the provisions of these specifications for the various materials and work which constitute the completed structure.

2.0 MATERIALS

2.1 CATCH BASIN

The materials to be used for the work under this Item shall be those indicated on the Contract Drawings or ordered by the Owner and shall conform to Section M.08.02 of the Standard Specification. Protective compound material shall conform to Article M.03.01-11 of the Standard Specification. Mortar shall conform to Article M.11.04 of the Standard Specification.

Standard precast DOT Type “C” and Type “C-L” catch basin tops will be furnished by the Town. The Contractor shall coordinate delivery and storage of the tops at the site with the Town.

3.0 CONSTRUCTION METHODS

The construction methods for the work under this Item shall conform to the requirements of Section 5.86.03 of the Standard Specification and the details shown on the Contract Drawings or as directed by the Owner. Castings will be set to grade on no less than two courses of brick.

When constructing a new drainage structure within a run of existing pipe, the section of existing pipe disturbed by the construction shall be replaced with new pipe of identical type and size extending from the drainage structure to the nearest joint of the existing pipe.

4.0 MEASUREMENT AND PAYMENT

Construction of catch basins will be measured as units of the various sizes and types furnished installed and accepted in place. Said unit prices shall include the cost of furnishing and installing the catch basin structure, installing the catch basin tops furnished by the Town, bedding, trench excavation and backfill, shaping and compacting the bedding, sheeting and bracing, shoring, trench boxes, support of pipes or structures over the excavation, required aggregate backfill material, maintaining flow in existing pipes, making all cross connections with existing pipes, culverts, etc., and all labor, materials, tools, or equipment necessary or incidental to complete the installation of the pipe.

Payment will be made according to the Contract unit bid price for each catch basin, complete in place, which price shall include all materials, equipment, tools and labor incidental thereto.

SECTION 5.13
PRECAST CONCRETE DRYWELL

1.0 DESCRIPTION

The work under this item shall include the construction of all precast concrete drywells in conformity with the lines, grades, dimensions and details shown on the Contract Drawings, or as ordered by the Owner and in accordance with the provisions of these specifications for the various materials and work which constitute the completed structure.

2.0 MATERIALS

2.1 PRECAST CONCRETE DRYWELL UNITS

The materials to be used for the work under this Item shall be those indicated on the Contract Drawings or ordered by the Owner and shall conform to Article M.08.02. Minimum concrete compression strength shall be 5,000 psi at 28 days. Design loading shall conform to AASHTO H-20.

Alternative drywell structures may be considered with prior approval from the owner provided they meet the traffic design load requirements, provide equal or greater storage volume than specified on the plans, would be installed with the same bottom elevation, and would not exceed the proposed system footprint.

2.2 CASTINGS

Castings for manhole frames and covers, clean-out frames and covers, grate inlet frames and covers shall conform to the details shown in the Contract Drawings and Section M.08.02.5 of the Standard Specification.

2.3 CRUSHED STONE

Crushed stone shall be No. 4 Coarse Aggregate in accordance with Article M.01.01 and M.01.02 of the Standard Specification, washed with less than 1% passing the No. 200 sieve.

2.4 GEOTEXTILE

Geotextile filter fabric shall conform to Article M.08.01-19 of the Standard Specification for use in medium survivability separation.

2.5 GRANULAR FILL

Granular fill shall conform to Section M.02.01 of the Standard Specification.

2.6 BRICK, MORTAR, GROUT, AND CAST-IN-PLACE CONCRETE

Mortar shall conform to Section M.11.04 of the Standard Specification.

Non-shrink grout shall conform to Section M.03.05 of the Standard Specification.

Brick shall conform to Section M.08.02 of the Standard Specification.

Cast-in place concrete shall conform to Section M.03.01 - Class "PCC03340" of the Standard Specifications.

2.7 DRAINAGE PIPE

PVC piping as needed to connect to the drainage system shall conform to Section 5.01 of these Technical Specifications.

3.0 CONSTRUCTION METHODS

The construction methods for the work under this Item shall conform to the requirements of Section 5.86.03 of the Standard Specification and the details shown on the Contract Drawings or as directed by the Owner. Castings will be set to grade on no less than two courses of brick.

4.0 MEASUREMENT AND PAYMENT

Construction of precast concrete drywells will be measured as a lump sum furnished installed and accepted in place. Said lump sum price shall include the cost of furnishing and installing the cast iron frames, grates and covers, crushed stone, precast concrete drywell units, PVC piping, bedding, trench excavation and backfill, shaping and compacting the bedding, sheeting and bracing, shoring, trench boxes, support of pipes or structures over the excavation, required aggregate backfill material, and all labor, materials, tools, or equipment necessary or incidental to complete the installation of the pipe.

Payment will be made according to the Contract lump sum price for "Precast Concrete Drywells", complete in place, which price shall include all materials, equipment, tools and labor incidental thereto.

SECTION 5.25 CATCH BASIN HOOD

1.0 DESCRIPTION

The work under this item shall include the construction of all catch basin hoods in existing or new catch basins in conformity with details shown on the Contract Drawings, or as ordered by the Owner and in accordance with the provisions of these specifications.

2.0 MATERIALS

The catch basin hoods shall be a BMP Snout or approved equal sized as required for the discharge piping and drainage structure configuration. BMP Snout shall be manufactured by Best Management Products, Inc., 9 Mathews Drive, Unit A1-A2, East Haddam, CT 06423, 800-504-8008 or 888-434-0277, www.bmpinc.com, or approved equal

3.0 CONSTRUCTION METHODS

The catch basin hoods shall be installed in accordance with the Manufacturer's requirements. Installation instructions and maintenance guidelines shall be provided to the Owner.

4.0 MEASUREMENT AND PAYMENT

Construction of catch basins hoods will be measured as units of the various sizes and types furnished installed and accepted in place. Said unit prices shall include the cost of furnishing and installing the catch basin hood, sheeting and bracing, support of pipes, maintaining flow in existing pipes, and all labor, materials, tools, or equipment necessary or incidental to complete the installation of the hood.

Payment will be made according to the Contract unit bid price for each catch basin hood, complete in place, which price shall include all materials, equipment, tools and labor incidental thereto.

SECTION 8.01 FURNISH AND INSTALL TOPSOIL

1.0 DESCRIPTION

This work shall consist of placing topsoil, furnishing topsoil when required all areas disturbed by the work and the Contractor's operations. ***Furnishing and installing seed, fertilizer, and mulch shall be done by others and is not included as part of this Contract.***

2.0 MATERIALS

Materials for this work shall conform to the following requirements:

2.01 TOPSOIL

Topsoil excavated from the project shall be used whenever possible. Topsoil supplied by the Contractor shall conform to the requirement of Article M.13.01-1.

3.0 CONSTRUCTION METHODS

All topsoil excavated from the project shall be used. When, in the opinion of the Engineer, sufficient topsoil is not available, the Contractor shall supply topsoil from other sources. The areas on which topsoil is to be placed shall be graded to a reasonable true surface. Topsoil shall then be spread and shaped to the lines and grades shown on the plans, or as directed by the Owner. The depth shown on the plans to which the topsoil is to be placed is that required after settlement of the material has taken place. All stones, roots, debris, sod, weeds and other undesirable material shall be removed. After shaping and grading, all trucks and other equipment shall be excluded from the topsoil area to prevent excessive compaction. The Contractor shall perform such work as required to provide a friable surface for seed germination and plant growth prior to seeding. During hauling and spreading operations, the Contractor shall immediately remove any material dumped or spilled on pavement.

It shall be the Contractor's responsibility to restore to the line, grade and surface all eroded areas with approved material and to keep topsoiled areas in acceptable condition until the completion of the construction work.

The areas to be seeded shall be made friable and receptive to seeding by approved methods which will not disrupt the line and grade of the slope surface.

The Contractor shall keep all equipment, vehicular and pedestrian traffic off areas that have had topsoil installed.

4.0 MEASUREMENT AND PAYMENT

This item will be measured by the actual number of square yards of completed and accepted areas which have had topsoil installed to the required thickness as indicated on the Drawings or as directed by the Engineer.

Any excavation required to provide for the specified thickness of topsoil in the designated areas will not be measured for payment but the cost shall be included in the price bid for Furnish and Install Topsoil.

"Furnish & Install Topsoil" measured as provided above, will be paid for at the Contract unit price bid per square yard completed and accepted in place, which price shall include all materials, equipment, tools, excavation, labor and work incidental thereto.

SECTION 9.16
PAVEMENT MARKINGS AND SIGNING

1.0 DESCRIPTION

This work shall consist of installing painted pavement markings and epoxy resin pavement markings, eradicating existing pavement markings, removing and reinstalling existing signage and the installation of new signage as shown on the Contract Drawings.

2.0 MATERIALS

Painted pavement markings shall conform to Article 12.09.02 of the Standard Specifications.

Traffic signage and sign posts shall conform to Article 12.08.02 of the Standard Specifications and the details shown on the Contract Drawings.

3.0 CONSTRUCTION METHODS

The installation of painted pavement markings shall conform to Article 12.09.03 of the Standard Specifications.

The installation of epoxy resin pavement markings shall conform to Article 12.10.03 of the Standard Specifications.

The installation of new traffic signage and the reinstallation of existing signage shall conform to Article 12.08.03 of the Standard Specifications and the details shown on the Contract Drawings.

The removal of existing pavement markings shall conform to Article 12.11.03 of the Standard Specifications.

4.0 MEASUREMENT AND PAYMENT

No separate measurement or payment shall be made for this item and all costs in connection there with shall be included in other contract items.