

TOWN OF GLASTONBURY
INVITATION TO BID
GL-2021-23

ADDISON PARK SPLASH PAD

415 ADDISON ROAD
GLASTONBURY, CT 06033

DATE OF ISSUANCE: March 30, 2021

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**LEGAL NOTICE – INVITATION TO BID
TOWN OF GLASTONBURY
ADDISON PARK SPLASH PAD
GL-2021-23**

The Town of Glastonbury (the “Town”) is requesting proposals from licensed, qualified general contractors for the Addison Park Splash Pad (the “Project”) at the premises known as Addison Park, 415 Addison Road, Glastonbury, CT 06033 (the “Premises”). Bids can be submitted at the following link: <https://app.negometrix.com/buyer/2832> under the BID title “GL-2021-23 – Addison Park Splash Pad”. Bidders will be required to create a profile before submitting their bid. Step-by-step instructions on how to register as a vendor are available at this website: <https://help.negometrix.com/en/support/solutions/articles/9000177626-register-on-negometrix4>. Bids for the Project shall be submitted no later than 11:00 A.M. on April 20, 2021, after which time the bids will be publicly opened. No late bids will be accepted.

The Project will include the following: Construction of a splash pad facility generally consisting of three activity zones, water features, water/wastewater handling and treatment systems, and associated amenities.

A **mandatory pre-bid meeting** will be held at the project site, Addison Park, 415 Addison Road, Glastonbury, CT 06033, on Tuesday April 6, 2021 at 10:00 AM. All bidders must attend in order for their bid to be considered. Due to the current pandemic attendees must comply with social distancing guidelines and wear a mask at all times during the meeting.

This Invitation to Bid, Instructions to Bidders, and other Bidding Documents (as defined in the Instruction to Bidders) are available for viewing and downloading on the State Contracting Portal at www.das.state.ct.us, and the Town of Glastonbury website www.glastonburyct.gov at no cost.

Each Bid must be accompanied by a bid security in the form of a Bid Bond, certified in an amount not less than 10% of the base bid except as otherwise expressly provided in the Instruction to Bidders. If the base bid amount of the successful bidder exceeds One Hundred Thousand Dollars (\$100,000), the successful bidder will be required to provide performance and labor and material payment bonds in the full amount of the agreed contract price.

Bidders are further advised that this project is subject to the prevailing wage requirements of Connecticut General Statutes Section 31-53.

The Town of Glastonbury is An Affirmative Action/Equal Opportunity Employer. Minority/Women’s Business Enterprises are encouraged to bid.

The Town reserves the right to amend or withdraw this Invitation to Bid for any reason, to accept or reject any or all Bids, to waive any formalities or non-material deficiencies in any Bid, and to make such award (or make no award) of a contract in connection with this Invitation to Bid all as determined by the Town, in its discretion, to be in the best interest of the Town. A Bid may be rejected for irregularities of any kind, including without limitation, alteration of form, additions not called for, conditional proposals, and incomplete Bids. A Bid may also be rejected if, in the opinion of the Town, the Bid does not meet the standard of quality established by the Bidding Documents. Any or all Bids may be rejected if there is any reason to believe that collusion exists among two or more Bidders. The foregoing provisions are for illustrative purposes and shall in no way limit the right of the Town to reject any and all Bids, in whole or in part.

INSTRUCTIONS TO BIDDERS

PART 1 – PROJECT DESCRIPTION AND SCHEDULE

1.1 Project Description:

The Project entails construction of a new splash pad at Addison Park, having an address of 415 Addison Road, Glastonbury, Connecticut 06033. The scope of Work for the Project will include all materials, labor, services, equipment, systems and machinery described in, and as may be reasonably inferable from the Bidding Documents.

Generally the work will include a new splash pad facility at Addison Park, including establishment of temporary facilities, erosion and sedimentation controls, selective site demolition, earthwork, installation of subsurface piping, installation of retaining walls, construction of a splash pad facility with three activity zones, water features, water/wastewater handling and treatment systems, and associated amenities.

1.2 Project Schedule

It is anticipated that the successful Bidder will be required to commence work on or about September 8, 2021 and achieve substantial completion of the Project no later than April 15, 2022.

PART 2 – GENERAL INFORMATION

2.1 Definitions

- A. Addenda/Addendum: Written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.
- B. Architect: BSC Group, Glastonbury, CT.
- C. Architect's Representative: Michael Kluchman, PLA, Tel. No. 860-652-8227; Email address: mkluchman@bscgroup.com
- D. Base Bid Amount: The total sum for which the Bidder offers to perform the Work described in the Bidding Documents.
- E. Bid: The complete submission provided by a Bidder in response to the Invitation to Bid.
- F. Bid Form: The form to be submitted by each Bidder attached hereto as Attachment 1.
- G. Bidder: A person or entity who submits a Bid. A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment and/or labor for a portion of the Work.
- H. Bidding Documents: All of the documents listed on Attachment 2.
- I. Bid Timeline: The dates applicable to this solicitation and the Bid submission process in connection with the Invitation to Bid and set forth in Section 5.1 of these Instructions to Bidders.
- J. Contract Documents: All of the documents identified as Contract Documents in the Form of Contract for Construction and such other documents as may be identified as Contract Documents in the Contract.
- K. Contract: The Contract for Construction entered into by the Town and the Contractor for the Project.
- L. Contract Price: The Contract Sum set forth in the Contract.
- M. Contractor: The successful Bidder selected by the Town for the Project in connection with this Invitation to Bid.

- N. DAS Website: www.das.state.ct.us
- O. Form of Contract for Construction: The Town of Glastonbury Construction Contract attached hereto as Attachment 3.
- P. Invitation to Bid: Legal Notice - Invitation to Bid included in this Request for Proposals.
- Q. Purchasing Agent: Mary F. Visone, Purchasing Agent, 2155 Main Street, Glastonbury, CT 06033; (860) 652-7588; purchasing@glastonbury-ct.gov
- R. Statement of Qualifications: Modified version of the AIA A305 Statement of Qualifications attached hereto as Attachment 8.
- S. Submission Deadline: The date and time by which all Bids must be submitted as set forth in Section 5.1 of these Instructions to Bidders.
- T. Submission Documents: The documents required to be submitted as part of the Bid listed on Attachment 4.
- U. The Town's Representative: Lisa Zerio, Director of Parks and Recreation, 2143 Main Street, P.O. Box 6523, Glastonbury, CT 06033, (860) 652-7687, lisa.zerio@glastonbury-ct.gov
- V. Town's Website: www.glastonburyct.gov

2.2 Bidding Documents

- A. Bidding Documents will be posted on the DAS Website located under the State Contracting Portal. These Bidding Documents will also be available on the Town's Website.
- B. Bidders shall use complete sets of Bidding Documents in preparing Bids. Neither the Town nor the Architect assume any responsibility for errors or misinterpretations resulting from a Bidder's use of incomplete sets of Bidding Documents.
- C. Access to and copies of the Bidding Documents are made available by the Town for the sole purpose of obtaining Bids for the Project. No license or permission is granted to any person or entity for any other use of the Bidding Documents.
- D. The Town reserves the right to amend the Bidding Documents by issuance of Addendum if the Town deems it to be necessary, appropriate or otherwise in the best interest of the Town.

2.3 Requests for Information/Clarification

- A. Any ambiguities or inconsistencies in the Bidding Documents of which a Bidder becomes aware, all requests for clarification and interpretation of Bidding Documents and technical questions shall be emailed to the Town's Representative no later than the date and time indicated in Section 5.1 Bid Timeline. For administrative questions regarding this Bid, please contact the Purchasing Agent.
- B. No interpretation of any part of the Bidding Documents shall be provided to a Bidder verbally and only written interpretations posted on the State Contracting Portal and the Town's Website will be binding. All responses to requests for clarification or interpretation and all addenda and amendments to the Bidding Documents will be posted on the State Contracting Portal and the Town's Website. **Bidders are strongly encouraged to periodically access the DAS Website/State Contracting Portal and the Town's Website for updates and information related to this solicitation.**
- C. The Town reserves the right to respond or not to respond to specific questions, clarifications or requests concerning the solicitation and selection process.

2.4 Substitutions

- A. The materials, products and equipment described in the Bidding Documents establish the standard required for the function, dimension, appearance and quality to be met by any proposed substitution.
- B. No substitution will be considered unless the written request for approval of such substitution has been received by the Architect by the date for substitution requests stipulated in the Bid Timeline, as it may be extended by Addendum in the discretion of the Town. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for a thorough evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work would require shall be included. The burden of proof of the merit of the proposed substitution is upon the Bidder. The Architect's decision to approve or disapprove a proposed substitution shall be final.
- C. If the Architect approves a timely submitted request for a substitution, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

2.5 Addenda

- A. Addenda will be issued by the Town in accordance with the Bid Timeline (as it may be adjusted in the discretion of the Town).
- B. Each Bidder shall confirm in writing as required on the Bid Form submitted as part of its Bid that the Bidder is aware of and has reviewed all Addenda issued.

2.6 Bid Security

- A. Each Bid must be accompanied by a copy of a fully and properly executed bid bond in the form attached hereto as Attachment 5 in an amount equal to Ten Percent (10%) of the Base Bid Amount associated with such Bid. Original bid bonds from all bidders shall be mailed or hand delivered to the following address:

If by USPS mail:

Town of Glastonbury
P.O. Box 6523
Glastonbury, CT 06033-6523
Attn: Mary F. Visone, Purchasing Agent

If by Hand Delivery:

Town of Glastonbury
2155 Main Street
Glastonbury, CT 06033
Attn: Mary F. Visone, Purchasing Agent

The original Bid Bond shall be submitted in a sealed envelope that is clearly marked with the Bidder's company name and address, the Bid number, Bid title and Bid Submission Deadline. Original bid bonds shall be received by the Town of Glastonbury Purchasing Agent within 24 hours after the opening of the Bids.

- B. Failure of the Contractor to execute the Contract in accordance with its Bid shall result in the forfeiture of the Contractor's bid security.

2.7 Performance and Payment Bond Requirements

- A. If the Contract Price exceeds \$100,000, the Contractor will be required to provide Performance and Labor and Material Payment Bonds each in an amount not less than 100% of the Contract Price.
 - 1. The bonds must be issued by a surety rated A minus or better by A.M. Best and listed on the U.S. Department of Treasury's Listing of Approved Sureties. The bonds must be submitted to the Town prior to or upon the execution of the Contract. The cost of such bonds shall be separately identified on the Bid Form but included in the Base Bid Amount. The bonds shall also comply with the following requirements:
 - a. The bonds must comply with the requirements of CGS §49-41.
 - b. It is preferred that the bonds be written on the AIA Document 312 forms. Both bonds shall be written in the full amount of the Contract Price.
 - c. The bonds shall be dated the same date as the Contract.
 - d. The Town of Glastonbury shall be named as the obligee on all bonds provided for the Project.
 - e. The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.
- B. Each Bidder shall furnish with its Bid, satisfactory evidence from its surety of such Bidder's ability to obtain the required Performance and Labor and Materials Payment Bonds in the full amount of the Base Bid Amount.

2.8 Insurance Requirements

- A. The Contractor shall submit evidence of compliance with the insurance requirements set forth on Attachment 6 when and as provided in such Attachment.
- B. The cost of the required insurance to the extent attributable to the Project shall be separately identified on the Bid Form but included in the Base Bid Amount.

2.9 Prevailing Wage Requirements

- A. Prevailing wages are required on this Project in accordance with the rates attached hereto as Attachment 7, pursuant to Connecticut General Statutes Section 31-53 (a) through (h), as amended. For further information on prevailing wage requirements, visit the Connecticut Department of Labor's website.
- B. The Contractor and each subcontractor shall be subject to provisions of the Connecticut General Statutes, Section 31-55a concerning annual adjustments to prevailing wages.
- C. Wage Rates will be posted each July 1st on the Department of Labor website: <https://www.ctdol.state.ct.us/wgwkstnd/prevailwage.htm> Such prevailing wage adjustments shall not be considered a matter for any contract amendment or adjustment to the Contract Price. No escalation clauses shall be included in any Bid submission.
- D. The Contract shall provide, and the Contractor and subcontractors for the Project shall comply with the following: "The wages paid on an hourly basis to any person performing the work

of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of Connecticut General Statutes Section 31-53, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.”

- E. Certified Payrolls: In accordance with Connecticut General Statutes, 31-53 Certified Payrolls with a statement of compliance shall be submitted monthly by the Contractor to the Town’s Representative and certified payrolls for the Contractor and all subcontractors working during the period shall be submitted with each Application for Payment submitted by the Contractor, covering all activities relating to such Application for Payment. Contractor shall provide pay scale verification as may be required by the Connecticut Department of Labor.
- F. Each Bidder shall confirm prior to submission of its Bid that the Bidder is carrying in its Bid and Base Bid Amount the proper trade classification for all work required for the Project including composite crews of different trade classifications if needed, as required by the State of Connecticut Department of Labor and/or union agencies if applicable.
- G. Forms and additional information can be found on the Connecticut Department of Labor’s website.

2.10 Non-Resident Contractors

- A. If the successful Bidder is a Non-Resident Contractor the successful Bidder shall be required to provide upon award of the Contract a certificate from the Connecticut Commissioner of Revenue Services which evidences that the Bidder has complied with the requirements of Connecticut General Statutes §12-430(7). For further information, contact the Connecticut Department of Revenue Services.

2.11 Incurring Cost

- A. Each Bidder is solely responsible for any and all costs and expenses incurred in the preparation and submission of its Bid.

2.12 Code of Ethics

- A. Bidder shall acknowledge that they have reviewed the document in the area provided on the Bid Form. The selected Bidder will also be required to complete and sign an Acknowledgement Form prior to award. The Code of Ethics and the Acknowledgement Form can be accessed on the Town’s Website. Upon entering the website click on Bids & Proposals Icon, which will bring you to the links for the Code of Ethics and the Acknowledgement Form.

PART 3 – COMPLIANCE REQUIREMENTS AND CERTIFICATIONS

3.1 Non-Discrimination in Employment

- A. All provisions of all applicable State Labor Standards must be complied with under this Contract. The Town is an Affirmative Action Equal Opportunity Employer.

- B. The Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, physical disability, including, but not limited to, blindness or status as a veteran except as permitted by law in the case of a bona fide occupational qualification or need. The Contractor shall provide the Connecticut Human Rights and Opportunities Commission with such information requested by the Commission concerning the employment practices and procedures of the Contractor. The Bidder confirms and represents that it is an Affirmative Action/Equal Opportunity Employer.

3.2 Freedom of Information Requirements

- A. Contractor acknowledges that the Town is a “public agency” for the purposes of the Connecticut Freedom of Information Act (the “FOIA”) and that information relating to Contractor and its affairs received or maintained by the Town shall constitute “public records or files” for the purposes of the FOIA subject to public access and disclosure in the manner provided in the FOIA, unless another specific exemption from public access and disclosure requirements of the FOIA is available in connection with particular records or files received or maintained by the Town.

PART 4 – GENERAL AND SPECIAL CONDITIONS

4.1 Taxes:

- A. Tax Exempt Project: The Project is tax exempt. A certificate of tax exemption will be provided by the Town to the Contractor. State sales and use taxes are excluded except for taxes on rentals, tools, and other incidentals as determined by the state Department of Revenue and for which the Contractor is responsible.

4.2 Contract

- A. Form of Contract: The Form of Contract includes a modified version of the AIA Document A101-2017 Agreement (as so modified, the “Agreement”) and a modified version of the AIA Document A201-2017 General Conditions (as so modified, the “General Conditions”). The Town intends to use the Form of Contract as the Contract for the Project, further modified as appropriate to conform to and insert the Project requirements, incorporate the acceptable terms of the Contractor’s Bid and to identify the Contractor. Contractor agrees to execute the Contract in such form as so modified within five days (Saturdays, Sundays and legal holidays excluded) after presentation by the Town to the Contractor and agrees that the provisions of the Contract shall be included in each subcontract issued by the Contractor for the Project, with the applicability of terms to be adjusted appropriately. **The Form of Contract contains many important terms and conditions such as, among other things, the Contractor’s obligations and liabilities for background checks (See Section 13.6 of the General Conditions), indemnification, liquidated damages (See section 4.3 F below and Section 4.5 of the Agreement) and limitations on markups on change order work (See Section 7.3.3.1 of the General Conditions). Bidders are cautioned to refer to the Form of Contract for information regarding the terms and conditions that will be applicable to the Project.**

Notwithstanding the foregoing, the Town reserves the right to modify the terms and conditions of the Form of Contract (and the Contract) prior to execution of the Contract as deemed by the Town to be in the best interest of the Town.

4.3 Miscellaneous:

- A. OSHA Training: Pursuant to the requirements of Connecticut General Statutes Sec. 31-53b, the Town must include in each contract for a public works project the following provision: Each contractor shall furnish proof with the weekly certified payroll form for the first week each employee begins work on such project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under [section 31-53](#) on such public works project, pursuant to such contract, has 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, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 46 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with [29 CFR 1910.268](#), and, on or after July 1, 2012, that any plumber or electrician subject to the continuing education requirements of [section 20-334d](#), who has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration five or more years prior to the date such electrician or plumber begins work on such public works project, has completed a supplemental refresher training course of at least four hours in duration in construction safety and health taught by a federal Occupational Safety and Health Administration authorized trainer.
- B. Project Meetings:
1. Pre-Construction Meeting - Soon after the award of the Contract (but in any event prior to the start of construction), authorized representatives of the Contractor shall, if required by the Town, attend a Pre-construction Conference at a location, time and date to be determined by the Town at the time of (or shortly after) the award of the Contract. Representatives of the Contractor attending such meeting shall be familiar with the Project and authorized to act on behalf of the Contractor as regards the Project. The Contractor will be required to submit its Schedule of Values for the Project at the Pre-Construction Meeting. The Schedule of Values must accurately reflect job costs and include a complete breakdown of material and labor costs as further described in the Form of Contract.
 2. Project Meetings – During the course of construction of the Project, weekly or bi-weekly meetings will be scheduled as needed with the Town, Architect and Contractor's superintendent and/or project manager for the Project.
- C. Waste Disposal: Contractor will be responsible for removal and legal disposal of all construction waste/debris generated by the Project including dumpsters.
- D. Toilet Facilities: The Contractor shall provide temporary portable toilets as required.
- E. Hours of Operation: The normal hours of work on the Project site shall be 7:00am until 5:00 pm Monday – Friday unless other arrangements are made in advance with the Town. Work on Saturdays may be conducted with the express permission of the Town. No work is permitted on Sundays.
- F. Liquidated Damages:
- No liquidated damages are established for this Project.
- Liquidated damages in the amount of \$500 per diem for failure to timely complete the Work shall apply to this Project.

PART 5 – BID TIMELINE, PROCEDURES AND SUBMISSION REQUIREMENTS

5.1 BID TIMELINE

Item	Date
Bidding Documents Available	March 30, 2021
Mandatory Pre-Bid Meeting	April 6, 2021 at 10:00 AM
Deadline for Submission of RFI/Clarifications	April 15, 2021
Deadline for Requests for Substitutions	April 15, 2021
Bid Submission Deadline (and Bid Opening)	April 20, 2021 at 11:00 AM
Scope Reviews (on or about)	TBD
Contract Award (on or about)	TBD
Start Construction (on or about)	September 8, 2021
Mandatory Winter Shutdown	November 19, 2021 – March 15, 2022
Substantial Completion	April 15, 2022
Final Completion	May 15, 2022

The Town shall be entitled to adjust/extend the above dates and times as best serves the interests of the Town. Any such adjustment/extension will be set forth in an Addendum and posted on the State Contracting Portal and the Town’s Website.

5.2 Pre-Bid Meeting

A **mandatory** pre-bid meeting will be held with all prospective Bidders as indicated in the Bid Timeline above. Bids will not be accepted from any Bidder that fails to attend such meeting.

5.3 Preparation and Submission of Bid

- A. The form and style of Bids must conform to the Bid Form.
 - 1. Bids shall be submitted on the Bid Form without modifications, revisions, conditions or deletions thereto except for the purpose of inserting information requested of the Bidder per the Bid Form. Modifications, revisions, conditions or deletions may be grounds for rejection of the Bid.
 - 2. Each Bidder shall provide all requested information and completely fill in all blanks on the Bid Form using a typewriter or printed in ink. The submission of an incomplete or illegible Bid Form may be grounds for rejection of the Bid.
 - 3. Interlineations, alterations and erasures made to the Bid Form must be clearly legible and initialed by the individual signing the Bid Form on behalf of the Bidder.
 - 4. On each copy of the Bid Form submitted, the Bidder shall insert the legal name of the Bidder and the Bidder’s current business address, email address, and telephone number

for communication and notice purposes. The name and title of each person signing the Bid Form on behalf of the Bidder shall be typed or printed below the signature.

- a. If the Bidder is a corporation, the Bid Form shall be signed on behalf of the corporation by a duly authorized officer of the corporation.
- b. If the Bidder is a limited liability company, the Bid Form shall be signed by a duly authorized Member or Manager of the company.
- c. If the Bidder is a partnership, the Bid Form shall be signed on behalf of the partnership by one or more duly authorized partners of the partnership.
- d. If the Bidder is an individual, that individual shall sign the Bid Form as an individual noting, as applicable, the name under which that individual is doing business.

B. Bid Submission:

1. Bidders submitting a response for this solicitation are directed to respond online through a secure e-Procurement portal. Bids can be submitted at the following link: <https://app.negometrix.com/buyer/2832> under the BID title “**GL-2021- 23 – Addison Park Splash Pad**”. Bidders will be required to create a profile before submitting their bid. Step-by-step instructions on how to register as a vendor are available at this website: <https://help.negometrix.com/en/support/solutions/articles/9000177626-register-onnegometrix4> Bids for the Project shall be submitted no later than 11:00 A.M. on April 20, 2021, after which time the bids will be publicly opened. No late bids will be accepted.

Bidders will be required to upload their bid response **as ONE consolidated pdf document** in the following file located in the bid portal:

- Bid Response & Related Documents
2. Bidders will be permitted to attend the virtual bid opening via Zoom and information will be made available at a later date on the Town’s Website for those interested in attending.

5.4 Modification or Withdrawal of Bid

- A. Bid Withdrawal: Bids may only be withdrawn by written request of the Bidder received by the Purchasing Agent prior to the Submission Deadline. No Bidder may withdraw its Bid within ninety (90) days after the date that Bids are actually opened (the “Bid Holding Period”). Bids withdrawn prior to the Submission Deadline may be resubmitted up to the Submission Deadline provided such resubmitted Bids are then fully in conformance with these Instructions to Bidders.
- B. Extension: Bids shall be valid until the expiration of the Bid Holding Period. If for some reason the Contract cannot be awarded and the Contract executed within the Bid Holding Period, the Bid Holding Period may be extended by mutual agreement between the Town and the Contractor.
- C. Bid Modification: Bids may be modified by written notice signed by the Bidder prior to the Submission Deadline. Such notice shall be accepted only via the online procurement portal identified in the Bidding Documents.
- D. Bid Clarification: The Town reserves the right to request clarifications from any Bidder. Such clarifications shall be provided at the Bidder’s sole cost and expense.

5.5 Consideration of Bids

- A. Bids submitted timely and in accordance with the requirements of these Instruction to Bidders will be opened publicly.
- B. The Town reserves the right to do any of the following without liability, including but not limited to:
 - 1. Award in whole or in part;
 - 2. Reject any and all Bids in whole or in part for misrepresentation or if the Bidder is not deemed to be qualified to perform the Project, or if the Bid limits, conditions or modifies any of the terms and conditions and/or specifications of the Bid;
 - 3. Cancel the award or decide not to execute the Contract subsequent to award;
 - 4. Terminate the solicitation and rebid the Project by advertising for new bids;
 - 5. Waive technical defects, irregularities and omissions in a Bid if, in the Town's judgment, the best interest of the Town would be served;
 - 6. Revoke the award of the Contract if such award was made on the basis of inaccuracies and clerical errors; and
 - 7. Reject a Bid as non-responsive if the Bidder does not make all required pre-award submittals within the timeframes designated by the Town.

5.6 Sub-bidders/Subcontractors

- A. Prior to the award of the Contract, the Town will notify the apparent successful Bidder in writing if the Town has reasonable objection to any Sub-bidder/Subcontractor proposed by such Bidder for the Project. If the Town has reasonable objection to a proposed Sub-bidder/Subcontractor, the Bidder may, at the Bidder's option, (1) withdraw its Bid, or (2) submit an acceptable substitute to the Town. Provided the Sub-bidder/Subcontractor rejected by the Town was willing, qualified and capable of performing in accordance with the terms of its sub-bid and all applicable terms of the Bidding Documents, the Contractor will be entitled to an adjustment in the Base Bid Amount to cover the difference in cost occasioned by the substitution. The Town may accept the adjusted Base Bid Amount or disqualify the apparent successful Bidder. Sub-bidders/Subcontractors proposed by a Bidder and to whom the Town has made no reasonable objection must be engaged by the successful Bidder to perform the Work for which such Sub-bidders/Subcontractors were proposed and shall not be changed except with the written consent of the Town.

5.7 Post Bid Scope Review Meeting

- A. After the opening of Bids, the Town will hold scope review meetings with some or select Bidders as deemed necessary by the Town. These meetings will be held at a location, date and time as determined by the Town. Bidders will be notified by the Town and shall make themselves available to attend these meetings.

PART 6 – SELECTION PROCESS

6.1 Basis for Selection

- A. Lowest Responsible and Responsive Qualified Bidder: It is the intent of the Town to award the Contract to the "lowest responsible and responsive qualified Bidder" which is the Bidder (i) whose Bid is the lowest of those Bidders possessing the skill, ability and integrity necessary to faithful performance of the Work based on objective criteria considering past performance and financial responsibility; and (ii) whose Bid was submitted in accordance

with the requirements set forth in the Bidding Documents. The Bidder will be required to establish to the satisfaction of the Town that the persons or entities proposed to furnish and perform the Work described in the Bidding Documents are reliable, responsible and capable. To the extent that the Bid Form asks for alternate bids, the Town's determination of the lowest Bid will be based on the sum of the base bid amount and the alternate bid prices for the alternates that are selected by the Town for acceptance as determined by the Town to be in its best interest.

- B. Qualifications: To assist the Town in its determination as to whether or not a Bidder is qualified to perform the Work for the Project, each Bidder shall complete and submit the Statement of Qualifications attached hereto as Attachment 8 along with the required supporting documentation. To be qualified for this Project, a Bidder must meet the following minimum criteria:
- (i) Bidder shall be engaged primarily in the business of public park and recreation facilities construction for a minimum of five (5) consecutive years;
 - (ii) Bidder must hold a valid contractor's license in the State of Connecticut as appropriate for the performance of the work for the Project;
 - (iii) Bidder shall have previous experience with the installation of Splash Pads
 - (iv) Bidder must have successfully completed at least three (3) similar projects within the last five (5) years.
- C. The Selection Criteria to be employed by the Town shall include, without limitation, the following:
- 1. Bidder's experience as a general contractor in the successful completion of projects of similar scope and size within budget and on time;
 - 2. Bidder's capacity to perform the Project in light of Bidder's ongoing and future obligations;
 - 3. Bidder's credit history and financial stability;
 - 4. The experience of the Bidder's project team proposed to be used for the Project in the successful completion of projects of similar scope and size within budget and on time;
 - 5. The ability of the Bidder to provide the required bonds.
 - 6. Past performance on previous projects with the Town based on the Town's evaluation of the skill, ability and integrity of the Bidder in terms of the Bidders' fulfillment of contract obligations and of the Bidders' experience or lack of experience with projects of the nature and scope of the project for which the Bid is submitted.
- D. Interviews: the Town reserves the right to conduct interviews with one or more of the Bidders at a time and date to be determined by the Town. If a Bidder is requested by the Town to attend an interview, the attendees representing the Bidder shall include one or more representatives of the Bidder capable of responding to questions regarding the Bid submitted as well as the proposed superintendent/project manager for the Project.
- E. Negotiations: the Town reserves the right to negotiate with the Lowest Responsive Responsible Qualified Bidder as determined by the Town to serve the best interest of the Town.

6.2 Selection and Award

- A. The Bidder selected for the Project must be determined by the Town, in its discretion, based on the Selection Criteria set forth in Section 6.1 and the entirety of the Bid submission, to be qualified and capable of performing the Project in accordance with the requirements of the Bidding Documents. The Town shall be under no obligation to select the Bidder submitting the Bid with the lowest Base Bid Amount if the Town deems the Bidder to be not responsive, not responsible, or not qualified.
- B. Upon identifying the successful Bidder, the Town will send a written notice of intent to award to such Bidder. Notwithstanding receipt of such notice of intent to award, the Town shall have no obligation to such Bidder until such time as the Contract is fully executed.

The Town of Glastonbury is An Affirmative Action/Equal Opportunity Employer. Minority/Women's Business Enterprises are encouraged to bid.

ATTACHMENT 1
BID FORM (6 pages)

Project: Town of Glastonbury
Addison Park Splash Pad
Addison Park
415 Addison Road, Glastonbury, CT
GL-2021-23

Submitted to: Town of Glastonbury
Attention: Mary F. Visone, Purchasing Agent
All bids shall be submitted electronically through the
secure e-procurement portal identified in the Bidding Documents

Bidder: _____ (Co. Name)
_____ (Address)

_____ (Authorized Individual)
_____ (Title)
_____ (Tel. No.)
_____ (Email Address)

Dated: _____, 2021

In compliance with the Bidding Documents as defined in the Instructions to Bidders issued by the Town of Glastonbury (the "Town") on March 30, 2021 (the "Bidding Documents"), the undersigned Contractor (the "Bidder") hereby proposes and agrees to fully perform the work described in the Bidding Documents within the time stated and in strict accordance with the Bidding Documents for the above referenced Project, for the following sum of money:

Base Bid Amount:

Lump Sum in the amount of _____ Dollars
(\$_____).

(Provide amount in words and numbers)

Base Bid Items: All labor, materials, equipment, fixtures, systems, supplies, tools, temporary facilities, transportation, supervision and other services necessary to complete the Work for the Project as described in the Bidding Documents inclusive of, without limitation all charges such as overhead, profit, general conditions, general requirements, insurance and permits.

Alternates:

Deduct Alternate No. 1: Town to Remove Pergola and Concrete Pavement

Lump Sum (deduct) in the amount of _____ Dollars
Deduct (\$_____).

(Provide amount in words and numbers)

Deduct Alternate No. 2: Cut and Cap Existing Irrigation Only as Required to Install Proposed Work. Town to Replace.

Lump Sum (deduct) in the amount of _____ Dollars

Deduct (\$_____).

(Provide amount in words and numbers)

Deduct Alternate No. 3: Loam and Seed Disturbed Areas Outside of Pool Enclosure

Lump Sum (deduct) in the amount of _____ Dollars

Deduct (\$_____).

(Provide amount in words and numbers)

Unit Prices:

Unit-Price No. 1: Exploratory Excavations

\$_____ per hour.

Unit-Price No. 2: Pipe in trench, complete, 2-4 inch

\$_____ per foot.

Unit-Price No. 3: Pipe in trench, complete, 4-6 inch

\$_____ per foot.

Unit-Price No. 4: Sod

\$_____ per square foot.

Unit-Price No. 5: Chain Link Fence, 6-foot High

\$_____ per linear foot.

Unit-Price No. 6: Chain Link Fence, 4-foot High

\$_____ per linear foot.

Unit-Price No. 7: Concrete Flatwork

\$_____ per square foot.

Unit-Price No. 8: Bituminous Pavement Patch

\$_____ per square foot.

Bid Price Itemization:

Submitted herewith as Bid Form Schedule A is the Bid Price Itemization which includes an amount for each component of the Work for the Project required by and described in the Bidding Documents. The sum of all listed components shall equal the Base Bid Amount. Bidder acknowledges that, should conditions make it necessary to revise the scope of the Work for the Project, the Bid Price Itemization shall serve as the basis for adjustments to the Base Bid Amount.

Subcontractors:

Submitted herewith as Bid Form Schedule B is a list of the names and addresses of all Subcontractors proposed to be utilized on the Project.

Receipt of Addenda Acknowledged:

	Signature
Addendum No. 1 dated _____, 2021	_____
Addendum No. 2 dated _____, 2021	_____
Addendum No. 3 dated _____, 2021	_____

Code Of Ethics:

I/ We have reviewed a copy of the Town of Glastonbury’s Code of Ethics and agree to submit a Consultant Acknowledgement Form if I/We are selected. Yes _____ No _____ *

*Bidder is advised that effective August 1, 2003, the Town of Glastonbury cannot consider any bid or proposal where the bidder has not agreed to the above statement.

Contract Execution:

The Bidder agrees and warrants that, if selected as the Contractor for the Project, Bidder shall, within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the Town, execute a contract in accordance with the Bidding Documents, the terms of this Bid Form and such other terms and conditions as may be mutually agreed by the Town and the Bidder.

Bidder's Representations:

By submission of this Bid Form and its Bid, the Bidder represents and acknowledges that:

1. The Bidder has carefully examined and is familiar with the Bidding Documents and all of the requirements set forth in the Bidding Documents. A Bidder’s failure to gain such familiarity with the Bidding Documents shall in no way relieve the Bidder of responsibility for all aspects of its Bid and the obligations set forth in the Bidding Documents.
2. The Bidder understands the requirements of the Bidding Documents and the scope of Work represented by the Bidding Documents to be performed by or on behalf of a Bidder.
3. The Bidder has checked all of the figures set forth in this Bid Form and the Schedules attached hereto and understands that the Town will not be responsible for any errors or omissions on the part of the Bidder in preparing this Bid.
4. The Bidder and appropriate Sub-bidders have visited the Premises, have become familiar with local conditions under which the Work is to be performed, site conditions, logistics and have correlated the Bidder's personal observations with the requirements of the Bidding Documents.
5. The Bidder is familiar with and agrees to comply with all federal, state and local laws, regulations, ordinances, codes and orders as relate to this solicitation and/or the performance of the scope of Work described in the Bidding Documents.
6. The Bidder has reviewed the Town of Glastonbury Code of Ethics adopted July 8, 2003 and effective August 1, 2003 and revised October 29, 2013 effective November 8, 2013 and, if requested by the Town will submit an acknowledgement form provided by the Town if selected for award of the Contract.
7. The Base Bid Amount set forth in its Bid Form includes all labor, materials, equipment, fixtures, systems, supplies, tools, temporary facilities, transportation, supervision and other services necessary to complete the Work for the Project as described in the Bidding Documents, inclusive of, without

limitation, overhead, profit, general conditions, general requirements and insurance and bond costs, all without exception or qualification.

8. The Bidder has confirmed and incorporated into its Bid and Base Bid Amount the proper prevailing wage rate for its industry.
9. The following are the names and prices of the subcontractors proposed by the Bidder to perform the identified classes of work:

Name of Subcontractor	Class of Work	Subcontractor Price
	Masonry	\$
	Electrical	\$
	Plumbing	\$
	HVAC	\$

10. The Bidder agrees that each of the subcontractors listed on this Bid Form will be used for the work indicated at the amount stated, unless a substitution is permitted by the Town.
11. In submitting this Bid, it is understood that the right is reserved by the Town to reject any or all Bids and waive all technicalities and informalities in connection therewith, including negotiating with the selected bidder or bidders, all as may be in the best interest of the Town. It is agreed that this Bid may not be withdrawn for a period of ninety (90) days after the actual date the Bids are opened.

The Bidder certifies, under the penalty of false statement, that the information in this Bid Form and its Bid is true, and accurate, that the copy of the Bid Bond submitted with this Bid Form is a true, accurate and unmodified copy of the original bond issued by the Bidder's surety for the Project, and that the Bid was made without fraud or collusion with any person.

The undersigned declares that the person or persons signing this Bid is/are fully authorized to sign on behalf of the Bidder.

Signed this ____ day of _____, 2021

_____ (Name of Bidder)
 By _____ (Signature of individual signing on behalf of Bidder)
 _____ (Print name of individual signing on behalf of Bidder)
 Its _____ (Title of such individual such as President, Member, etc.)

BID FORM SCHEDULE A (part of Attachment 1)

Bid Price Itemization

Bidder's Name and Address: _____

Trade Contracts: \$ _____

General Conditions Costs: \$ _____

Insurance Costs: \$ _____

Bond Premiums: \$ _____

Base Bid Amount \$ _____

Signed this ____ day of _____, 2021

_____ (Name of Bidder)

By _____ (Signature of individual signing on behalf of Bidder)

_____ (Print name of individual signing on behalf of Bidder)

Its _____ (Title of such individual such as President, Member, etc.)

Date: _____

BID FORM SCHEDULE B (part of Attachment 1)

SUBCONTRACTOR LIST

Bidder's Name and Address: _____

<u>NAME OF SUBCONTRACTOR</u>	<u>ADDRESS</u>	<u>WORK SCOPE</u>

(Add Additional Pages as necessary)

Signed this ____ day of _____, 2021

_____ (Name of Bidder)

By _____ (Signature of individual signing on behalf of Bidder)

_____ (Name of individual signing on behalf of Bidder)

Its _____ (Title of such individual such as President, Member, etc.)

ATTACHMENT 2

BIDDING DOCUMENTS

The following forms and documents constitute the Bidding Documents:

1. Invitation to Bid
2. Instructions to Bidders and all Attachments thereto:
 - Attachment 1, Bid Form (incl. Bid Form Schedule A and Bid Form Schedule B)
 - Attachment 3, Form of Contract
 - Attachment 4, Submission Documents
 - Attachment 5, Bid Bond Form
 - Attachment 6, Insurance Requirements
 - Attachment 7, Wage Rates
 - Attachment 8, Statement of Qualifications
 - Attachment 9, Drawings prepared by the Architect dated March 23, 2021.
 - Attachment 10, Specifications prepared by the Architect
 - Attachment 11, Certification re: CGS §31-57b
 - Attachment 12, Internal Revenue Service Form W-9
 - Attachment 13, Affirmative Action Statement
 - Attachment 14, Covid Related Requirements
3. Department of Revenue Services registration information for out of state contractors if required. Forms may be found at: <http://www.ct.gov/drs/cwp/view.asp?a=1454&q=506012>
4. The Prevailing Wage Bid Package and forms which can be found at: <http://www.ctdol.state.ct.us/wgwkstnd/BidPack.htm> and include:
 - Prevailing Wage Law Poster
 - Section 31-53b: Construction safety and Health Course. Proof of completion required for employees on public building projects.
 - Informational Bulletin - The 10-Hour OSHA Construction Safety and Health Course (PDF, 20KB)
 - Notice For All Mason Contractors (PDF, 5KB)
 - CT General Statute 31-55a
 - Contractor's Wage Certification Form (PDF, 11KB)
 - Payroll Certification - Public Works Projects
 - Information Bulletin - Occupational Classifications
 - Footnotes (Rev. 07/17) (PDF, 101KB)

ATTACHMENT 3

FORM OF CONTRACT

DRAFT AIA® Document A101™ - 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

Rev. Date 3/24/21
No State Funding

AGREEMENT made as of the « » day of « » in the year «»
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

«Town of Glastonbury»« »
«P.O. Box 6523
2155 Main Street»
«Glastonbury, CT 06033-6523 »
«GL-_____»

and the Contractor:
(Name, legal status, address and other information)

«
»« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

« »
« »
«Glastonbury, CT
GL _____»

The Architect:
(Name, legal status, address and other information)

« »« »
«
»

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.



ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, AIA Document A201-2017, as modified by the Owner (the “General Conditions”), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT AND CONTRACTOR’S STANDARD OF CARE

§ 2.1 The Contractor shall fully execute the Work described in, reasonably inferable from and as necessary to produce the results intended by, the Contract Documents including, but not limited to, the furnishing of (1) all materials, supplies, equipment, fixtures, tools, implements, and other items and facilities required for, or in connection with, or for inclusion or incorporation into, the Project and (2) all labor, supervision, transportation, utilities, storage and all other services required for or in connection with the Project, except as specifically indicated in the Contract Documents to be the responsibility of others.

§ 2.2 CONTRACTOR’S STANDARD OF CARE, CONDITIONS AND LEGAL REQUIREMENTS

§ 2.2.1 The Contractor shall be responsible for the performance of the Work as an independent contractor and in a good and workmanlike manner (i) consistent with the Contract Documents; (ii) consistent with the instructions, guidance and direction of the Owner and Architect; (iii) consistent with the with the prevailing applicable professional or industry standards; (iv) consistent with sound practices; (v) as expeditiously as is consistent with such professional skill and care and the orderly progress of the Work and with the Contract Documents and the instructions, guidance and direction of the Owner and Architect; and (vi) in a manner that will not exceed the Contract Sum as set forth in the Contract (the standards of this Section 2.2.1 shall be referred to herein as the “Contractor’s Standard of Care”). The Contractor shall exercise the Contractor’s Standard of Care in performing all aspects of the Work. All references in the Contract Documents to the knowledge, inference, reliance, awareness, determination, belief, observation, recognition or discovery of the Contractor or reference to any similar term shall include the constructive knowledge, inference, reliance, awareness, determination, belief, observation, recognition attributed to the Contractor (“Constructive Knowledge”). Such Constructive Knowledge shall include the knowledge, inference, reliance, awareness, determination, belief, observation and recognition the Contractor would have obtained upon the exercise of the Contractor’s Standard of Care.

§ 2.2.2 The Contractor shall be responsible for the performance of the Work in accordance with the Contract Documents and all guidelines, standards and conditions of imposed on the Work and/or Project by the Agencies, as

defined hereinafter. "Legal Requirements" as defined in Section 3.7.2 of the General Conditions includes all of such standards, guidelines and conditions..

§ 2.2.3 The "Agencies" are the governmental authorities having regulatory or administrative jurisdiction over the Work and/or the Project and all representatives or designees of such governmental authorities.

§ 2.2.4 Legal Requirements

Without limiting the responsibility of the Contractor under other provisions of the Contract Documents, the Contractor shall conduct the Work in accordance with all Legal Requirements which include, without limitation:

- .1 Contractor's compliance with the requirements of Connecticut Regulation Sections 16a-38k-1 through 9 (High Performance Building Requirements), including any waste stream management requirements to the extent such High Performance Building Requirements are specified in the Contract Documents;
- .2 Contractor's provision of Change Orders and supporting documents and other required documentation in the form required by the Agency providing funding for the Project; and
- .3 Contractor's maintenance of records and reports as required by the Agency providing funding for the Project and other Agencies, as applicable.

§ 2.2.5 Notwithstanding anything to the contrary in this Agreement, the Contractor shall attend such meetings and site-visits, and make such submissions, as are necessary to comply with applicable Legal Requirements.

§ 2.2.6 Any information obtained by the Contractor from the Owner or Architect may not be used, published, distributed, sold or divulged by the Contractor, its Subcontractors, or any Sub-subcontractors for such party's own purposes or for the benefit of any person, firm, corporation or other entity other than the Owner, without the prior written consent of the Owner. Any information obtained by the Contractor or its Subcontractors or any Sub-subcontractors that is designated by the Owner in accordance with applicable Legal Requirements as confidential shall not be disclosed to any other parties without the prior written consent of the Owner.

§ 2.3 THE CONTRACTOR'S PROJECT TEAM

§ 2.3.1 The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's reasonable skill and judgment in furthering the interests of the Owner. The Contractor agrees to furnish efficient business administration and supervision and to use Contractor's best efforts to furnish, at all times, an adequate supply of skilled workers and materials, and to perform the Work in the most expeditious and economical manner consistent with the Owner's interests.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- [« »] The date of this Agreement.
- [« X »] A date set forth in a notice to proceed issued by the Owner.
- [« »] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work in accordance with the Contract Documents and the construction schedule attached hereto as Exhibit B (the "Construction Schedule"):

(Check one of the following boxes and complete the necessary information.)

[] Not later than () calendar days from the date of commencement of the Work.

[] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5. **TIME IS OF THE ESSENCE** in the completion of the Work.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be and 00/100 Dollars» (\$.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Add Alternate No. 1 –	\$ <input type="text"/> .00
Add Alternate No. 2 –	\$ <input type="text"/> .00
Add Alternate No. 3 –	\$ <input type="text"/> .00
Deduct Alternate No. 1 –	(\$ <input type="text"/> .00)
Deduct Alternate No. 2 -	(\$ <input type="text"/> .00)

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.4 Unit prices applicable to the Work, if any, are set forth below (the "Unit Prices"). Unit Prices shall be valid for the life of the Project and are inclusive of all costs associated with the complete performance, furnishing, and installation of the portion of the Work subject to Unit Prices including, without limitation, labor, materials, equipment, machinery, services, engineering, transportation, taxes and insurance as well as overhead and profit. Unit Prices shall be applicable to both additions to and deductions from the Work.

Item	Units and Limitations	Price per Unit (\$0.00)
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ 4.5 Liquidated damages, if any:

«It is acknowledged that the Contractor's failure to achieve Substantial Completion of the Work within the Contract

Time provided by the Contract Documents will cause the Owner to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Owner of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Owner as against Contractor and its Surety in the event of delayed completion, without the Owner being required to present any evidence of the amount or character of actual damages sustained by reason thereof. Therefore, Contractor shall be liable to the Owner for payment of liquidated damages in the amount of _____ Dollars (\$_____.00) for each day that Substantial Completion is delayed beyond the date set forth herein for the achievement of Substantial Completion, as adjusted for time extensions as may have been granted pursuant to the terms and conditions of the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to Owner without limiting Owner's right to terminate this Agreement as provided elsewhere herein.

The collection of liquidated damages by the Owner under this Section 4.5 shall be in addition to, and not in lieu of, the Owner's right to recover from the Contractor the Owner's increased costs to complete the Project arising from the Contractor's delay. Further, such liquidated damages shall in no way limit the Owner's other rights under this Agreement or the Owner's entitlement to damages for any other injury, damage or loss, other than for delay, for which Contractor may be responsible.»

§ 4.6 Other:

«§ 4.6.1 The Contractor represents and warrants that the Drawings and Specifications and other materials and information furnished to the Contractor are sufficiently detailed to enable the Contractor to firmly establish the Contract Sum, subject to clarifications and assumptions (if any) expressly herein set forth.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall, upon its determination that the Work or a portion of the Work, as applicable, has been completed in a manner consistent with the Contract Documents, make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 The Contractor shall submit final versions of Applications for Payment, along with all required Supporting Documentation, on a monthly basis to the Architect (with a copy to the Owner) not later than the «1st» day of each month for Work completed in accordance with the Contract Documents in the prior month. The Owner shall, subject to the provisions of Section 9.6.8 of the General Conditions, make payment of the amount certified by the Architect to be due to the Contractor not later than thirty (30) days after the Architect receives the final version of the Application for Payment and all required Supporting Documentation.

§ 5.1.3.1 Commencing with the second Application for Payment, and continuing with each Application for Payment submitted thereafter, Supporting Documentation shall include, without limitation, a properly executed release and waiver of mechanics liens from the Contractor and each Subcontractor and material supplier whose Work was included on the previous Application for Payment for which payment by Owner was made to the Contractor. In addition to the foregoing, commencing with the first Application for Payment and continuing with each Application for Payment submitted thereafter, the Contractor shall provide a properly executed conditional release and waiver of mechanics liens in form acceptable to the Owner from the Contractor and each Subcontractor and material or equipment supplier whose Work is included on the Application for Payment subject only to receipt of payment under such Application for Payment. The requirements under the Contract Documents for the submission of releases and waivers of lien are not intended to indicate or imply that the Owner's property may be the subject of a valid mechanics lien under Connecticut law.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents and approved by the Owner and the Architect pursuant to

Section 9.2 of the General Conditions (the “Schedule of Values”). The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work. The Schedule of Values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This Schedule of Values shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. Each Application for Payment shall include a statement showing the status of all pending change orders, other pending change directives and approved changes to the Contract. Such statement shall identify the pending 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.

§ 5.1.6 In accordance with the General Conditions, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work based on the Schedule of Values;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect’s professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of the General Conditions;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of the General Conditions; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

«Five percent (5%) of each progress payment.»

§ 5.1.7.1.1 The following items are not subject to retainage:

« »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

« »

§ 5.1.7.3 The Owner shall not be required to release any part of the retainage until the Contractor has fulfilled all of its obligations under the Contract Documents. Release of any portion of the retainage prior to that time shall be in the sole discretion of the Owner.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, any Subcontractor, Sub-subcontractor or any other person or entity for whom or which any of them is responsible, the Owner shall pay the Contractor any additional amounts to the extent required under Article 9 of the General Conditions.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.1.10 Contractor shall use payments made under this Agreement solely for the purpose of performance of the Work pursuant to the Contract Documents. Contractor shall pay for all labor and services performed and materials, equipment and machinery supplied by others in connection with the performance of the Work in accordance with the Contract Documents and as required by applicable Legal Requirements (as defined in Section 3.7.2 of the General Conditions).

§ 5.1.11 Contractor shall pay any amounts due a Subcontractor or supplier, whether for labor or services performed or materials, equipment or machinery furnished, not later than ten (10) days after the date the Contractor receives payment from the Owner which encompasses such labor or services performed or materials, equipment or machinery furnished by such Subcontractor or supplier. The Contractor shall include in all of its Subcontracts with its Subcontractors and suppliers a requirement that the Subcontractors and suppliers pay any amounts due any sub-subcontractors or suppliers not later than ten (10) days after the Subcontractor or supplier receives a payment from the Contractor which encompasses labor or services performed or materials, equipment or machinery furnished by such sub-subcontractor or supplier.

Retainage withheld by the Contractor on amounts due any Subcontractor or supplier shall not exceed five percent (5%) of such amount due.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Work and all of its obligations under the Contract Documents except for the Contractor's responsibility to correct Work as provided in Section 12.2.2.1 of the General Conditions, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the Architect's final Certificate for Payment. The Architect's final Certificate for Payment shall not be issued until such time as all required Supporting Documentation and such additional information as reasonably requested by the Owner have been submitted to the Architect by the Contractor.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest only to the extent required by Connecticut law and, if so required, at the minimum required rate.

§ 5.4 Any provision herein to the contrary notwithstanding, the Owner shall not be obligated to make payment to the Contractor hereunder to the extent any one or more of the following conditions exist:

- .1 The Contractor is in default of any of its obligations hereunder or otherwise is in default under any of the Contract Documents;
- .2 Any part of such payment is attributable to Work which the Owner or Architect determines that, because of the fault or neglect of the Contractor, is defective or not performed in accordance with the Contract Documents; provided, however, such payment shall be made as to the part thereof attributable to the Work which is performed in accordance with the Contract Documents and is not otherwise defective; or
- .3 The Contractor has failed to make payments properly to Subcontractors or for material or labor used in the Work for which the Owner has made payment to the Contractor.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of the General Conditions, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of the General Conditions, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other (Specify)

«The parties agree that the Owner, in its sole discretion, may elect to have the Claim resolved by arbitration in accordance with Section 15.4 of the General Conditions. If the Owner does not make such election, such Claim, dispute, or other matter in controversy will be resolved by litigation in a court of competent jurisdiction and the venue for such action shall be the Connecticut Superior Court, Judicial District of Hartford, at Hartford, Connecticut.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of the General Conditions, then the Owner shall pay the Contractor as provided in Article 14 of the General Conditions.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:
(Name, address, email address, and other information)

« _____

2143 Main Street, P.O. Box 6523
Glastonbury, CT 06033-6523
Tel. No. (860) _____
Email Address: _____@glastonbury-ct.gov »
« »

§ 8.3 The Contractor’s representative:
(Name, address, email address, and other information)

« »
« »
«
»
« »
«Tel. No. _____»
«Email Address: _____»

§ 8.4 The Contractor’s representative shall not be changed without ten days’ prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as required and set forth in Exhibit A, Insurance and Bonds attached hereto, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in Exhibit A, Insurance and Bonds attached hereto, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of the General Conditions, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

«Notice pursuant to Section 1.6.1 of the General Conditions may be delivered by electronic mail to the email address for the recipient’s representative identified in Sections 8.2 and 8.3 above. The subject line of the email shall include the address of the Project and be electronically flagged as “urgent”.

§ 8.7 Other provisions:

«§ 8.7.1 The Contractor hereby represents and warrants (in addition to other representations and warranties contained in the Contract Documents), as an inducement to the Owner to enter into the Contract, which representations and warranties shall survive the final completion of the Work:

- .1 that it is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 that it, through its Subcontractors or otherwise, is able to furnish the tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder in a timely manner and has sufficient experience and competence to do so;
- .3 the Contractor is authorized to do business in the State of Connecticut and is properly licensed by all necessary governmental authorities having jurisdiction over the Contractor and the Project; and
- .4 the Contractor has visited the site of the Project and become familiar with the condition of the site and the Contract Documents, and knows of no reason why the Work cannot be performed as set forth in, and in the timeframe required by, the Contract Documents.

§ 8.7.2 Execution in Counterparts. This Agreement may be signed in two or more counterparts, each of which shall be treated as an original but which, when taken together, shall constitute one and the same instrument. Signed copies of this Agreement may be faxed and e-mailed with the same force and effect as if the originally executed Agreement had been delivered.»

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 This Agreement
- .2 Exhibit A, Insurance and Bonds
- .3 The General Conditions
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

<< >>

- .5 Drawings - See Exhibit D attached hereto.

Number	Title	Date

- .6 Specifications - See Exhibit E attached hereto.

Section	Title	Date	Pages

- .7 Addenda, if any:

Number	Date	Pages
Addendum No. 1		
Addendum No. 2		
Addendum No. 3		

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

9 Other documents, if any, listed below:

«Project Manual for the Project prepared by the Architect and dated _____,
Exhibit B - Construction Schedule
Exhibit C - Unit Prices
Exhibit D - Drawings
Exhibit E - Specifications
Exhibit F - Wage Rates »

This Agreement entered into as of the day and year first written above.

Town of Glastonbury

OWNER (Signature)

«Richard J. Johnson»« Its Town Manager»

(Printed name and title)

Date: _____

CONTRACTOR (Signature)

« »« Its »

(Printed name and title)

Date: _____

APPROVED AS TO FORM:

« »« »

(Signature)

Bruce A, Chudwick, Partner
Shipman & Goodwin LLP
As Town Attorney, Town of Glastonbury

(Printed name and title)

APPROVED AS TO FUNDING:

« »« »

(Signature)

Julie Twilley, Director of Finance and
Administrative Services, Town of Glastonbury

(Printed name and title)

DRAFT

AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

Rev. 2/12/21

For use with All Projects with General Contractor

for the following PROJECT:

(Name and location or address)

« _____ »
« _____ »
«Glastonbury, CT »
«G _____ »

THE OWNER:

(Name, legal status and address)

«Town of Glastonbury»
«P.O. Box 6523
2155 Main Street»
«Glastonbury, CT 06033-6523 »« »« »

THE ARCHITECT:

(Name, legal status and address)

« »« »
«
»« »
« »

DRAFT

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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- 12 UNCOVERING AND CORRECTION OF WORK

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, these General Conditions of the Contract for Construction, Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor, supplier, or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor.

§ 1.1.3 The Work

The term "Work" means the construction and services required by, reasonably inferable from, and as necessary to produce the results intended by, the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. If the Contractor discovers any inconsistency within or among parts of the Contract Documents, or between the Contract Documents and applicable standards, codes or ordinances, the Contractor shall promptly give

notice to the Owner and the Architect of such inconsistency and shall, unless otherwise instructed in writing by the Architect or the Owner, provide work or materials of the better quality, greater quantity, or that otherwise comply with applicable standards, codes or ordinances.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the owner of such Instruments of Service.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set

forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner's representative shall be the person designated as such in the Agreement, or a successor to such person designated by the Owner in writing from time to time, which person shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization, subject to such limitations as Owner may specify in writing to Contractor from time to time. Any action taken on Owner's behalf other than by the representative so designated by Owner will not be binding upon the Owner. The Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 Intentionally Omitted.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work, upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. If such evidence is so requested, the Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 2.2.2 Intentionally Omitted.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits, related fees and filings that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure, file and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor, provided the services of the Architect are still needed for the Project at the time of termination.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project. The Contractor acknowledges that utilities, if/where shown on the plans, are at approximate locations. These locations are subject to possible errors in the source of information and errors in transcription. The Contractor shall make certain of the exact location of all mains, ducts, poles, and services prior to excavation. The Contractor shall exercise proper precautions relating to the safe performance of the Work. Any data provided by the Owner to the Contractor concerning the physical characteristics or measurements of the components that comprise the Project site; access to the Project site or staging and storing at the Project site; present obstructions and

conditions of structures on or near the Project site; locations and depths of sewers, conduits, pipes, and gas lines on or near the Project site; positions of sidewalks, curbs and pavements on or near the Project site and other data concerning the conditions of the Project site and its surroundings (collectively, "Site Data"), have been obtained from sources the Owner believes to be reliable. Accuracy of the Site Data, however, is not guaranteed and is furnished solely for accommodation of the Contractor.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall furnish such information and services with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a five (5) day period after receipt of notice from the Owner to commence and continue correction of such default or neglect, and all deficiencies in the Work arising therefrom, with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect and the deficiencies in the Work arising therefrom. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the Owner's cost of correcting the default or neglect and the deficiencies in the Work arising therefrom, including, without limitation, expenses, attorneys' fees, and compensation for the Architect's additional services made necessary by such default, neglect, failure and deficiencies. The Contractor shall also be responsible for all of Owner's other costs, damages, delays, and associated impacts arising in the event that the Owner exercises its rights under this Section 2.5. The Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent necessary to pay the Owner the amounts due under this Section 2.5. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15. The right of the Owner to carry out the Work pursuant to this Section 2.5 shall not give rise to any duties on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. In performing any work pursuant to this Section 2.5, the Owner shall have the right to take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor or any Subcontractor.

§ 2.6 ADDITIONAL RIGHTS

§ 2.6.1 The rights stated in this Article 2 shall be in addition to, and not in limitation of, any other rights of the Owner provided in the Contract Documents, or as may be available to the Owner at law or in equity.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor, Subcontractors and Sub-subcontractors shall be lawfully licensed to the extent and as required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.2.1 Unless explicit quality or standards for materials or workmanship are established in the Contract Documents for any portion of the Work, the Contractor shall perform such Work in a good and workman like manner, in a manner of good quality for the intended use, and consistent with the quality of the surrounding Work and of the

construction of the Project generally.

§ 3.1.2.2 All manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the manufacturer's written or printed directions and instructions unless otherwise specifically indicated in the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor shall comply, and shall cause Subcontractors, Sub-subcontractors and suppliers to comply, with all accounting procedures and record retention policies reasonably requested by the Owner.

§ 3.1.5 NONRESIDENT CONTRACTOR

If the Contractor is a "nonresident contractor" as defined in Section 12-430(7)(A) of the Connecticut General Statutes, as revised, the Contractor shall provide evidence to the Owner prior to commencement of the Work that Contractor has complied fully with the provisions of Section 12-430(7). The Contractor is hereby notified that, if any subcontractor or supplier performing any part of the Work under the Contract Documents is a nonresident unverified contractor, the Contractor will withhold 5% of all payments to such subcontractor or supplier unless and until such subcontractor or supplier provides to the Contractor a Certificate of Compliance issued by the Connecticut Department of Revenue Services as defined in the Connecticut General Statutes §12-430(7). A nonresident unverified contractor is a contractor without an office in the State of Connecticut that is continuously maintained, occupied and used by the contractor's regular employees regularly in attendance to carry on the contractor's business in the contractor's own name and which contractor has not been verified pursuant to the requirements of the Connecticut Department of Revenue Services. The amount withheld pursuant to CGS §12-430(7) shall be in addition to, and not in lieu of, the retainage held by the Contractor under its subcontract with the subcontractor or supplier.

§ 3.1.6 Notwithstanding anything to the contrary in the Contract Documents, the Contractor shall attend such meetings and site-visits, and make such submissions, as are necessary to comply with applicable Legal Requirements.

§ 3.1.7 Nondiscrimination

§ 3.1.7.1 The Contractor agrees and warrants that in the fulfillment of the Contract it will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, physical disability, including, but not limited to, blindness or status as a veteran except as permitted by law in the case of a bona fide occupational qualification or need. The Contractor shall provide the Connecticut Human Rights and Opportunities Commission with such information requested by the Commission concerning the employment practices and procedures of the Contractor.

§ 3.1.7.2 By execution of the Contract, the Contractor confirms that it and its Subcontractors are Affirmative Action/Equal Opportunity Employers.

§ 3.1.7.3 In addition, if the Project is funded in whole or in part by the State of Connecticut (or any of its Agencies, as defined in the Agreement), the requirements of this Section 3.1.7.3 below shall apply:

§ 3.1.7.3.1 Pursuant to the requirements of CGS §4a-60:

(a)(1) The Contractor agrees and warrants that in the performance of the Contract the Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not

limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;

(2) The Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission on Human Rights and Opportunities;

(3) The Contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(4) The Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e, 46a-68f and 46a-86; and

(5) The Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the Contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the Contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency project.

(c) The Contractor shall include the provisions of subsections (a) and (b) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state, and in every subcontract entered into in order to fulfill any obligation of a municipal public works contract or contract for a quasi-public agency project, and such provisions shall be binding on a subcontractor, vendor or manufacturer, unless exempted by regulations or orders of the Commission on Human Rights and Opportunities. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions, including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission regarding a state contract, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

§ 3.1.7.3.2 Pursuant to the requirements of CGS §4a-60a:

(a)(1) The Contractor agrees and warrants that in the performance of the Contract the Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

(2) The Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under Connecticut General Statutes §4a-60a, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(3) The Contractor agrees to comply with each provision of Connecticut General Statutes §4a-60a and with each regulation or relevant order issued by said Commission on Human Rights and Opportunities pursuant to Connecticut General Statutes §46a-56; and

(4) The Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of Connecticut General Statutes §4a-60a and Connecticut General Statutes §46a-56.

(b) The Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state, and in every subcontract entered into in order to fulfill any obligation of a municipal public works contractor contract for a quasi-public agency project, and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission on Human Rights and Opportunities. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions, including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission regarding a state contract, the Contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(c) The Contractor agrees to comply with the regulations referred to in this Section 3.1.7 as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has (i) visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents, and (ii) evaluated and satisfied itself and will cause its Subcontractors to satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation (1) the location, condition, layout and physical conditions of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, (4) anticipated availability and costs of materials, tools and equipment, and (5) except as provided in Section 10.3, and subject to the provisions of Section 3.7.4, anticipated soil and subsurface conditions of the Project site. The Owner shall not be required to pay any amount, including any increase in the Contract Sum, or make any adjustment in the Contract Time in connection with any failure by the Contractor or any Subcontractor to comply with the requirements of this Section. The provisions of this Section 3.2.1 shall not be construed to limit the investigative and review responsibilities of the Contractor under any other provisions of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations and the Contractor shall be responsible for associated delays and impacts. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 If the Contractor fails to fulfill its obligations to report to the Architect or Owner under this Article 3, such failure shall preclude the Contractor from any subsequent Claim arising from, or relating to the factors giving rise to

the Contractor's obligation to make such report.

§ 3.2.6 The Owner assumes no contractual liability or responsibility for the physical condition or safety of the Project site or of any improvements thereon. Except as set forth in Section 10.3, the Contractor shall be solely responsible for providing safe conditions for the performance of the Work.

§ 3.2.7 The Contractor shall give the Architect notice of any additional Drawings, Specification or instructions required to define the Work in greater detail, or to permit the proper progress of the Work. Requests for such information shall be made by the Contractor sufficiently in advance of the time such information is needed by the Contractor so as to permit the Architect a reasonable time for responding to such requests without affecting the progress of the Work.

§ 3.2.8 The execution of the Contract shall constitute:

§ 3.2.8.1 A representation by the Contractor that the Contractor has carefully reviewed the Contract Documents, and that the Contract Documents are sufficiently detailed and complete to permit the Contractor, (i) to complete the Project for an amount not in excess of the Contract Sum; and (ii) complete the Work within the Contract Time and in accordance with the Contract Documents and all applicable Legal Requirements (as defined in Section 3.7.2). The Contractor shall not perform any construction activity it knows constitutes a recognized error, inconsistency or omission. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without reporting the error, inconsistency or omission to the Architect, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the costs of correction.

§ 3.2.8.2 A certification by the Contractor that it has taken all steps necessary to ascertain the nature and location of the Work, and the general and reasonably observable conditions which can or may affect the Work and/or the cost thereof. Failure by the Contractor to fully acquaint itself with conditions which may affect the Work and/or the cost thereof, including, but not limited to, conditions relating to transportation, handling, storage of materials, availability of labor, water, other known projects in the region, applicable provisions of law, and the character and availability of equipment and facilities needed preliminary to and during the prosecution the Work, shall not relieve the Contractor of its responsibilities under the Contract Documents and shall not constitute a basis for extension of the Contract Time or any increase in the Contract Sum. Owner assumes no responsibility for any representations concerning conditions made by any of its officers, or employees or representatives, prior to the execution of the Contract, unless such representations are expressly stated in the Contract Documents.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures. In no event shall the Contractor employ construction means, methods, techniques, sequences or procedures that violate (1) requirements of any warranties applicable to the Work; or (2) any Legal Requirements.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall furnish sufficient forces, plant and equipment as may be necessary to insure the progress

of the Work in accordance with the Construction Schedule. If, in the opinion of the Owner, the Contractor has fallen behind the Construction Schedule, the Contractor shall submit its proposal demonstrating the manner in which the desired rate of progress may be achieved and Contractor shall take such steps as may be necessary to meet the Construction Schedule. Unless the Contractor has fallen behind schedule due to delays which entitle Contractor to an adjustment in the Contract Time in accordance with the terms and conditions of the Contract Documents, the taking of such steps shall be at the sole costs and expense of the Contractor. It shall be the responsibility of the Contractor to maintain its schedule so as not to delay the progress of the Work or the scheduled work of Separate Contractors.

§ 3.3.5 Contractor's coordination of Work shall include, without limitation, review of all shop drawings (including, without limitation, architectural, civil, structural, mechanical, and electrical shop drawings) submitted by Subcontractors for various trades or subdivisions of work, as indicated by Contractor's approval in accordance with Section 3.12.

§ 3.3.6 The Contractor shall be solely responsible for properly laying out the Work, and for all lines, elevations and measurements for all of the Work. Contractor shall verify the figures shown on the Drawings before laying out the Work and will be responsible for any errors or inaccuracies resulting from Contractor's failure to do so. In the event that the Contractor shall, while laying out the Work, become aware of: (1) any conflicts between (a) the Drawings, the Specifications or any Modification to the Drawings or the Specifications and (b) the actual layout of the Work, or (2) any conflicts or inconsistencies in the Drawings, the Specifications or any Modification to the Drawings or the Specifications themselves, Contractor shall promptly notify the Architect. If the Contractor proceeds without the Architect's clarification and instruction on the matter, the Contractor shall proceed at Contractor's own risk.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 All labor shall be performed by workmen skilled in their respective trades, and workmanship shall be of good quality so that first class work in accordance with the standards of construction set forth in the Contract Documents and the Contractor's Standard of Care will be achieved. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.3.1 As required under Section 31-53 of the Connecticut General Statutes, the wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of Section 31-53 of the Connecticut General Statutes shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make such payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

§ 3.4.3.2 As required under Section 31-53b of the Connecticut General Statutes, the Contractor shall furnish proof, and shall cause its Subcontractors to furnish proof, with the weekly certified payroll form for the first week each employee begins work on the Project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 on the Project, pursuant to the Contract, has 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, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 46 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268, and that any plumber or electrician

subject to the continuing education requirements of section 20-334d, who has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration five or more years prior to the date such electrician or plumber begins work on the Project, has completed a supplemental refresher training course of at least four hours in duration in construction safety and health taught by a federal Occupational Safety and Health Administration authorized trainer.

§ 3.4.3.3 To the extent consistent with any provision regarding residence requirements contained in a collective bargaining agreement to which the Contractor is a party, in the employment of labor to perform the work specified herein, preference shall be given to citizens of the United States, who are, and continuously for at least three months prior to the date hereof have been, residents of the labor market area, as established by the 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 the county in which the work is to be performed for at least three months prior to the date hereof, and then to citizens of the state who have continuously resided in the state at least three months prior to the date hereof.

§ 3.4.4 If the Contractor desires to substitute a product or method in lieu of what has been specified or shown in the Contract Documents, the Contractor may propose to do so in a written request delivered to the Architect and the Owner setting forth the following:

- .1 Full explanation of the proposed substitution and submittal of all supporting data including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation of the substitution and relevant materials prepared as part of pre-construction services.
- .2 Reasons why the substitution is advantageous and necessary, including the benefits to the Owner and the Work in the event the substitution is acceptable.
- .3 The adjustment, if any, in the Contract Sum, in the event the substitution is acceptable.
- .4 The adjustment, if any, in the Contract Time and any milestone dates in the event the substitution is acceptable.
- .5 The Contractor shall submit a written request for any substitution, together with complete substantiating data and information, to the Architect and the Owner not later than thirty (30) days prior to the time that such substitute product or method would be incorporated into the Work. No substitution shall be made by the Contractor, or considered or approved by the Architect or the Owner, without the Contractor's submittal of a written request with respect to such substitution as provided above. The Contractor may make a substitution only: (1) upon the written approval of the Architect and the Owner of such written request therefor after evaluation by them of such request and all accompanying data and information; and (2) in accordance with a Change Order.
- .6 Any written request for a substitution by the Contractor shall be a representation by the Contractor to the Owner that: (1) the Contractor has investigated the product or method proposed to be substituted and found it to be equivalent to or better than the product or method specified in the Contract Documents, (2) except to the extent otherwise expressly stated in such request, the Contractor is waiving any Claim for additional costs related to such substitution; (3) the Contractor will provide the same warranty for the substitution that the Contractor would for that specified; (4) the substitution will not entail changes in detail and construction of related Work; and (5) the Contractor shall coordinate the installation of the accepted substitution, making such changes as may be required for the Work to be complete in all respects.

§ 3.4.5 Notwithstanding the fact that the Contract Documents may specify a particular brand or make of material or equipment "or equal", if the Contractor elects to utilize "equal" materials or equipment rather than the specified materials or equipment, the "equal" materials or equipment will be subject to the prior written approval of the Owner.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by or on behalf of the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and

normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 The Contractor shall procure and assign to the Owner at the time of Substantial Completion of the Work any and all Subcontractor, manufacturer and supplier warranties relating to any materials and labor used in the Work. Such warranties shall supplement the warranties provided by the Contractor in Section 3.5.1. All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 Substitutions not properly approved and authorized and work, materials or equipment which fail to perform under the proper use and normal wear for intended purposes shall be considered defective. If required by the Architect or the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment to be incorporated in the Work.

§ 3.5.4 The Contractor further agrees that each Subcontract shall contain a warranty of the portion of the Work performed thereunder in the same form as the above stated warranty of Contractor. Included in said warranty shall be the statement that it shall be enforceable directly by the Owner, if the Owner so elects. The warranty of any Subcontractor shall not relieve the Contractor of its warranty as set forth above and the Owner may look to the Contractor, directly, and in the first instance to correct any defects in the Work.

§ 3.5.6 The representations and warranties under this Section 3.5 shall be in addition to, and not a substitute for, any other rights of the Owner under the Contract Documents or existing in law or equity.

§ 3.5.7 The representations and warranties set forth in this Section 3.5 shall survive final payment and termination of the Contract.

§ 3.6 Taxes

The Owner is tax exempt as regards sales, consumer, use and similar taxes and the Contract Sum shall not include any such taxes.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, certifications and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and required by applicable Legal Requirements as of the effective date of this Contract. The Contractor shall provide the Owner and Architect with reproductions of all permits, licenses, permissions, certifications and receipts for payments and, upon submission of the final Application for Payment, shall deliver all originals of such documents to the Owner with copies to the Architect. Notwithstanding the foregoing, the fee for the building permit will be waived and shall not be included in the Contract Sum.

§ 3.7.2 The Contractor shall comply with, be responsible for performance of the Work in accordance with, and give notices required by all applicable local, state and federal laws, statutes, ordinances, codes, building codes, rules, regulations, permits, and orders enacted, promulgated, issued or ordered by any governmental body or public or quasi-public authority having jurisdiction over the Work, the Contractor and/ or the site of the Project (collectively, the "Legal Requirements"). Legal Requirements shall include, without limitation, those relating to equal opportunity, labor, wages and employment.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable Legal Requirements, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than fourteen (14) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time

required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands or other conditions that would warrant a suspicion that such matters are being encountered during the performance of the Work although they are not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed upon written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within fourteen (14) days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the fourteen (14) day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed. The list of all supervisory personnel, including the project manager and superintendent that the Contractor intends to use on the Project shall be submitted to the Owner for approval prior to the commencement of the Work. The Contractor shall not engage supervisory personnel other than as approved by Owner in writing and shall not change such personnel without the prior written approval of the Owner.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's approval, a proposed construction schedule for the Work. The proposed construction schedule (i) shall comply with all of the applicable requirements of, and shall not exceed time limits current under, the Contract Documents, (ii) shall be in such form and detail and include such content as required by the Owner, (iii) shall be related to the entire Project to the extent required by the Contract Documents, (iv) shall provide for expeditious and practicable execution of the Work for completion within the time limits current under the Contract Documents; (v) shall include the date of commencement of the Work, interim schedule milestone dates, and the date required for Substantial Completion; and (vi) shall include an apportionment of the Work by construction activity and the time required for completion of each portion of the Work. If the Owner requires a precedence-style critical path method (CPM) schedule, the proposed construction schedule shall also: (a) provide a graphic representation of all activities and events that will occur during performance of the Work; (b) identify each phase of construction and occupancy (if applicable); and (c) set forth dates that are critical in ensuring the timely and orderly completion of the Work (hereinafter referred to as "Milestone Dates"). If the proposed construction schedule is not accepted by the Owner, the Contractor shall promptly modify the proposed construction schedule in accordance with the recommendations of the Owner and the Architect and resubmit the revised schedules for acceptance. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. The Contractor shall meet with the Architect in a timely fashion to discuss the schedule of submittals required under this Section 3.10.2. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent construction schedule submitted to and accepted by the Owner and Architect (as so accepted, the "Construction Schedule").

§ 3.10.4 The Contractor shall monitor the progress of the Work for conformance with the requirements of the Construction Schedule and shall promptly advise the Owner of any delays or potential delays. The Construction Schedule shall be updated to reflect actual conditions ("Progress Reports") (which updated schedule shall be subject to the acceptance of the Owner and the Architect) at appropriate intervals as determined by the Contractor and as required by the conditions of the Work and the Project (but in no event less frequently than monthly) or as otherwise requested by the Owner. In the event any Progress Report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any Progress Report constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to a Change Order.

§ 3.10.5 In the event the Owner determines that the performance of the Work as of a Milestone Date has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right, but not the obligation, to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (1) working additional shifts or overtime, (2) supplying additional manpower, equipment, and facilities, and (3) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Extraordinary Measures is solely for the purposes of ensuring the Contractor's compliance with the accepted construction schedule as adjusted for time extensions granted pursuant to Section 8.3. Unless expressly provided for in Section 8.3, the Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the Owner pursuant to this Section 3.10.5. The Owner may exercise the rights furnished the Owner under or pursuant to this Section 3.10.5 as frequently as the Owner deems necessary to ensure that that Contractor's performance of the Work will comply with any Milestone Date or the Substantial Completion Date, as the same may be extended by Change Order.

§ 3.10.6 The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the Owner's operations. Any postponement, rescheduling or performance of the Work under this Section 3.10.6 may be grounds for an extension of the Contract

Time, if permitted under Section 8.3, and an equitable adjustment in the Contract Sum, to the extent permitted under the Contract Documents, if: (1) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents; and (2) such rescheduling or postponement is requested by or required for the convenience of the Owner. Without limiting the foregoing, the Contractor will not be entitled to an extension of the Contract Time or an adjustment of the Contract Sum to the extent the interfering Work so interferes as a result of the negligent act or omission of the Contractor or any Subcontractor or Sub-subcontractor or the failure of any of the same to perform the Work in a manner consistent with the Contract Documents, including Section 3.10.3 hereof.

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§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including a record set of Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. The record set of documents shall reflect all deviations from the Drawings and Specifications and shall be updated in detail from time to time to reflect the actual progress of the Work. The Owner and the Architect shall have free and complete access to such documents during the construction of the Work. Upon Substantial Completion of the Work, the Contractor shall furnish to the Owner through the Architect one set of “as built” plans in such form as the Owner shall require. Such plans shall completely record all Work in place and serve as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Submittals shall be marked as reviewed by the Contractor for compliance with the Contract Documents and approved by the Contractor. Those that are not so marked may be returned by the Architect without action.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect’s approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect

of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, who has been approved by the Owner and that carries such professional liability insurance coverage as required by the Owner and 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 the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable Legal Requirements and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall contact the Owner to determine if any specific locations will be designated, or gain Owner's approval prior to using any area for storage of equipment, materials or trailers during the construction of the Project. The Contractor shall confine the Work/storage to the areas designated or approved by the Owner and Contractor shall be responsible for the security of the such Work/storage area. Upon completion of the Work, the Contractor shall restore the Work/storage area to its original condition to the satisfaction of, and at no cost to, the Owner.

§ 3.13.3 The Contractor shall locate, protect and save from damage and disruption utilities and utility services lines of all kinds, either above or below grade found in the areas affected by the Work. The Contractor shall be responsible for all damage caused to such utilities by the operation of equipment or machinery, the delivery of materials, or as the direct or indirect result of any of the Work, and shall repair all such damage at its expense and as part of the Work included in the Contract Documents.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.14.3 Unless authorized in writing by the Owner and the Architect, structural elements of the Work shall not be cut, patched, or otherwise altered or repaired. Existing work that is cut, damaged, disturbed or otherwise interfered with by the Contractor, a Subcontractor, or any person or entity for whom or which any of them is responsible shall be fully, properly and carefully repaired by the responsible Contractor, Subcontractor or Sub-subcontractor. All such repairs shall be completed to the satisfaction of the Architect, and shall match similar existing adjoining work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. The Contractor must remove all debris of every description as the Work progresses and leave the surroundings in a neat and orderly condition *at the end of each day*, to the satisfaction of the Owner. At completion of the Work and as a condition of final payment, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work and Access to the Property

§ 3.16.1 The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.16.2 The Contractor shall take all proper precautions to protect persons from injury or unnecessary inconvenience and leave an unobstructed way along the public and private places for travelers, vehicles, and access to hydrants.

§ 3.16.3 The Contractor shall make arrangements with the adjacent property owners for such trespass as Contractor may reasonably anticipate in the performance of the work. All such arrangements shall be reported, in writing, to the Owner.

§ 3.16.4 The Contractor shall take all proper precautions to protect from injury or unnecessary interference, and provide proper means of access to, abutting property where the existing access is obstructed by the Contractor.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights, or failure to pay such royalty and license fees, and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, the Owner's designated representative, the Architect, the Architect's consultants, and all of their respective directors, members of governing boards, committee members, officials, officers, partners, employees, shareholders, members, managers, beneficiaries, agents and representatives (each an "Indemnitee" and collectively, the "Indemnitees") from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions, violations of Legal Requirements, or breach of contract by the Contractor, a Subcontractor, Sub-subcontractor or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. The obligations of the Contractor under the foregoing indemnity shall include, without limitation, to the fullest extent

permitted by law, any and all claims (including attorneys' fees resulting therefrom) directly or indirectly arising or alleged to arise (1) out of the performance of or the failure to perform the Work, or the condition of the Work, the job site, adjoining land or driveways, or streets or alleys used in connection with the performance of the Work, and from any and all claims by workmen, suppliers or Subcontractors who are involved in the performance of the Work, and (2) under any scaffolding, structural work or safe place law or any law with respect to the protection of adjacent landowners. These indemnification obligations are not intended to include liability for damage arising out of bodily injury to person or damage to property to the extent caused by or resulting from the negligence of the Indemnitee seeking indemnification hereunder, such Indemnitee's agents or employees, nor shall such obligations be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.1.1 If the Project is funded in whole or in part by the **State of Connecticut** (or any of its Agencies), the State of Connecticut and its directors, members of governing boards, committee members, officials, officers, employees, managers, beneficiaries, agents and representatives shall also be considered Indemnitees under this Section 3.18 and under Section 10.3.5. If the Project is to take place on school grounds (and regardless of whether or not the Project is funded in whole or in part by the State of Connecticut or its Agencies), the **Glastonbury Board of Education** and its directors, members of governing boards, committee members, officials, officers, employees, managers, beneficiaries, agents and representatives shall also be considered Indemnitees under this Section 3.18 and under Section 10.3.5.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 To the fullest extent permitted by law, the Contractor shall further indemnify, defend and hold harmless each Indemnitee from and against (1) all claims for payment by any Subcontractor, Sub-subcontractor or supplier, (2) any and all actions, lawsuits, claims and proceedings brought against the Indemnitee as a result of liens filed against the Work, the Project site or any improvements thereon (referred to collectively as "Liens") by the Contractor, any Subcontractor, Sub-subcontractor or anyone claiming by, through or under them, and (3) all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any Lien, claim or other claim for payment by any Subcontractor, Sub-subcontractor or supplier. The Contractor shall pay any judgment or Lien resulting from any such actions, lawsuits or proceedings. Upon receipt of notice of a Lien claim or other claim for payment, the Owner shall notify the Contractor. The Contractor's obligations under this Section 3.18.3 are conditioned upon Owner having fulfilled its payment obligations to the Contractor with respect to the Work that is the subject of the Lien or claim and for which indemnification is sought.

§ 3.18.4 The Contractor shall bear any and all reasonable expenses incurred by any Indemnitee because of any claim or other matter indemnified against under this Section 3.18, including without limitation, attorneys' and consultants' fees and expenses, court costs, and costs related to the defense of, or preparing for the defense against, any such claim. If any such claim has not been settled or discharged or bonded at the time of final completion of the Work, and if such claim is not covered in full by a policy of insurance then in effect from a reputable and financially sound insurance company which has not declined or reserved the right to decline coverage of such claim, the Owner may withhold an amount equal to two hundred percent (200%) of the outstanding claim until any such claim is paid or settled or the Contractor provides a bond, acceptable to the Owner, to satisfy such claim.

§ 3.19 MEETINGS

§ 3.19.1 A qualified representative of the Contractor shall attend periodic progress meetings held at such time and as such place as the Architect or the Owner shall designate.

§ 3.19.2 A Preconstruction Meeting will be held with the Owner, Architect, Contractor, and any other interested parties prior to commencing any Work. The Owner shall arrange the meeting based on a mutually convenient time.

§ 3.19.3 The Contractor shall schedule and conduct progress meetings at the Project site on a bi-weekly basis (or more frequently as appropriate for the level of jobsite activity). Attendance is required of each Subcontractor, supplier or other entity whose portion of the Work is currently the subject of concern or discussion or planning of

future construction activities. Contractor shall provide the Owner and Architect with forty-eight (48) hours prior notice of each such progress meetings and be permitted to attend and participate in the meetings.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that such portion of the Work is, and when the Work is fully completed the entirety of the Work will be, in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved

submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site and, unless expressly provided otherwise, refers to subcontractors or any and all tiers other than Subcontractors. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents or otherwise required as part of the bidding process pursuant to the Request for Proposals issued by the Owner for the Project, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special

design, plus such other information as may be required under the Agreement. The Owner shall have the right to reject a proposed subcontractor or supplier by written notice to the Contractor.

§ 5.2.1.1 If requested by the Owner, the Contractor shall provide to the Owner copies of all subcontracts and supply agreements entered into by the Contractor for the Work.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution. If the Contractor wishes to substitute a different person or entity for a person or entity previously selected and approved as a Subcontractor pursuant to this Section 5.2, the procedure set forth in Section 5.2.1 and the Agreement (if applicable) shall be followed.

§ 5.3 Subcontractual Relations

Any part of the Work performed by a Subcontractor shall be pursuant to a written Subcontract between the Contractor and Subcontractor, which form of Subcontract shall be reasonably satisfactory to the Owner in all respects. Copies of all Subcontractor bids or proposals shall, upon request of Owner, be submitted to the Owner and Architect. All Subcontracts shall provide that each Subcontractor, to the extent of the Work to be performed by the Subcontractor, be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract and supply agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner pursuant to and in accordance with Section 14 of these General Conditions and only for those subcontract and supply agreements that the Owner accepts by notifying the Subcontractor or supplier and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract to the extent such rights and obligations arise subsequent to Owner's written acceptance of the assignment. The Contractor agrees to execute any and all other documents required to effect this assignment.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than sixty (60) days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract and/or supply agreement to a successor contractor or other entity.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall coordinate the Work with the work being done by others so that the construction will proceed in an efficient and logical manner. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Intentionally Omitted.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, disruption of the work of such Separate Contractor, improperly timed activities or defective construction. The Owner shall have the right to off-set such costs against any amounts owed to the Contractor by the Owner to the extent related to the Project and such off-sets are consistent with unit pricing (if applicable).

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.2.6 Upon the Owner's request, the Contractor shall defend any proceedings brought against the Owner by any Separate Contractor on account of any damage alleged to have been caused by the Contractor which arises from the Contractor's failure to comply with the terms and conditions of this Section 6.2.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the

Owner may clean up and the Architect will allocate the cost among those responsible, as the Architect deems appropriate in its sole discretion.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, only by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 Upon the request of the Owner or the Architect (with the Owner's approval), the Contractor shall submit to the Architect, in such form as the Architect may require, an accurate written estimate of the cost of any proposed extra Work or change in the Work. Such estimates shall be provided without cost to the Owner. The Contractor's estimate shall indicate the description, quantity and unit cost of each item of material, and the number of hours of work and hourly rate for each class of labor, as well as all other costs chargeable under the terms of this Article 7. Unit labor costs for the installation of each item of materials shall be provided if required by the Architect. The Contractor shall promptly revise and resubmit such estimate if the Architect determines that it is not in compliance with the requirements of this Section, or that it contains errors of fact or mathematical errors. If required by the Architect, in order to establish the exact cost of new Work added or of previously required Work omitted, the Contractor shall obtain and furnish to the Architect bona fide proposals from recognized suppliers for furnishing any material included in such Work. Such estimates shall be furnished promptly so as to occasion no delay in the Work. The Contractor shall also state in the estimate any change in the Contract Time that would result from the change or extra work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 A Change Order executed by the Owner and the Contractor shall constitute a final settlement of all matters relating to the subject matter of the Change Order including, without limitation, compensation to be paid to the Contractor in connection with any change in the Work required by the Change Order (provided that the Work that is the subject of such change is performed in a manner consistent with the provisions of the Contract Documents and the applicable Change Order), including but not limited to all direct and indirect costs, profit, overhead, extended overhead, loss of productivity and general conditions associated with such change, and any and all adjustments to the Contract Sum, the Construction Schedule, and to the Contract Time. In the event a Change Order affects an increase in the Contract Sum, Contractor shall include the work covered by such the Change Order in Applications for Payment for such work as if the work were originally part of the Work as set forth in the Contract Documents.

§ 7.2.3 Notwithstanding anything to the contrary set forth in these General Conditions, if the Agreement sets forth the methodology for calculating adjustments in the Contract Sum associated with a change in the Work, and if, under the terms of the Contract Documents, an adjustment in the Contract Sum would be required, then the adjustment will be based on such methodology unless otherwise mutually agreed by the parties. This paragraph shall be applicable in the case of a change in the Work effected by a Change Order as well as a Construction Change Directive.

§ 7.2.4 Unless otherwise instructed by the Owner, Change Orders shall be prepared on the form AIA G-701.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- (i) Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- (ii) Unit prices stated in the Contract Documents or subsequently agreed upon;
- (iii) Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- (iv) As provided in Section 7.3.4.

§ 7.3.3.1 Notwithstanding anything to the contrary contained in the provisions of the Contract Documents, in the case of a change in the Work for which the Contractor is entitled to an adjustment in the Contract Sum under the terms and conditions of the Contract Documents, such adjustment shall be limited as follows:

(i) For that portion of the change in the Work that is self-performed by the Contractor, the Contractor's overhead and profit on such Work shall not exceed fifteen percent (15%) of the Contractor's direct costs incurred in the performance of such Work;

(ii) For that portion of the change in the Work that is performed by Subcontractors, the Contractor's markup on such subcontracted Work shall not exceed ten percent (10%) of the amount invoiced to the Contractor by the Subcontractors for that Work and a Subcontractor's overhead and profit on its portion of the change in the Work shall not exceed ten percent (10%) of the Subcontractor's direct costs incurred in the performance of such Work; and

(iii) The total markup of the Contractor, Subcontractors and Sub-subcontractors for the work performed under a Change Order shall not, in the aggregate, exceed twenty percent (20%) of the net increase in the direct costs incurred in the performance of the Work resulting from the change in the Work.

These limitations shall apply to both additions to and deductions from the Contract Sum.

For change order Work that is the subject of Unit Prices under the Contract Documents, there will be no markup permitted on the applicable Unit Prices.

The Contractor shall include the markup limitations set forth in this Section 7.3.3.1 in all Subcontracts and require in all Subcontracts that the Subcontractors include such limitations in all lower tier Subcontracts.

§ 7.3.3.2 All Change Orders and Construction Change Directives shall provide itemized accounting that provides a detailed break-out of all materials and labor rates applicable thereto:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Fair market rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others provided, if rented from the Contractor, such rental and the rental rates have been approved by the Owner;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes directly related to the change in the Work, if applicable;
- .5 Additional costs of supervision and field office personnel directly attributable to the change to the extent permitted under the Contract Documents.

§ 7.3.3.3 The costs described in Section 7.3.3.2 shall not include any of the following:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically approved by the Owner;
- .2 Expenses of the Contractor's principal office and offices other than the site office;
- .3 Overhead and general expenses, except to the extent expressly permitted under Section 7.3.3.1;
- .4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .5 Costs due to the negligence or failure of the Contractor, Subcontractors, Sub-subcontractors, suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, to fulfill a specific responsibility of the Contract Documents; or
- .6 Any cost not described in Section 7.3.3.2.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit subject to the limitations set forth in Section 7.3.3. In such case, and also under Section 7.3.3(iii), the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to those set forth in Section 7.3.3.2 and not excluded by Section 7.3.3.3.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and, prior to proceeding with such Work, advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment actual costs incurred by the Contractor as a result of such Construction Change Directive; provided, however, to the extent such Construction Change Directive is made necessary by the act or omission of the Contractor or of anyone for whom the Contractor is responsible, the Architect shall certify for payment the amount, if any, that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor

change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

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§ 8.1.3 The date of Substantial Completion is the date Substantial Completion is achieved in accordance with Section 9.8.1.

§ 8.1.4 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion of the Work in accordance with the Contract Documents within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work by the Owner, which changes were not necessitated by the fault of the Contractor, a Subcontractor, a Sub-subcontractor, a material or equipment supplier or any person or entity for whom or which any of them is responsible; (3) area-wide labor disputes not directed at the Contractor or any of its Subcontractors or by illegal labor actions or disputes; (4) fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor’s control; (5) by delay authorized by the Owner pending mediation and binding dispute resolution; or (6) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine **provided that** (i) any such delay has the effect of delaying completion of components of the Work on any critical path indicated in the Construction Schedule; (ii) any such delay is not caused by, or could not have been avoided by the exercise of reasonable efforts of the Contractor; (iii) any such delay could not be limited or avoided by the Contractor’s timely notice to the Owner of the delay; and (iv) such delay has an impact of at least one (1) day.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 **No Damage for Delay.** Notwithstanding anything to the contrary set forth in the Contract Documents, the Owner shall not be liable to the Contractor, any Subcontractor, Sub-subcontractor or supplier for Claims or damages of any nature caused by or arising out of delays. The sole remedy against the Owner for delays shall be the allowance of additional time for completion of the Work, the amount of which shall be subject to the procedures set forth in the Contract Documents. Except to the extent, if any, expressly prohibited by law, the Contractor expressly agrees not to make and hereby waives any Claim for damages for any delay, including, but not limited to, those resulting from increased labor or material costs; directions given or not given by the Owner or Architect, including scheduling and coordination of the Project Work; the Architect’s preparation of drawings and specifications or review of shop drawings and requests for instruction(s); or, on account of any delay, obstruction or hindrance for any cause whatsoever by the Owner, Architect, or any other contractor on the Project, whether or not foreseeable or anticipated. The Contractor agrees that its sole right and remedy therefore shall be an extension of the Contract Time, if appropriate.

§ 8.3.4 It is expressly understood that notwithstanding anything to the contrary set forth in the Contract Documents, no Subcontractor shall be entitled to make any Claim for additional compensation, costs or damages against the Contractor (nor may the Contractor assert against Owner such Claims as pass-through claims of Subcontractor or otherwise) for delay. Unless agreed by Owner in writing, Contractor shall include in every Subcontract a ‘No-Damage-For-Delay’ provision in a form reasonably approved by the Owner.

§ 8.3.5 Intentionally Omitted.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is defined in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 Intentionally Omitted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, upon the approval thereof by the Owner and the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten (10) days before the date established for submission of a final version of an Application for Payment pursuant to the Agreement, the Contractor shall submit to the Architect and the Owner a draft itemized Application for Payment prepared in accordance with the Contract Documents and the schedule of values, if required under Section 9.2, for completed portions of the Work for review and consideration. The Application shall be notarized, if required, and submitted along with all data, information and documentation substantiating the Contractor’s right to payment as required under the Contract Documents and as may otherwise be required by the Owner or Architect (collectively, the “Supporting Documentation”). Subsequent to the Architect’s and the Owner’s review and comment, the Contractor shall make all necessary changes to the Application for Payment and resubmit a final version of the Application for Payment to the Architect and the Owner for payment.

§ 9.3.1.1 “Supporting Documentation” shall include, without limitation, payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, releases and waivers of liens from Subcontractors, Sub-subcontractors and suppliers, and other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor.

§ 9.3.1.2 Applications for Payment shall reflect retainage as provided for in the Contract Documents.

§ 9.3.1.3 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.4 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, or prohibited by any state agency providing funding for the Project, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, and not prohibited by any state agency providing funding for the Project, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the

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Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site for such materials and equipment stored off the site. The insurance for such stored materials shall include coverage naming the Owner, and such others as may be identified by the Owner from time to time, as additional insureds, and which shall specify and relate to the address where the stored materials and equipment are located including, if applicable, the Project Site. In addition, if the Project is funded in whole or in part by the State of Connecticut (or any of its Agencies), the State of Connecticut shall also be named as an additional insured in regard to such insurance. Further, if the Project is to take place on school grounds (and regardless of whether or not the Project is funded in whole or in part by the State of Connecticut or any of its Agencies), the Glastonbury Board of Education shall also be named as an additional insured in regard to such insurance.

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§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.3.4 Unless otherwise required by the Owner, Applications for Payment shall be on AIA documents G702 and G703.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within ten (10) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment and Supporting Documentation submitted therewith, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents;
- .8 amounts previously paid to the Contractor in excess of amounts properly due the Contractor; or
- .9 failure of the Contractor to comply with any of the Contractor's indemnification obligations under the Contract Documents.

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§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. The Contractor will properly endorse any such joint checks upon Owner's request and, unless the Owner instructs otherwise, the Contractor shall thereafter promptly deliver the joint check(s) to the appropriate subcontractors and suppliers. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 Contractor shall use payments made under the Contract solely for the purpose of performance of the Work pursuant to the Contract Documents. Contractor shall pay for all labor and services performed and materials, equipment and machinery supplied by others in connection with the performance of the Work in accordance with the Contract Documents and as required by applicable Legal Requirements.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that, and subject to the same requirements as are, provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents or applicable Legal Requirements.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Any provision in the Contract Documents to the contrary notwithstanding, the Owner shall not be obligated to make payment to the Contractor hereunder to the extent that the Contractor has not performed the Work or supplied the materials, for which payment is requested, in accordance with the Contract Documents.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment in accordance with the requirements of the Contract Documents, through no fault of the Contractor, within ten (10) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven (7) days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon ten (10) additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown and start-up, plus interest if provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 The Work shall be considered to be "Substantially Complete(d)" or to have reached "Substantial Completion" on the date as determined by the Architect when (1) the entirety of the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can utilize the Work for the use for which it is intended (subject only to items on the Punchlist described in Section 9.8.2, the completion of which can be accomplished within thirty (30) days without interfering with the actual use of the Work by the Owner or those claiming by, through or under the Owner), (2) the Contractor has obtained a temporary or permanent certificate of occupancy for the Work permitting the lawful occupancy of the entire Project and any other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for the beneficial occupancy thereof, and (3) the Architect has issued a Certificate of Substantial Completion for the entirety of the Work pursuant to Section 9.8.4 of these General Conditions.

Without limitation of the foregoing, Substantial Completion of the Work shall not be deemed to have occurred until construction and installation of all facilities and systems (including but not limited to instrumentation and controls) are complete in all respects as required for the issuance of all required use and occupancy permits and approvals by all applicable governmental authorities, excluding only the final landscaping work (if applicable). Further, if and to the extent applicable given the Work to be performed hereunder, Substantial Completion shall require full commissioning and operation of all automatic systems, including but not limited to testing of individual system components and equipment and full operational startup and certification testing.

§ 9.8.2 When the Contractor considers that the Work, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment (the "Punchlist"). Failure to include an item on the Punchlist does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Punchlist, the Architect will make an inspection to determine whether the Work or designated portion thereof is Substantially Complete (with the exception of the Architect's issuance of the Certificate of Substantial Completion) and to review the items on the Punchlist. If the Architect's inspection discloses any item, whether or not included on the Punchlist, which is not sufficiently complete in accordance with the Contract Documents as required under Section 9.8.1, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion along with a revised Punchlist, if applicable.

§ 9.8.4 When the Work is Substantially Complete (with the exception of the issuance of the Certificate of Substantial Completion), the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the Punchlist accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Unless otherwise required by applicable Legal

Requirements, the Owner shall not be obligated to release any portion of retainage held by the Owner under the Contract Documents until such time as the Work is finally complete pursuant to Section 9.10 of these General Conditions..

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit the Punchlist to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. All warranties and guarantees required under or pursuant to the Contract Documents not previously delivered shall be assembled and delivered by the Contractor to the Owner and Architect as part of the final Application for Payment. The final Certificate for Payment will not be issued by the Architect until all warranties and guarantees and all other close-out deliverables (including those set forth in Section 9.10.2 below) have been received and accepted by the Owner.

§ 9.10.2 The Contractor shall be required to submit the following to the Owner and the Architect, as preconditions to the issuance of a final Certificate for Payment and delivery of final payment:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect which shall include, without limitation product liability and completed operations, for the six year period following final completion, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) all guarantees and warranties to which the Owner is entitled hereunder including documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) satisfactory proof that all claims, including taxes, arising out of the Work (including any claims of Subcontractors or suppliers) have been released or bonded and other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract including releases and final waivers of liens arising out of the Contract conditioned only upon receipt of final payment, the amount of which is consistent with the final Application for Payment, all to the extent and in such form as may be designated by the Owner, (7) final documents of similar nature to those required by the Contract Documents for any monthly payments hereunder, (8) all final permits, approvals (including, without limitation, the approval of the Owner's insurance company, if required and requested in a timely fashion) certificates (including, without limitation, certificates in respect of electrical systems and life safety

systems) and authorizations for use and occupancy of the Project required by any authority having jurisdiction, including any building permits, temporary and unconditioned permanent and full certificate of occupancy and any other necessary occupancy and use permits, (9) formally prepared “as built” drawings, records and related data including all field notes of all the Work (such drawings shall be in the form of “mylar” reproducible drawings, or as otherwise called for in the Contract Documents), (10) the Operating and Maintenance Manual for the Project as provided below, (11) a final statement of accounting for all allowances in form satisfactory to the Owner and the Owner’s lender, and (13) delivery of all spare parts required to be submitted pursuant to the Contract Documents.

§ 9.10.2.1 The “Operating and Maintenance Manual” for the Project shall contain, as applicable to the Work, (1) full information for each item of mechanical, electrical, or other operating equipment, copies of warranties therefor, schematic diagrams of control systems, circuit directories for each electric and communications panel board, and charts showing the tagging of all valves; and (2) complete keying schedules, paint color schedules, and paint color samples. Each volume of the manual shall be clearly indexed, and shall include a directory of all Subcontractors and maintenance contractors, indicating the area of responsibility of each, and the name and telephone number of the responsible member of each organization. The volumes shall be bound in book form.

§ 9.10.2.2. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If no such bond is provided, the Owner may, without limiting its remedies under law, in equity, or under the Contract Documents, withhold a portion of final payment equal to the amount claimed by the relevant Subcontractor or supplier to be due, until such lien, claim, security interest, or encumbrance is resolved. The Contractor shall refund to the Owner all money that the Owner may be compelled to pay in resolving such lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys’ fees.

§ 9.10.2.3 If the final documentation submitted by the Contractor is not deemed complete by the Owner or if the Owner deems the Work incomplete in any respect, the Contractor shall promptly complete any such Work and shall promptly resubmit the final documentation.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor, any Subcontractor, Sub-subcontractor, supplier or any other person or entity for whom or which any of them is responsible, or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 Intentionally Omitted. .

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs required by the applicable Legal Requirements, the Contract Documents, and as reasonably requested by the Owner in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

- 3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable Legal Requirements bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible for all measures necessary to protect any property adjacent to the Project and improvements thereon. Any damage to such property or improvements shall be promptly repaired by the Contractor at its cost and expense.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall obtain all necessary permits from regulating agencies, exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss, at its cost and expense (other than damage or loss insured under property insurance required by the Contract Documents), to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor, a Subcontractor, a supplier, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the Contractor are separate from and in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 In the event the Contractor identifies activities or conditions during performance of the Work or at the Project site, which, in the Contractor's good faith opinion, pose an unreasonable risk of bodily injury or property damage, whether immediate or in the future, the Contractor shall have the right to immediately take steps to protect its personnel and Subcontractors and stop Work and remove its personnel from the affected area.

§ 10.2.10 The Contractor shall at all times provide protection against weather (rain, wind, storms or heat) so as to maintain all Work, materials, apparatus and fixtures free from damage. At the end of the day's work, all new Work likely to be damaged shall be reasonably protected against such weather.

§ 10.2.11 The Contractor shall provide adequate fire protection for all operations associated with the Work, and such protection must meet all applicable federal (including OSHA), State and municipal regulations.

§ 10.2.12 The Contractor shall remove and replace with new work, at the Contractor's own expense, any Work damaged by failure to provide protection pursuant to Sections 10.2.10 and 10.2.11.

§ 10.2.13 The Contractor shall be responsible, to the extent not covered by insurance, for damage, loss or liability due to theft or vandalism to the Work and stored materials, whether the same occurs while work is in progress or not, and during the day or at night, or on weekdays, weekends or holidays.

§ 10.2.14 The Contractor shall protect and prevent damage to all finished and unfinished phases of the Work during the course of the Project as well as any existing improvements on the Project site.

§ 10.2.15 Securing the Site

The Contractor is responsible for securing, and preventing access by unauthorized individuals to, the Project site from such date as the Contractor, Subcontractors, suppliers, consultants, or agents commence the Work until the date of Final Completion, unless the Owner and Contractor agree in writing to an earlier date.

§ 10.2.16 The Contractor shall be responsible for any loss, cost or damage of the Owner that results from the failure of the Contractor to comply with its obligations under Sections 10.1 and 10.2. The Contractor shall repair and correct any damage to property so as to restore such property to its original condition, at the sole cost and expense of the Contractor.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, whether naturally occurring or manmade, that is hazardous, toxic, or words of similar import or regulatory effect, and any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, and polychlorinated biphenyls (collectively, "Hazardous Materials"). If the Contractor believes its Work will disturb or otherwise implicate any actual or suspected Hazardous Material or encounters a Hazardous Material not addressed in the Contract Documents, the Contractor shall not disturb any such Hazardous Material, immediately report the condition to the Owner and the Architect in writing and take all necessary precautions to prevent release of and exposure to the Hazardous Materials and foreseeable bodily injury or death to persons resulting from such Hazardous Material. If such reasonable precautions will be inadequate to prevent release of and exposure to Hazardous Materials, or foreseeable bodily injury and death, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area.

§ 10.3.2 Upon receipt of the Contractor's notice pursuant to Section 10.3.1, of the existence of actual or suspect Hazardous Materials not addressed in the Contract Documents, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the Hazardous Material or substance reported by the Contractor and, in the event such Hazardous Material or substance is found to be present, to cause it to be rendered harmless or otherwise abated. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the Hazardous Material has been rendered harmless and/or otherwise abated in accordance with all applicable Legal Requirements, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown and start-up.

§ 10.3.3 Intentionally Omitted.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor any Subcontractor, Sub-subcontractor or supplier, or any person or entity for whom or which any of them is responsible, brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances or its failure to comply with the Contract Documents. The Contractor agrees not to use any fill or other materials to be incorporated into the Work which are hazardous, toxic or comprised of any items that are hazardous or toxic except to the extent required by the Contract Documents.

§ 10.3.5 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Indemnitees against claims, damages, losses and expenses, including but not limited to attorney's fees, resulting from (1) an actual or suspect Hazardous Material the Contractor, or any party for whose acts the Contractor is responsible, brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the claims, damages, losses, costs and expenses are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence or fault on the part of the Contractor, or any party for whose acts the Contractor is responsible, the Contractor is held liable by a government agency for the cost of remediation of a Hazardous Material or substance solely by reason of properly performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.3.7 The Contractor shall perform all required procedures necessary to insure that there will be no actual or threatened release, discharge, spillage, uncontrolled loss, seepage or filtration (each a "Release") of any Hazardous Material on the site caused by Contractor's operations. The Contractor is responsible for any and all costs and liabilities associated with the investigation and remediation of any such Release, or as required by regulating authorities having jurisdiction under any of the applicable Legal Requirements, and holds the Owner, its employees and agents, and the fee owner of the Project site (if other than the Owner), harmless against any current or future liabilities resulting from such incidents.

§ 10.3.8 All material and equipment furnished under the Contract Documents shall be free of asbestos, lead based paint, and PCBs. Unless otherwise specified in the Contract Documents, any material or equipment containing these, or any other Hazardous Materials shall be considered defective and shall be removed by the Contractor at the Contractor's sole cost and expense.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7. The Contractor shall promptly notify insurers and the Architect and the Owner of the nature of the emergency. Immediately thereafter, the Contractor shall submit to the Architect and the Owner a written report including a description of the circumstances of the emergency and details of actions taken.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, the Architect, Architect's consultants, and such other parties as are identified in the Agreement shall be named as additional insureds as provided in to the Agreement.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized and properly licensed to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. In the event of such suspension, the Contractor shall be

responsible for, and shall not receive an extension of the Contract Time in connection with, the delay in the Work arising from the suspension. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as customarily maintained by the Owner.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner is required under the Contract Documents to maintain the Builders Risk insurance for the Project, and fails to purchase and maintain such insurance with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work, in which case, the cost of the insurance shall be charged to the Owner by a Change Order.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** If the Owner is required under the Contract Documents to maintain the Builders Risk insurance for the Project, the Owner shall, within five (5) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of such insurance, provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor, Subcontractor, Sub-subcontractor or any other person or entity for whom or which any of them is responsible, the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 Intentionally Omitted.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner and made payable to the Owner for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have five (5) days from

receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner may settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or after the date for commencement of warranties established under Section 9.8.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor by the end of such one-year period and, thereafter, give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to modify the Contractor's obligations under Section 3.5 or to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.2.6 AUDITS

Upon request of the Owner, the Contractor will cooperate, and secure the cooperation of all Subcontractors, suppliers and Sub-subcontractors, and assist the Owner during any audit of the Project conducted by the Owner or any of the Agencies at any time after Substantial Completion at no cost to the Owner. Such cooperation shall include providing the Owner and any such Agencies with access to all records related to the Project.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents that arise subsequent to the effective date of such assignment. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law or in equity.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.3.3 No provision contained in the Contract Documents shall create or give to third parties any claim or right against the Owner or the Contractor except as specifically provided herein.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable Legal Requirements. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. Unless otherwise provided in the Contract Documents, the Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. If the inspections and tests conducted under Section 13.4.1 or this Section 13.4.2 reveal failure in a portion of the Work, the Owner may order the inspection and testing at the Contractor's expense of any and all portions of the Work that are identical or similar to the failing portion.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest as provided in the Agreement.

§ 13.6 Prohibited Activities and Background Check Requirements which shall be Applicable if Project is to Take Place on School Grounds

§ 13.6.1 Contractor shall comply with all applicable Legal Requirements including, without limitation, Connecticut General Statutes Section 10-222c, as applicable.

§ 13.6.2 Interaction with School Community. The scope of the Work does not, and will not under any circumstances, require any contact with students or any other minors physically present in the facilities of, or the grounds surrounding, the school where the Project is located (the "School Grounds"). None of the Contractor, Subcontractors, Sub-subcontractor, or any of their respective employees, agents or representatives shall, under any circumstances, converse or interact in any manner, with students or any minors physically present on the School Grounds. None of the Contractor, Subcontractors, Sub-subcontractor, or any of their respective employees, agents or representatives shall interact with any adult members of the school community (including, without limitation, employees, officials, or visitors, including parents of students enrolled in the Owner's schools) with respect to the Project with the exception of the Owner's Designated Representative as provided in the Contract. All of the Contractor, Subcontractors, Sub-subcontractors, and their respective employees, agents or representatives shall, while on the School Grounds, refrain from use of vulgar language, obscene gestures, or any other behavior inappropriate for a school environment and/or property on which minor children are or may be present.

§ 13.6.3 Background and Employment History Checks.

§ 13.6.3.1 To the extent permitted by law, the Contractor shall perform (or cause to be performed) as regards all of its employees, agents, and representatives (each, a "Contractor Employee"), and all of the employees, agents, and representatives of Subcontractors and Sub-subcontractors (each, a "Subcontractor Employee"), who will be physically present on the School Grounds in connection with the Project, appropriate background checks on all such Contractor Employees and Subcontractor Employees. Such background checks shall include, at a minimum and without limitation, a search of both the Connecticut Department of Emergency Services and Public Protection's sexual offender registry and the Abuse and Neglect Registry of the Connecticut Department of Children and Families. For those Contractor Employees and Subcontractor Employees who are to be physically present on the School Grounds in connection with the Project and whose current or most recent employment occurred out of state, the out-of-state equivalent of the Connecticut Department of Emergency Services and Public Protection's sexual offender registry and the Abuse and Neglect Registry of the Connecticut Department of Children and Families

registry shall be checked. The Contractor shall complete (or cause to be completed) background checks as to each Contractor Employee and Subcontractor Employee prior to such Contractor Employee or Subcontractor Employee being permitted to be physically present on the School Grounds. If the Contractor receives any information indicating that any Contractor Employee or Subcontractor Employee may be registered as a sexual offender, may have a record of abuse or neglect, or is, in any other manner, unfit to perform services which could involve direct contact with minor children, or which may involve working in or near property on which minor children may be present, the Contractor shall immediately forward such information to the Owner, to the extent permitted by law, and shall immediately remove the individual from the School Grounds and from participation in the Project.

§ 13.6.3.2 Contractor represents and warrants that, in its best professional judgment, each Contractor Employee and each Subcontractor Employee maintains the appropriate qualifications and is fit to perform services which could involve direct contact with minor children, or which may involve working in or near property on which minor children may be present. The Contractor shall immediately remove any Contractor Employee or Subcontractor Employee from the School Grounds and from the Project if requested to do so by the Owner (which request shall be made in the Owner's sole discretion) or if it becomes known to the Contractor that such Contractor Employee or Subcontractor Employee may be a danger to the health, safety or well-being of the school community, its students, or any minor children.

§ 13.6.3.3 The Contractor shall include, and shall require all Subcontractors to include this Section 13.6 in all subcontracts for the Project.

§ 13.6.3.4 By execution of the Contract, the Contractor represents and warrants that it has fully complied with the requirements of this Section 13.6. To the extent permitted by law, the Contractor agrees that upon the Owner's request, Contractor shall promptly provide the Owner with any documentation related to such compliance, including, without limitation, the results of the background and employment history checks required by this Section 13.6. Failure by the Contractor to comply with its obligations under this Section 13.6 shall constitute a material breach of the Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .3 Because the Owner has repeatedly defaulted, beyond any applicable notice and cure periods, in its payment obligations to the Contractor under the Contract Documents.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, supplier or any of their respective agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or One Hundred and Twenty (120) days in any Three Hundred and Sixty-Five (365) day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven (7) days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment pursuant to the Contract Documents for Work executed in accordance with the Contract Documents, along with direct costs incurred by the Contractor by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, supplier or their agents or employees or any other persons or entities performing portions of the Work by or on behalf of any of them because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important and critical to the progress of the Work, the Contractor may, upon seven (7) additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 The notice of termination delivered pursuant to Section 14.1.3 or 14.1.4 must state with specificity the means by which the Owner may cure its nonperformance, and the Contractor shall not terminate the Contract if, within the applicable ten (10) day period, the Owner substantially takes such curative measures.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may, without prejudice and without waiving any other rights or remedies the Owner may have, terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
- .5 institutes proceedings or consent to proceedings requesting relief or arrangement under the Federal Bankruptcy Act or similar or applicable federal or state law, or a petition under any federal or state bankruptcy or insolvency law is filed against the Contractor and such petition is not dismissed within sixty (60) days from the date of said filing, or the Contractor admits in writing its inability to pay its debts as they become due, or it makes a general assignment for the benefit of its creditors, or a receiver, liquidator, trustee, or assignee is appointed, or a receiver of all or any substantial portion of the Contractor's properties is appointed;
- .6 abandons the Work;
- .7 submits an Application for Payment, sworn statement, waiver of lien, affidavit or document of any nature whatsoever which is intentionally falsified;
- .8 fails to make prompt payment to Subcontractors or for materials or labor in accordance with the respective subcontracts or otherwise breaches its obligations under any subcontract with a Subcontractor; or
- .9 disregards any provision of any lease with which the Contract Documents require the Contractor to comply, or
- .10 if a mechanics or materialman's lien or notice of lien is filed against any part of the Work or the Project site and the lien and underlying claim are not promptly resolved as required under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be retained by the Owner. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause and without prejudice and without waiving any other rights or remedies the Owner may have, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

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§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed in accordance with the Contract Documents and direct costs incurred by reason of the termination, including direct costs attributable to termination of Subcontracts.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within Twenty-One (21) days after occurrence of the event giving rise to such Claim or within Twenty-One (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Work and its obligations under the Contract Documents and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of the probable effect of the delay on the progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Intentionally Omitted.

§ 15.1.8 Notwithstanding anything to the contrary herein or in the Contract Documents, neither the Contract Sum nor the Contract Time shall be adjusted if the increased costs or delay underlying the Contractor's claim for adjustment stems from the negligent act or omission of the Contractor, any Subcontractor, Sub-subcontractor, or supplier or of any other person or entity for whom or which any of them is responsible, or as a result of the error of any of the same or of the failure of any of the same to comply with, and fulfill their responsibilities under, the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within thirty (30) days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten (10) days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within thirty (30) days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within thirty (30) days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Section 9.10.5, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within thirty (30) days from the date that mediation has been concluded without resolution of the dispute or sixty (60) days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within sixty (60) days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the Owner elects arbitration as the method for binding dispute resolution in regard to a Claim (pursuant to Section 6.2 of the Agreement), any such Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based

on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under the Contract with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under the Contract.

ATTACHMENT 4
SUBMISSION DOCUMENTS

The following forms and documents must be completed and submitted as part of each Bid:

1. Bid Form (including Bid Form Schedule A and Bid Form Schedule B) (use Attachment 1)
2. Letter from Bidder's bonding company stating that the Bidder, if awarded the Contract, can obtain the required Performance and Labor and Materials Payment Bonds in the full amount of the Base Bid Amount.
3. Statement of Qualifications (use Attachment 8)
4. Certification re: CGS §31-57b (Attachment 11)
5. Internal Revenue Service Form W-9 (Attachment 12)
6. Bid Security - Bid Bond (use Attachment 5)
7. Department of Revenue Services registration information for out of state contractors if required. Forms may be found at: <http://www.ct.gov/drs/cwp/view.asp?a=1454&q=506012>

ATTACHMENT 5

STANDARD BID BOND FORM

KNOW ALL MEN BY THESE PRESENTS, That we, _____, hereinafter called the Principal, of _____, as Principal, and, _____ hereinafter called the Surety, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact a surety business in the State of Connecticut, as Surety, are held and firmly bound unto the **Town of Glastonbury**, as Obligee, in the penal sum of ten (10) percent of the amount of the bid set forth in a proposal hereinafter mentioned, lawful money of the United States of America, for the payment of which, well and truly to be made to the Obligee, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That, whereas the Principal has submitted or is about to submit a proposal to the Obligee related to a contract for "Addison Park Splash Pad" at Addison Park, 415 Addison Road, Glastonbury, Connecticut, GL-2021-23.

NOW, THEREFORE, if the said contract be awarded to the Principal and the Principal shall, within such time as may be specified, enter into the said contract in writing with the Town of Glastonbury and give the required bonds, with surety acceptable to the Obligee, or if the Principal shall fail to do so, pay to the Obligee the damages which the Obligee may suffer by reason of such failure not exceeding the penalty of this bond, then this obligation shall be void, otherwise to remain in full force and effect.

SIGNED, SEALED AND DELIVERED this _____ day of _____, 2021

Principal: _____ (Name of Contractor)

By _____ (Contractor as Principal)

Name: _____ (Print Name)

Title: _____

Surety: _____ (Name of Surety)

By _____

Name: _____ (Print Name)

Title: _____

ATTACHMENT 6
INSURANCE REQUIREMENTS

Contractor shall purchase and maintain without interruption from the date of commencement of the work under the Contract until the date of final payment and for the additional periods specified herein, the following minimum 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, the Town of Glastonbury (the "Town") may obtain and maintain the required insurance in the name of Contractor and the cost thereof shall be payable by Contractor to the Town 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 Contract Documents shall be deemed to be a material breach of the Contract. Insurance requirements are independent of, and in addition to, Contractor's liability under the Contract Documents. Nothing in the Contract Documents shall be deemed to limit Contractor's liability under the Contract Documents 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.

The Contractor shall provide the Town with sixty (60) days' advance written notice of any cancellation, non-renewal or modification of any of the insurance policies required to be maintained hereunder.

The insurance limits and coverages set forth in this Attachment are the minimum requirements under the Contract Documents. The inclusion of these minimum requirements shall not be interpreted to restrict the rights of the Additional Insureds (defined below) to the stated minimum coverage amounts in the event the Contractor maintains coverage at higher limits.

A. Contractor's Insurance

1. **Commercial General Liability** 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 Contract Documents, whether such operations be by Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Such insurance shall include each of the following:
 - (a) At a minimum, the following limits and coverages:
 - \$1,000,000 each occurrence
 - \$1,000,000 personal and advertising injury
 - \$2,000,000 general aggregate
 - \$2,000,000 products-completed operations aggregate
 - (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 applicable statute of repose.
 - (d) An endorsement stating that "limits apply per project."
 - (e) Contractual liability coverage.
 - (f) Contain a severability or separation of insureds clause.

- (g) An additional insured endorsement (on ISO form CG 20 10 or CG 20 26 and form CG 20 37, or equivalent acceptable to the Town) naming the Additional Insureds (defined below) as additional insureds.
 - (h) The insurance maintained by Contractor shall be primary with respect to the interest of the Town, and any other insurance or self-insurance maintained by the Town or the other Additional Insureds is in excess and shall not contribute to Contractor's insurance in all instances regardless of any like insurance that the Town or the other Additional Insureds may have.
 - (i) Waiver of Subrogation endorsement in favor of the Town and, if the Project is to take place on school grounds, the Glastonbury Board of Education.
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 or its subcontractors, 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 Subcontractors or others providing services to Contractor).
 - (c) Waiver of Subrogation endorsement in favor of the Town and, if the Project is to take place on school grounds, the Glastonbury Board of Education.
3. **Contractor's Pollution Liability** coverage with policy limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate (with coverage for asbestos related claims).
4. Follow-form **umbrella (excess) liability** insurance with a limit of \$2,000,000 each occurrence in excess of the general liability, employer's liability and business automobile liability coverages required of Contractor under this Schedule. 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 Work. Waiver of Subrogation endorsement in favor of the Town and, if the Project is to take place on school grounds, the Glastonbury Board of Education.
5. **Workers' Compensation insurance**, including employer's liability, for all persons whom Contractor employs (or uses as subcontract labor if the subcontractor 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 Work is 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:
 - \$1,000,000 for each accident, for bodily injury by accident
 - \$1,000,000 for each employee, for bodily injury by disease
 - \$1,000,000 for each disease policy limit
 - (c) Waiver of Subrogation endorsement in favor of the Town and, if the Project is to take place on school grounds, the Glastonbury Board of Education.
 - (d) Contain endorsements that provide: Voluntary Compensation

B. Subcontractor's Insurance

Unless otherwise agreed by the Town in its discretion on a case by case basis, Contractor shall require that each subcontractor comply with the insurance requirements set forth in this Attachment. Before permitting any of its subcontractors to perform any Work, Contractor shall obtain a certificate of insurance from each such subcontractor evidencing that such subcontractor has obtained the required minimum insurance and has the Additional Insureds as additional insureds with respect to the Commercial General Liability and Commercial Automobile Liability insurance as required herein. All policies of subcontractors shall include a waiver of any right of subrogation of the insurers thereunder as against Contractor and the Additional Insureds. Contractor shall be responsible for any subcontractor's failure to comply with the requirements of this Attachment as they apply to such subcontractor.

C. Additional Insureds

To the fullest extent permitted by law, the Contractor shall cause the primary and excess or umbrella policies for Commercial General Liability, Automobile Liability and Contractor's Pollution Liability to include the **Town of Glastonbury, and its directors, trustees, officials, officers, committee members, agents, employees, consultants and representatives, and the Architect (collectively, the "Additional Insureds")** as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Additional Insured's insurance policies and shall apply to both ongoing and completed operations. The Contractor shall provide the Town with an additional insured endorsement evidencing the Contractor's compliance with its obligations to name additional insureds pursuant to this Section which endorsement shall be ISO Endorsement satisfactory to the Town. If the Project is to take place on school grounds, **the Glastonbury Board of Education and its directors, trustees, officials, officers, committee members, agents, employees, consultants and representatives shall also be named as Additional Insureds as provided above.**

D. Builder's Risk Insurance [Check One]

The Contractor shall obtain property insurance for the Project written on a builder's risk "all-risk" or equivalent policy form in the amount of the Contract Price, plus the value of subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Town has an insurable interest in the property, whichever is later. This insurance shall include interests of the Town, the Contractor, Subcontractors and Sub-subcontractors in the Project and such parties shall be named as additional insureds under such builder's risk coverage.

The Town's property insurance shall provide for Builder's Risk insurance coverage for the Project.

ATTACHMENT 7
WAGE RATES

Minimum Rates and Classifications for
Heavy/Highway Construction

ID#: 21-20766

Connecticut Department of Labor
Wage and Workplace Standards Division

By virtue of the authority vested in the Labor Commissioner under provisions of Section 31-53 of the General Statutes of Connecticut, as amended, the following are declared to be the prevailing rates and welfare payments and will apply only where the contract is advertised for bid within 20 days of the date on which the rates are established. Any contractor or subcontractor not obligated by agreement to pay to the welfare and pension fund shall pay this amount to each employee as part of his/her hourly wages.

Project Number: Glastonbury

Project Town: Glastonbury

State#: Glastonbury

FAP#: Glastonbury

Project: Addison Park Splash Pad Project (Glastonbury)

CLASSIFICATION	Hourly Rate	Benefits
1) Boilermaker	33.79	34% + 8.96
1a) Bricklayer, Cement Masons, Cement Finishers, Plasterers, Stone Masons	36.45	34.44
2) Carpenters, Piledrivermen	34.53	25.64
2a) Diver Tenders	34.53	25.64
3) Divers	42.99	25.64
03a) Millwrights	35.64	26.49
4) Painters: (Bridge Construction) Brush, Roller, Blasting (Sand, Water, etc.), Spray	52.25	22.55
4a) Painters: Brush and Roller	35.62	22.55
4b) Painters: Spray Only	38.62	22.55
4c) Painters: Steel Only	37.62	22.55
4d) Painters: Blast and Spray	38.62	22.55
4e) Painters: Tanks, Tower and Swing	37.62	22.55

Project: Addison Park Splash Pad Project (Glastonbury)

5) Electrician (Trade License required: E-1,2 L-5,6 C-5,6 T-1,2 L-1,2 V-1,2,7,8,9)	40.25	29.17+3% of gross wage
6) Ironworkers: Ornamental, Reinforcing, Structural, and Precast Concrete Erection	36.67	37.62 + a
7) Plumbers (Trade License required: (P-1,2,6,7,8,9 J-1,2,3,4 SP-1,2) and Pipefitters (Including HVAC Work) (Trade License required: S-1,2,3,4,5,6,7,8 B-1,2,3,4 D-1,2,3,4 G-1, G-2, G-8, G-9)	44.63	32.95
----LABORERS---- -		
8) Group 1: Laborer (Unskilled), Common or General, acetylene burner, concrete specialist	31.0	22.15
9) Group 2: Chain saw operators, fence and guard rail erectors, pneumatic tool operators, powdermen	31.25	22.15
10) Group 3: Pipelayers	31.5	22.15
11) Group 4: Jackhammer/Pavement breaker (handheld); mason tenders (cement/concrete), catch basin builders, asphalt rakers, air track operators, block paver, curb setter and forklift operators	31.5	22.15
12) Group 5: Toxic waste removal (non-mechanical systems)	33.0	22.15
13) Group 6: Blasters	32.75	22.15
Group 7: Asbestos/lead removal, non-mechanical systems (does not include leaded joint pipe)	32.0	22.15
Group 8: Traffic control signalmen	18.0	22.15
Group 9: Hydraulic Drills	29.3	18.90
----LABORERS (TUNNEL CONSTRUCTION, FREE AIR). Shield Drive and Liner Plate Tunnels in Free Air.----		
13a) Miners, Motormen, Mucking Machine Operators, Nozzle Men, Grout Men, Shaft & Tunnel Steel & Rodmen, Shield & Erector, Arm Operator, Cable Tenders	33.23	22.15 + a
13b) Brakemen, Trackmen	32.26	22.15 + a
----CLEANING, CONCRETE AND CAULKING TUNNEL----		

As of: March 18, 2021

Project: Addison Park Splash Pad Project (Glastonbury)

14) Concrete Workers, Form Movers, and Strippers	32.26	22.15 + a
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15) Form Erectors	32.59	22.15 + a
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----ROCK SHAFT LINING, CONCRETE, LINING OF SAME AND TUNNEL IN FREE AIR:----		
<hr/>		
16) Brakemen, Trackmen, Tunnel Laborers, Shaft Laborers	32.26	22.15 + a
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17) Laborers Topside, Cage Tenders, Bellman	32.15	22.15 + a
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18) Miners	33.23	22.15 + a
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----TUNNELS, CAISSON AND CYLINDER WORK IN COMPRESSED AIR: ----		
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18a) Blaster	39.72	22.15 + a
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19) Brakemen, Trackmen, Groutman, Laborers, Outside Lock Tender, Gauge Tenders	39.52	22.15 + a
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20) Change House Attendants, Powder Watchmen, Top on Iron Bolts	37.54	22.15 + a
<hr/>		
21) Mucking Machine Operator	40.31	22.15 + a
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----TRUCK DRIVERS----(*see note below)		
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Two axle trucks	29.86	25.79 + a
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Three axle trucks; two axle ready mix	29.97	25.79 + a
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Three axle ready mix	30.03	25.79 + a
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Four axle trucks, heavy duty trailer (up to 40 tons)	30.08	25.79 + a
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Four axle ready-mix	30.13	25.79 + a
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Heavy duty trailer (40 tons and over)	30.35	25.79 + a
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As of: March 18, 2021

Project: Addison Park Splash Pad Project (Glastonbury)

Specialized earth moving equipment other than conventional type on-the road trucks and semi-trailer (including Euclids)	30.13	25.79 + a
-----POWER EQUIPMENT OPERATORS-----		
Group 1: Crane handling or erecting structural steel or stone, hoisting engineer (2 drums or over), front end loader (7 cubic yards or over), Work Boat 26 ft. & Over, Tunnel Boring Machines. (Trade License Required)	42.45	25.30 + a
Group 2: Cranes (100 ton rate capacity and over); Excavator over 2 cubic yards; Piledriver (\$3.00 premium when operator controls hammer); Bauer Drill/Caisson. (Trade License Required)	42.11	25.30 + a
Group 3: Excavator/Backhoe under 2 cubic yards; Cranes (under 100 ton rated capacity), Gradall; Master Mechanic; Hoisting Engineer (all types of equipment where a drum and cable are used to hoist or drag material regardless of motive power of operation), Rubber Tire Excavator (Drott-1085 or similar); Grader Operator; Bulldozer Fine Grade (slopes, shaping, laser or GPS, etc.). (Trade License Required)	41.32	25.30 + a
Group 4: Trenching Machines; Lighter Derrick; Concrete Finishing Machine; CMI Machine or Similar; Koehring Loader (Skooper)	40.91	25.30 + a
Group 5: Specialty Railroad Equipment; Asphalt Paver; Asphalt Spreader; Asphalt Reclaiming Machine; Line Grinder; Concrete Pumps; Drills with Self Contained Power Units; Boring Machine; Post Hole Digger; Auger; Pounder; Well Digger; Milling Machine (over 24	40.28	25.30 + a
Group 5 continued: Side Boom; Combination Hoe and Loader; Directional Driller.	40.28	25.30 + a
Group 6: Front End Loader (3 up to 7 cubic yards); Bulldozer (rough grade dozer).	39.95	25.30 + a
Group 7: Asphalt Roller; Concrete Saws and Cutters (ride on types); Vermeer Concrete Cutter; Stump Grinder; Scraper; Snooper; Skidder; Milling Machine (24	39.59	25.30 + a
Group 8: Mechanic, Grease Truck Operator, Hydroblaster, Barrier Mover, Power Stone Spreader; Welder; Work Boat under 26 ft.; Transfer Machine.	39.17	25.30 + a
Group 9: Front End Loader (under 3 cubic yards), Skid Steer Loader regardless of attachments (Bobcat or Similar); Fork Lift, Power Chipper; Landscape Equipment (including hydroseeder).	38.71	25.30 + a
Group 10: Vibratory Hammer, Ice Machine, Diesel and Air Hammer, etc.	36.54	25.30 + a
Group 11: Conveyor, Earth Roller; Power Pavement Breaker (whiphammer), Robot Demolition Equipment.	36.54	25.30 + a
Group 12: Wellpoint Operator.	36.48	25.30 + a

As of: March 18, 2021

Project: Addison Park Splash Pad Project (Glastonbury)

Group 13: Compressor Battery Operator.	35.86	25.30 + a
Group 14: Elevator Operator; Tow Motor Operator (Solid Tire No Rough Terrain).	34.66	25.30 + a
Group 15: Generator Operator; Compressor Operator; Pump Operator; Welding Machine Operator; Heater Operator.	34.23	25.30 + a
Group 16: Maintenance Engineer/Oiler	33.54	25.30 + a
Group 17: Portable asphalt plant operator; portable crusher plant operator; portable concrete plant operator.	38.11	25.30 + a
Group 18: Power Safety Boat; Vacuum Truck; Zim Mixer; Sweeper; (minimum for any job requiring CDL license).	35.53	25.30 + a
**NOTE: SEE BELOW		
----LINE CONSTRUCTION----(Railroad Construction and Maintenance)---		
-		
20) Lineman, Cable Splicer, Technician	48.19	6.5% + 22.00
21) Heavy Equipment Operator	42.26	6.5% + 19.88
22) Equipment Operator, Tractor Trailer Driver, Material Men	40.96	6.5% + 19.21
23) Driver Groundmen	26.5	6.5% + 9.00
23a) Truck Driver	40.96	6.5% + 17.76
----LINE CONSTRUCTION----		
24) Driver Groundmen	30.92	6.5% + 9.70
25) Groundmen	22.67	6.5% + 6.20
26) Heavy Equipment Operators	37.1	6.5% + 10.70
27) Linemen, Cable Splicers, Dynamite Men	41.22	6.5% + 12.20

As of: March 18, 2021

Project: Addison Park Splash Pad Project (Glastonbury)

28) Material Men, Tractor Trailer Drivers, Equipment Operators

35.04

6.5% + 10.45

Project: Addison Park Splash Pad Project (Glastonbury)

Welders: Rate for craft to which welding is incidental.

*Note: Hazardous waste removal work receives additional \$1.25 per hour for truck drivers.

**Note: Hazardous waste premium \$3.00 per hour over classified rate

ALL Cranes: When crane operator is operating equipment that requires a fully licensed crane operator to operate he receives an extra \$4.00 premium in addition to the hourly wage rate and benefit contributions:

- 1) Crane handling or erecting structural steel or stone; hoisting engineer (2 drums or over)
- 2) Cranes (100 ton rate capacity and over) Bauer Drill/Caisson
- 3) Cranes (under 100 ton rated capacity)

Crane with 150 ft. boom (including jib) - \$1.50 extra

Crane with 200 ft. boom (including jib) - \$2.50 extra

Crane with 250 ft. boom (including jib) - \$5.00 extra

Crane with 300 ft. boom (including jib) - \$7.00 extra

Crane with 400 ft. boom (including jib) - \$10.00 extra

All classifications that indicate a percentage of the fringe benefits must be calculated at the percentage rate times the "base hourly rate".

Apprentices duly registered under the Commissioner of Labor's regulations on "Work Training Standards for Apprenticeship and Training Programs" Section 31-51-d-1 to 12, are allowed to be paid the appropriate percentage of the prevailing journeymen hourly base and the full fringe benefit rate, providing the work site ratio shall not be less than one full-time journeyman instructing and supervising the work of each apprentice in a specific trade.

--Connecticut General Statute Section 31-55a: Annual Adjustments to wage rates by contractors doing

The Prevailing wage rates applicable to this project are subject to annual adjustments each July 1st for the duration of the project.

Each contractor shall pay the annual adjusted prevailing wage rate that is in effect each July 1st, as posted by the Department of Labor.

It is the contractor's responsibility to obtain the annual adjusted prevailing wage rate increases directly from the Department of Labor's website.

The annual adjustments will be posted on the Department of Labor's Web page: www.ct.gov/dol. For those without internet access, please contact the division listed below.

The Department of Labor will continue to issue the initial prevailing wage rate schedule to the Contracting Agency for the project.

All subsequent annual adjustments will be posted on our Web Site for contractor access.

Contracting Agencies are under no obligation pursuant to State labor law to pay any increase due to the annual adjustment provision.

Effective October 1, 2005 - Public Act 05-50: any person performing the work of any mechanic, laborer, or worker shall be paid prevailing wage

All Person who perform work ON SITE must be paid prevailing wage for the appropriate mechanic, laborer, or worker classification.

All certified payrolls must list the hours worked and wages paid to All Persons who perform work ON SITE regardless of their ownership i.e.: (Owners, Corporate Officers, LLC Members, Independent Contractors, et. al)

Reporting and payment of wages is required regardless of any contractual relationship alleged to exist between the contractor and such person.

As of: March 18, 2021

Project: Addison Park Splash Pad Project (Glastonbury)

~~Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR 5.5 (a) (1) (ii)).

Please direct any questions which you may have pertaining to classification of work and payment of prevailing wages to the Wage and Workplace Standards Division, telephone (860)263-6790.

As of: March 18, 2021

ATTACHMENT 8
STATEMENT OF QUALIFICATIONS

DRAFT AIA® Document A305™ - 1986

Contractor's Qualification Statement

The Undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

SUBMITTED TO: «Town of Glastonbury»

ADDRESS: «Office of the Purchasing Agent at Glastonbury Town Hall, 2155 Main Street, Glastonbury, CT 06033»

SUBMITTED BY: «_____»

NAME: «_____»

ADDRESS: «_____»

PRINCIPAL OFFICE: « »

[] Corporation

[] Partnership

[] Limited Liability Company

[] Individual

[] Joint Venture

[] Other « »

NAME OF PROJECT: (if applicable)

«_____, Glastonbury, CT»

TYPE OF WORK: (file separate form for each Classification of Work)

[] General Construction

[] HVAC

[] Electrical

[] Plumbing

[] Other: (Specify) « »

§ 1 ORGANIZATION

§ 1.1 How many years has your organization been in business as a commercial Contractor? «_____»

§ 1.2 How many years has your organization been in business under its present business name? «_____»

§ 1.2.1 Under what other or former names has your organization operated?

«_____»

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This form is approved and recommended by the American Institute of Architects (AIA) and The Associated General Contractors of America (AGC) for use in evaluating the qualifications of contractors. No endorsement of the submitting party or verification of the information is made by AIA or AGC.



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§ 1.3 If your organization is a corporation, answer the following:

§ 1.3.1 Date of incorporation: <>

§ 1.3.2 State of incorporation: <>

§ 1.3.3 President's name: <>

§ 1.3.4 Vice-president's name(s)

<>

§ 1.3.5 Secretary's name: <>

§ 1.3.6 Treasurer's name: <>

§ 1.4 If your organization is a partnership, answer the following:

§ 1.4.1 Date of organization: <>

§ 1.4.2 Type of partnership (if applicable): <>

§ 1.4.3 Name(s) of general partner(s)

<>

§ 1.5 If your organization is a limited liability company, answer the following:

§ 1.5.1 Date of organization: <>

§ 1.5.2 Names of members and managers:

<>

§ 1.6 If your organization is individually owned, answer the following:

§ 1.5.1 Date of organization: <>

§ 1.5.2 Name of owner:

§ 1.7 If the form of your organization is other than those listed above, describe it and name the principals:

<>

§ 2 LICENSING

§ 2.1 List jurisdictions and trade categories in which your organization is legally qualified to do business in the State of Connecticut, and indicate registration or license numbers, if applicable, including the contractor's license(s) applicable to the perform of the work for the Project.

<>

§ 2.2 List jurisdictions in which your organization's partnership or trade name is filed.

<>

§ 3 EXPERIENCE

§ 3.1 List the categories of work that your organization normally performs with its own forces.

<>

§ 3.2 Claims and Suits. (If the answer to any of the questions below is yes, please attach details.)

§ 3.2.1 Has your organization ever failed to complete any work awarded to it?

<>

§ 3.2.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers, members or managers, as applicable?

<>

§ 3.2.3 Has your organization filed any law suits or requested arbitration with regard to construction contracts within the last five years?

« _____ »

§ 3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? (If the answer is yes, please attach details.)

« _____ »

§ 3.4 On a separate sheet, list major construction projects your organization has in progress, giving the name of project, owner, architect, contract amount, percent complete and scheduled completion date.

§ 3.4.1 State total worth of work in progress and under contract:

« _____ »

§ 3.5 On a separate sheet, list three similar projects your organization has completed in the past five years, giving the name of project, owner, contact information for project coordinator (name, title, address, phone number), architect, contract amount, date of completion and percentage of the cost of the work performed with your own forces. Specifically identify those which are similar in size, scope and complexity to the Project.

§ 3.5.1 State average annual amount of construction work performed during the past five years:

« _____ »

§ 3.6 On a separate sheet, list the construction experience and present commitments of the key individuals of your organization including, in particular, the superintendent and project manager Bidder intends to assign to this Project.

« _____ »

§ 4 REFERENCES

§ 4.1 Trade References:

« _____ »

§ 4.2 Bank References:

« _____ »

§ 4.3 Surety:

§ 4.3.1 Name of bonding company:

« _____ »

§ 4.3.2 Name and address of agent:

« _____ »

§ 5 FINANCING

§ 5.1 Financial Statement.

§ 5.1.1 Attach a financial statement, preferably audited, including your organization's latest balance sheet and income statement showing the following items:

Current Assets (e.g., cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses);

Net Fixed Assets;

Other Assets;

Current Liabilities (e.g., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes);

Other Liabilities (e.g., capital, capital stock, authorized and outstanding shares par values, earned surplus and retained earnings).

§ 5.1.2 Name and address of firm preparing attached financial statement, and date thereof:

« _____ »

§ 5.1.3 Is the attached financial statement for the identical organization named on page one?

« _____ »

§ 5.1.4 If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsidiary).

« _____ »

§ 5.2 Will the organization whose financial statement is attached act as guarantor of the contract for construction?

« _____ »

§ 6 SIGNATURE

§ 6.1 Dated at this « _____ » day of « _____ » «2020»

Name of Organization: « _____ »

By: « _____ »

Title: « _____ »

§ 6.2

« _____ »

M « _____ » being duly sworn deposes and says that the information provided herein is true and sufficiently complete so as not to be misleading.

Subscribed and sworn before me this « _____ » day of « _____ » « 2020»

Notary Public: « _____ »

My Commission Expires: « _____ »

ATTACHMENT 9

DRAWINGS

The drawings prepared for the Project by BSC Group, dated March 23, 2021 are available for viewing and downloading on the Town of Glastonbury Website.

ATTACHMENT 10

SPECIFICATIONS

The specifications prepared for the Project by BSC Group are set forth in the Project Manual are available for viewing and downloading on the Town of Glastonbury Website.

ATTACHMENT 11
Certification re: CGS §31-57b

CERTIFICATE

Of Compliance With

Connecticut General Statute Section 31-57b

I hereby certify that all of the statements herein contained below have been examined by me, and to the best of my knowledge and belief are true and correct.

The _____ **has/has not** (*circle one*) been cited for three 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 bid, provided such violations were cited in accordance with the provisions of any state 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 the appeal to the appropriate agency or court having jurisdiction or **has/has not** (*circle one*) received one or more criminal convictions related to the injury or death of any employee in the three year period preceding the bid.

The list of violations (if applicable) is attached.

Name of Firm, Organization or Corporation

Signed:

Name

Seal

Title:

Date:

State of

)

County of

)

ss:

A.D., 20__

Sworn to and personally appeared before me for the above, _____

_____, Signer and Sealer of the foregoing instrument and acknowledged the same to be the free act and deed of _____, and his/her free act and deed as _____.

My Commission expires:

Notary Public

Seal

Project No(s):

ATTACHMENT 12
IRS FORM W-9

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

**Give Form to the
requester. Do not
send to the IRS.**

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.		
	2 Business name/disregarded entity name, if different from above		
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.		4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small> <input type="checkbox"/> Other (see instructions) ▶ _____		
	5 Address (number, street, and apt. or suite no.) See instructions.		Requester's name and address (optional)
	6 City, state, and ZIP code		
	7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
OR									
Employer identification number									

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

ATTACHMENT 13

AFFIRMATIVE ACTION STATEMENT

AFFIRMATIVE ACTION STATEMENT

NOTE: IF YOUR COMPANY HAS LESS THAN 10 EMPLOYEES, OR HAS COMPLETED THIS SAME FORM WITHIN 1 YEAR, YOU MAY DISREGARD THE FOLLOWING EQUAL EMPLOYMENT/AFFIRMATION ACTION SECTION, EXCEPT AS NOTED.

- OR: (1) The number of employees _____
(2) Completed this form within one year ____ Yes ____ No

FOR SEALED BIDS: If your company has completed this form within one year please forward a photocopy of the initial form with your bid. If significant changes have taken place within the past year; please update the information on this form.

REQUIREMENT: Any vendor/bidder seeking to do business with the Town of Glastonbury must, upon request, supply the Town and/or the Glastonbury Human Relations Commission with any information concerning the Affirmative Action/Equal Employment practices of the vendor/bidder, which the Town and/or Commission deems necessary in fulfilling its charge. Failure to supply such information, when requested, will result in the termination of any further transactions between the vendor/bidder and the Town of Glastonbury.

COMPANY NAME AND ADDRESS: _____

TYPE OF BUSINESS: _____

TYPE OF ORGANIZATION: _____ Corporation _____ Partnership _____ Individual

If unit filing this application is not the above-named company, give the name, address and telephone number of reporting unit. (Branch, agent, representative)

AFFIRMATIVE ACTION/EQUAL EMPLOYMENT ACTIVITIES

Please indicate the name and address of the company official(s) responsible for carrying out the Equal Employment Opportunity/Affirmation Action Program for your company.

If your company does not have a written affirmation action plan, please estimate the number of vacancies during the next 12 months, and indicate the numerical or percentage goals you have set for the employment of minority people and females to make your labor force reflective of the labor market in which you operate.

The vendor/bidder understands that failure to complete the above form in satisfactory manner will preclude such vendor from being actively considered for contract with the Town of Glastonbury. The vendor/bidder also understands that the Affirmation Action statements will become part of any contract, and that breach of such statements will constitute a breach of the contract subject to such remedies as provide by law.

I certify that there are no misrepresentations, omissions, or falsifications in the foregoing statements and answers, and that the entries above are true, complete and correct to the best of my knowledge and belief.

Date Signature Title

Subscribed and sworn to before me at _____, Connecticut, this _____ Day of _____ 20 ____.

ATTACHMENT 14

COVID RELATED REQUIREMENTS

At the time of the execution of this Agreement, there is an ongoing global COVID-19 pandemic (the “Pandemic”). Various governmental orders, laws, regulations and guidelines have been issued, enacted and/or adopted in relation to the Pandemic which effect the construction industry and the operations of construction managers, contractors, subcontractors and material and equipment suppliers to the construction industry (the “COVID Related Requirements”).

The Contractor shall comply, and require all of its Subcontractors, Sub-subcontractors and material and equipment suppliers to comply, with all COVID Related Requirements (as they may be supplemented, modified or newly established during the course of the Project) as are applicable to the performance of the Work and the performance of the Contractor’s obligations under the Contract Documents.

The execution of the Agreement constitutes confirmation by the Contractor that the Contract Time and the Construction Schedule for the Project provided in, or attached as an Exhibit to, the Agreement are based on and include compliance with all COVID Related Requirements in effect as of the effective date of the Agreement (the “Current Requirements”). The Contractor shall not be entitled to any adjustment in the Contract Time in connection with delays arising from compliance by the Contractor, Subcontractors, Sub-subcontractors, or material and equipment suppliers with the Current Requirements. To the extent that, after the effective date of this Agreement, the Current Requirements are modified or supplemented, or new COVID Related Requirements are established, and provided compliance with such modified, supplemented or newly established COVID Related Requirements causes a delay in the performance of the Work, such delay shall constitute a delay due to a cause “beyond the Contractor’s control” under Section 8.3.1(4) of the AIA Document A201-2017. As with any request for an extension of the Contract Time, it will be the responsibility of the Contractor to substantiate the delay, the cause of the delay and its right to an extension of the Contract Time under the terms and conditions of the Contract Documents.