BID SPECIFICATIONS
FOR

NEW PARKING AREA AT LABOR FIELD

LOCATION

BID NO. 16-14

TOWN OF EAST HARTFORD
DEPARTMENT OF PUBLIC WORKS, ENGINEERING DIVISION
740 MAIN STREET
EAST HARTFORD, CT 06108

Issued for Bid January 13, 2016

TABLE OF CONTENTS

TABLE OF CONTENTS **2**

BIDDING REQUIREMENTS **4**
- INVITATION TO BID 5
- STANDARD INSTRUCTIONS FOR BIDDERS 6
- INSTRUCTIONS FOR CONSTRUCTION AND/OR LABOR SERVICE BIDS 8
- INSURANCE REQUIREMENTS 11

BID FORMS **14**
- FORM OF GENERAL BID 15
- BID PROPOSAL SHEET(S) 16
- RESOLUTIONS
  - CORPORATIONS/PROFESSIONAL CORPORATIONS 20
  - LIMITED LIABILITY COMPANIES 21
  - LIMITED LIABILITY COMPANIES BY MANAGING PARTNER 22
  - PARTNERSHIPS 23
- CHRO NOTIFICATION TO BIDDERS/BIDDER CONTRACT COMPLIANCE MONITORING REPORT 24
- QUALIFICATIONS OF BIDDER 29

CONTRACT AWARD FORMS **34**
- ANTICIPATED SOURCE OF MATERIALS 35
- NONDISCRIMINATION CERTIFICATION 36

AGREEMENT FORMS **43**
- AGREEMENT 44
- RESOLUTIONS
  - CORPORATIONS/PROFESSIONAL CORPORATIONS 51
  - LIMITED LIABILITY COMPANIES 52
  - LIMITED LIABILITY COMPANIES BY MANAGING PARTNER 53
  - PARTNERSHIPS 54
- PERFORMANCE BOND 55

GENERAL CONDITIONS **57**

SUPPLEMENTAL GENERAL CONDITIONS **129**

TECHNICAL SPECIFICATIONS **134**

NOTICES TO CONTRACTOR
REFERENCED SPECIFICATIONS 135
PERMITS 136
SALVAGE 136
TREE REMOVAL & TRIMMING 136
UTILITY RELOCATION 137

SPECIAL PROVISIONS (*MODIFICATIONS TO CONNDOT FORM 816*)

SECTION 2.08 FREE-DRAINING MATERIAL 138
SECTION 2.10 WATER POLLUTION CONTROL (SOIL EROSION) 139
SECTION 3.04 PROCESSED AGGREGATE BASE 140
SECTION 9.13 CHAIN LINK FENCE 141
SECTION 9.17 WOOD GUIDE RAIL 142
SECTION 9.20 CRUSHED STONE TRAIL 144
SECTION 9.44 TOPSOIL 145
SECTION 9.50 TURF ESTABLISHMENT 146
SECTION 9.74 REMOVAL OF EXISTING MASONRY 151

APPENDICES
A DPW LICENSE AND PERMIT REQUIREMENTS 152
B PERMITS 164
C TEST PIT PHOTOGRAPH 171
D CT DEPARTMENT OF LABOR WAGE RATES 175

BIDDING REQUIREMENTS

TOWN OF EAST HARTFORD, CONNECTICUT
INVITATION TO BID
BID NO. 16-14
NEW PARKING AREA AT LABOR FIELD

Work under this contract includes construction of a paved parking area at Labor Field, 24 Woodlawn Circle, in the Town of East Hartford. It also includes other appurtenant work such as wood guardrail, turf establishment, and wetlands plantings.

Sealed Bids will be received at the office of the Purchasing Department, Town Hall, 740 Main Street, East Hartford, CT 06108 until 11 AM, THURSDAY, FEBRUARY 18, 2016 at which time and place said bids will be opened publicly and read.

IN ORDER TO BE CONSIDERED AN OFFICIAL PLAN HOLDER AND ELIGIBLE BIDDER FOR THE PROJECT, THE PURCHASING AGENT MUST RECEIVE AN EMAIL indicating interest in bidding, company information, and main contact information on, or before, THURSDAY, FEBRUARY 11, 2016.

The Town will conduct a NON-MANDATORY PRE-BID MEETING on WEDNESDAY, JANUARY 27, 2016 AT 10 AM AT LABOR FIELD (24 Woodlawn Circle).

Requests for information (RFIs) will be accepted via email to the Purchasing Agent on or before WEDNESDAY, FEBRUARY 10, 2016.

Drawings and Specifications will be available for review at the office of the Purchasing Agent, East Hartford Town Hall, 740 Main Street, East Hartford, CT. (Between the hours of 8:30 am to 4:30 pm, Monday through Friday) and on the Town of East Hartford's Purchasing Website:
http://www.easthartfordct.gov/purchasing/bids

Bid security in the form of a 5% bid bond, payable to the Town of East Hartford, is required of all bidders and a 100% Performance Bond will be required of the awarded bidder.

This contract is subject to state set-aside and contract compliance requirements.

The Town reserves the right to reject any or all bids, or any part of all bids, to waive any informality, and reserves all other rights as detailed in the Contract Documents when such action is in the best interest of the Town. The Town is an equal opportunity employer. Contractor must comply with all Federal, State and Local requirements under this contract.

All bidders are requested to note that the award of this Contract is subject to the following conditions and contingencies:

1. The approval of such governmental agencies as may be required by law.
2. The appropriation of adequate funds by the proper agencies.

Michelle Enman
Purchasing Agent
menman@easthartfordct.gov
(860) 291-7270

TOWN OF EAST HARTFORD, CONNECTICUT

STANDARD INSTRUCTIONS FOR BIDDERS

1. Sealed bid proposals will be received by the purchasing agent until the date and time indicated on the Invitation to Bid. Bids received later than the date and time specified will not be considered and will be returned unopened.
2. Bids are to be returned with the bid number prominently indicated on any other mailing envelope. The name and address of the bidder should appear in the upper left hand corner of the envelope. **Bids will not be accepted via fax or e-mail.**
3. All proposals will be opened and read publicly and are subject to public inspection. Bidders may be present or represented at all openings. Bid results are mailed to all responding bidders.
4. Municipalities are exempt from any sale, excise or federal taxes. Bid prices must be exclusive of taxes and will be so construed.
5. The Town of East Hartford reserves the right to reject any or all bids or any part of all bids and to waive any informality when such action is in the best interest of the Town. The Town also reserves the right to extend by mutual consent an awarded bid when such action is in its best interest.
6. Bidders should familiarize themselves with all of the terms and conditions set forth in the bid specifications. Failure by the bidder to familiarize himself with these terms and conditions does not excuse the bidder from fulfillment of the bid specifications.
7. All entities doing business with the Town certify, upon acceptance of a bid and by virtue of their signature on that bid, that they have read, understood and will comply with the section of the Town's updated plan of affirmative action and equal opportunity relating to contractual and purchasing procedures – Section VIII Dated 01/88. The bidder agrees to cooperate fully should the Town choose to audit this compliance.
8. In case of an error in the extension or addition of prices, the unit price will govern. The Town will not be subject to any price increases after a bid award, unless it was part of the original bid terms.
9. The Town reserves the right to increase or decrease quantities listed in order to stay within the allocated funding at time of bid opening.
10. The Purchasing Department has the obligation to accept the lowest responsible bid which is in the Town's best interest. Factor s include, but are not limited to: price, compliance to specifications, quality offered, freight costs, delivery time, past performance, standardization of current equipment, financial resources, technical qualifications, equipment and experience.
11. Bidders shall state in writing and attach to the bid, any conditions/exceptions that are part of the bid price. Comments to the effect "see literature" will not be acceptable.
12. Any manufacturers' names, trade names, brand names or catalog numbers used in the specifications are there for the purpose of establishing and describing general performance and quality levels. Such references are not intended to be restrictive and bids are invited on these and approved equal brands or products of any manufacturer.

TOWN OF EAST HARTFORD, CONNECTICUT

STANDARD INSTRUCTIONS FOR BIDDERS (*cont'd*)

13. The Town's competitive bidding process is not a means for competitors to obtain private/proprietary information that is not otherwise normally available. Such information relates to a bidder's financial records and responsibility, test data, manufacturing drawings, formulas and processes. To promote competition and protect valid interests this type of information/data will remain confidential.
14. All bidder questions shall be directed to the Purchasing Agent. Procedural and clarification questions will be answered appropriately. Questions that require an answer that will in effect change/alter the intent of the specifications will only be answered in writing to all bidders by a bid addendum.
15. Awarded bidders are responsible for obtaining all necessary permits as required by OSHA, Federal, State and/or Town regulations. Town permits will be issued at no cost.
16. Alternate proposals will not be considered unless specifically called for in the bid.
17. Prices shall include packing, transportation and delivery charges F.O.B. to East Hartford/delivered unless specifically noted otherwise.
18. Bidder declares that the proposal is not made in connection with any other bidder submitting a proposal for the same bid and is in all respects fair and without collusion or fraud.
19. Cash discounts may be offered by bidder for prompt payment of bills, but such cash discount will not be taken into consideration in determining the awarded low bidder except in the case of tie bids and then only provided such discount is based on payment of invoice not less than fourteen (14) days after satisfactory delivery and/or receipt of invoice, whichever is later.
20. The Town will not award a bid to any bidder who owes a delinquent tax to the Town. Bidders certify by virtue of their signature on the bid sheet that neither the bidder nor any business or corporation which the Bidder owns an interest is delinquent in tax obligations to the Town. <u>The Purchasing Department will verify that no delinquent taxes are owed before any bid is awarded.</u>
21. All bidders shall include a corporate resolution with your submittal. Sample formats for Corporations and Professional Corporations, Limited Liability Company and Partnerships (including Limited Partnership and Limited Liability Partnership) are attached in this packet
22. The bidding entity is required to provide evidence from the Connecticut Secretary of State that they are in good standing and qualified to conduct business in the State of Connecticut.

TOWN OF EAST HARTFORD, CONNECTICUT

INSTRUCTIONS FOR CONSTRUCTION AND/OR LABOR SERVICE BIDS

1. A *Certificate of Insurance* naming the Town as an additional insured will be required of the awarded bidder. The insurance indemnification clause is contained with the bid specifications (see *Insurance Requirements*).

2. This is a prevailing wage bid and the wage rates are attached within the Bid Specifications. In accordance with state law, each contract for the construction, remodeling or repair of any public building or public works or improvements shall contain the following provision when the cost of construction, remodeling or repair exceeds the limits as provided in Connecticut General Statutes 31-53; "the wages paid on an hourly basis to any mechanic, laborer or workman employed upon the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such employee to any employee welfare fund, as defined in Subsection (h) of Section 31-53 for 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 of East Hartford. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such employees to any such employee welfare fund shall pay to each employee as parts of his wages the amount of payment or contribution for his classification on each pay day".

3. The contractor who is selected to perform this Municipal Public Works project must comply with Conn. Gen. Stat §§ 4a-60, 4a-60a, 4a-60g and 46a-68b through 46a-68f, inclusive, as amended by the June 2015 Special Session Public Act 15-5. An Affirmative Action Plan must be filed with, and approved by, the Commission on Human Rights and Opportunities prior to the commencement of construction. The contractor shall be required to make good faith efforts to place a minimum of twenty-five percent (25%) of the subcontracts awarded by the general contractor/construction manager at risk with eligible contractors holding current certification from the Connecticut Department of Administrative Services (DAS) under the provisions of Conn. Gen. Stat. § 4a-60g, as amended. (25% of the work with DAS certified Small and Minority owned business[s] AND 25% of that work with DAS certified Minority, Women and/or Disabled owned business[s])

4. A Bid Bond must be submitted with the bid and may be in the form of certified check or cashier's check **payable to "The Town of East Hartford" or a bond of a surety company authorized to transact business in the State of Connecticut.** No checks will be returned until the bid is awarded. If you are the awarded bidder, your check will be held until it is replaced with another Guarantee of Performance. **Bid Bond shall be 5% (five percent) of total bid price.**

5. A Guarantee of Performance will be required of the awarded bidder and may be in the form of a certified check or cashier's check payable to "The Town of East Hartford" or a bond of a surety company authorized to transact business in the State of Connecticut. Checks will be retained by the Town for period of time after final acceptance and payment as determined by the complexity of the project. **Performance Bond shall be 100% (one hundred percent) of awarded bid price.**

6. Before starting any work awarded bidders are responsible for obtaining permits as required by Federal, State, MDC, Utilities and/or Town regulations. Any applicable fees shall be included in the total bid price. Town of East Hartford permits will be issued at no charge.

7. The bidder shall abide by all OSHA, Federal, State and local laws, ordinances and regulation, which any manner affect those engaged or employed on the Work, or the materials or equipment used in the Work, or in any way affect the conduct of the Work, and no pleas of misunderstanding will be considered on account of ignorance. If bidder shall discover any provisions in the drawings, specifications or contract, which are in conflict with any such law, by-law or ordinance or regulation, he shall report it to the Town in writing with the bid proposal.
8. Throughout the work period, the contractor shall maintain the work site in a generally accepted standard of cleanliness, free from accumulation of waste materials or rubbish caused by his operations and shall take prompt action to correct any hazardous conditions reported.
9. It is the responsibility of each bidder before submitting a bid, to familiarize themselves with the specifications and conditions that may affect cost, progress, performance or completion of the project.
10. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with generally accepted industry standards.
11. Unless otherwise specified, the contractor shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, fuel, appliances, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.
12. The Contractor may utilize the services of specialty subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty subcontractors. The Contractor shall not award any work to any subcontractor without prior written approval of the Town, which approval will not be given until the Contractor submits to the Town a written statement concerning the proposed award to the subcontractor, which statement will contain such information as the Town may require. The Contractor shall be as fully responsible to the Town for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of person directly employed by him. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards to terminating any subcontract that the Town may exercise over the Contractor under any provision of the Contract documents. Nothing contained in this bid shall create any contractual relation between any subcontractor and the Town.
13. The Contractor shall not assign the whole or any part of this contract or any moneys due or to become without written consent of the Town, which in its sole discretion may be denied. In case the Contractor assigns all or any part of any moneys due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and or any moneys due or to become due to the contractor shall be subject to prior claims of all person, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this contract.

14. The submission of a bid offer will constitute an incontrovertible representation by the bidder that he/she has complied with every requirement of the specifications and that the bid documents are sufficient in scope and detail and convey understanding of all terms and conditions for performance of the Work.

TOWN OF EAST HARTFORD, CONNECTICUT

INSURANCE REQUIREMENTS FOR CONSTRUCTION AND/OR LABOR SERVICE BIDS

NOTE: CERTIFICATE OF INSURANCE WILL ONLY BE REQUIRED OF THE AWARDED BIDDER

INSURANCE INDEMNIFICATION CLAUSE

The Town of East Hartford, its officials, employees, volunteers, boards and commissions must be named as an **"Additional Insured"** on both the General and Automobile Liability policies and the nature of the project is to be stated on the certificate. An additional insured policy endorsement must be submitted with the certificate of insurance.

INDEMNIFICATION
Contractor agrees to indemnify and hold the Town of East Hartford harmless against and from any and all claims by or on behalf of any person arising from or in connection with:

A: Any act, error, omission, negligence or fault of contractors or any of its agents, servants, employees and sub-contractors.

B: Any accident, injury or damage whatsoever caused to any person occurring during the performance of this contract.

Further, the contractor agrees to indemnify and hold harmless the Town of East Hartford against and from all reasonable costs, counsel fees, expenses and liabilities incurred in or with respect to any such claim and any action or proceeding brought thereon; and in any case any action or proceeding shall be brought against the contractor by reason of any such claim, contractor upon notice from the Town of East Hartford agrees to resist and defend such action proceeding, unless contractor causes the same to be discharged and satisfied.

INSURANCE REQUIREMENTS

A. GENERAL REQUIREMENTS

The CONTRACTOR shall be responsible for maintaining insurance coverage in force for the life of this contract of the kinds and adequate amounts to secure all of the CONTRACTOR'S obligations under this contract with an insurance company(ies) with an AM Best Rating of A-VII or better licensed to write such insurance in the State of Connecticut and acceptable to the Town of East Hartford.

The insurer shall provide the Town of East Hartford with Certificates of Insurance signed by an authorized representative of the insurance company(ies) prior to the performance of this contract describing the coverage and providing that the insurer shall give the Town of East Hartford written notice at lease thirty (30) days in advance of any termination, expiration, or any and all changes in coverage.
Such insurance or renewals or replacements thereof shall remain in force during the CONTRACTOR'S responsibility under this contracts.

TOWN OF EAST HARTFORD, CONNECTICUT

INSURANCE REQUIREMENTS FOR CONSTRUCTION AND/OR LABOR SERVICE BIDS (*cont'd*)

The CONTRACTOR at the CONTRACTOR'S own cost and expense, shall procure and maintain all insurance required and shall name the Town of East Hartford as Additional Insured on all contracts, except Workers' Compensation and Professional Errors & Omissions coverage's.

B. SPECIFIC REQUIREMENTS:

1) Workers' Compensation Insurance

The CONTRACTOR shall provide Statutory Workers' Compensation Insurance, including Employer's Liability with Limits of:

$100,000 Each Accident
$500,000 Disease, Policy Limit
$100,000 Disease, Each Employee

2) Commercial General Liability Insurance

The CONTRACTOR shall carry Commercial General Liability Insurance (Insurance Services Officer Incorporated Form CG-0001 or equivalent). As per occurrence limit $1,000,000 is required. The Aggregate Limit will be not less than $2,000,000. Any deviations from the standard unendorsed form will be noted on the Certificate of Insurance.

3) Business Automobile Liability Insurance

The CONTRACTOR shall carry Business Automobile Liability Insurance (Insurance Services Office Incorporated Form CA-00001 or equivalent). A per occurrence limit of $1,000,000 is required. "Auto Auto" (symbol 1 or equivalent) is required. Any deviations from the standard unendorsed form will be noted on the Certificate of Insurance.

4) The Town reserves the right to require the CONTRACTOR to carry an umbrella policy up to **$5,000,000**.

C. OTHERS: PROFESSIONAL SERVICES - ARCHITECTS, ENGINEERS, ET AL.

Shall carry Errors & Omissions coverage in the amount $1,000,000 per occurrence for all professional services contracts only.

The Town reserves the right to amends amounts of coverage required and type of coverage provided based on work or service to be performed.

D. SUBCONTRACTOR'S REQUIREMENTS:

The CONTRACTOR shall require the same insurance that it is required to carry by the Town of East Hartford to be carried by any subcontractors and independent contractors hired by the CONTRACTOR and to obtain Certificates of Insurance before subcontractors and independent contractors are permitted to begin work.

INSURANCE REQUIREMENTS FOR CONSTRUCTION AND/OR LABOR SERVICE BIDS (*cont'd*)

The CONTRACTOR shall require that the Town of East Hartford be named as Additional Insured on all subcontractors and independent contractors insurance before permitted to begin work.

The CONTRACTOR and all subcontractors and independent contractors and their insurers shall waive all rights of subrogation against the Town of East Hartford, and its officers, agents, servants and employees for losses arising from work performed by each on this contract.

BID FORMS

All of the following documents contained within this section must be completed by the prospective bidder and returned with the bid:

- Bid Bond (To be supplied by the Bidder)
- Form of General Bid
- Bid Proposal Sheets
- Resolution for Corporations/Professional Corporations
- Resolution for Limited Liability Companies
- Resolution for Partnerships
- CHRO *Bidder Contract Compliance Monitoring Report*
- Qualifications of Bidder Form
- Evidence from the CTSOS of Good Standing & Ability to Conduct Business in Connecticut

Note that the correct resolution must be prepared based on the type of business submitting the bid (corporation, professional corporation, limited liability company, partnership, limited liability partnership, or general partnership). Resolutions <u>must be on company letterhead</u> and the date of the resolution <u>must</u> match the bid opening date.

FORM OF GENERAL BID

BID NO. 16-14

Town of East Hartford
Purchasing Agent
740 Main Street
East Hartford, CT 06108

Attn. Michelle Enman - Purchasing Agent

Having carefully examined the Invitation to Bid, Instructions for Construction and/or Labor Service bids, Insurance Requirements, Form of General Bid, General Conditions, Supplemental Conditions, Technical Specifications, Appendices, Contract Drawings and Exhibits for the furnishing of all materials, equipment, tools, labor and incidentals necessary to complete the Work "NEW PARKING AREA AT LABOR FIELD", as well as having carefully examined the site and having satisfied himself as to conditions affecting the proposed Work and all Addenda issued by the Town, transmitted to the undersigned by electronic mail prior to the date of opening of Bids, the undersigned proposes to complete all Work on the Contract Drawings and as described in the Bid Speciation, for the lump sum and unit prices for the Work (in place) for the items and estimated quantities shown on the Bid Proposal Sheet(s).

Bidder acknowledges receipt of the following addenda:

No._____, dated_____, 20__

No._____, dated_____, 20__

No._____, dated_____, 20__

No._____, dated_____, 20__

TOWN OF EAST HARTFORD
BID PROPOSAL SHEET
NEW PARKING AREA AT LABOR FIELD

BID NO. 16-14				
Item #	Description	Estimated Quantity	Unit Price *{in numbers}*	Extended Amount *{in numbers}*
201214	Salvage and Reinstall Trail Sign	1 LS	Per LS	
202001	Earth Excavation	813 CY	Per CY	
202529	Cut Bituminous Concrete Pavement	408 LF	Per LF	
208001A	Stone Diaphragm	12 CY	Per CY	
209001	Formation of Subgrade	2,086 SY	Per SY	
210100A	Construction Entrance	133 SY	Per SY	
219003	Sedimentation Control System (Filter Fabric)	250 LF	Per LF	
304002	Processed Aggregate Base	279 CY	Per CY	
304005A	Recovered Aggregate Base	180 CY	Per CY	
406010-1	Bituminous Concrete, Class 1	222 TON	Per TON	
406010-2	Bituminous Concrete, Class 2	222 TON	Per TON	
755014	Geotextile (Separation – High Survivability)	2,044 SY	Per SY	
913001A	Maintenance Access Gate	1 LS	Per LS	
			SUBTOTAL THIS PAGE =>	

BID NO. 16-14				
Item #	Description	Estimated Quantity	Unit Price *{in numbers}*	Extended Amount *{in numbers}*
917001A	Wood Guide Rail	304 LF	Per LF	
920001A	Crushed Stone Trail	349 SF	Per SF	
922001	Bituminous Concrete Sidewalk	4 SY	Per SY	
944001A	Furnishing and Placing Topsoil	511 CY	Per CY	
949001	Wood Chip Mulch	44 SY	Per SY	
949832	Acer Rubrum Red Maple 2 ½”-3” Cal. B.B	14 EA	Per EA	
950005A	Turf Establishment	1,366 SY	Per SY	
950029A	Turf Establishment – New England Wetlands Mix	133 SY	Per SY	
952001	Selective Clearing and Thinning	1 LS	Per LS	
974001A	Removal of Existing Masonry	20 CY	Per CY	
975001	Mobilization and Project Closeout	1 LS	Per LS	
980001	Construction Staking	1 LS	Per LS	
1208928	Sign Face – Sheet Aluminum (Type III Reflective Sheeting)	21 SF	Per SF	
1209005	Painted Pavement Markings 4” White	2,030 LF	Per LF	
			SUBTOTAL THIS PAGE =>	

BID NO. 16-14				
Item #	Description	Estimated Quantity	Unit Price *{in numbers}*	Extended Amount *{in numbers}*
1209401	Painted Legend, Arrows and Markings	1,021 SF	Per SF	
SUBTOTAL OF ITEMS THIS PAGE =>				
SUBTOTAL OF ITEMS PAGE 16 =>				
SUBTOTAL OF ITEMS PAGE 17 =>				
GRAND TOTAL OF ALL ITEMS =>				

A. The undersigned understands that there may be changes, omissions, or modification in the Work, and that appropriate adjustments will be made to the Contract price in accordance with the Contract Documents. The undersigned understands that the Owner reserves the right to accept or reject any or all bids, and to waive all formalities, any irregularities, and accept the Bid deemed to be in the Owner's best interest.

B. Bid prices shall not include any sales, excise or other taxes for which the Owner is not liable. Town of East Hartford is the awarding authority.

C. The Bidder agrees to hold the above pricing for thirty (30) days.

D. The Bidder hereby agrees to commence Work under this Contract within ten (10) days of written Notice to Proceed from the Town, and to complete the Work of all base bid items no later than Friday, August 19, 2016, **provided that** work at the site may not commence prior to Tuesday, July 5, 2016. The Bidder further agrees to pay as liquidated damages, the sum of TWO HUNDRED DOLLARS ($200.00) for each consecutive calendar day beyond the date of completion. Liquidated damages are not intended as a penalty but rather shall be construed as a best estimate of damages which the Town will suffer due to Bidder's refusal, failure or neglect to perform pursuant to his Bid and Contract Documents.

E. The Bid security in the sum of: 5% OF TOTAL BID is to become the property of the Town in the event the above forms are not executed within the time set forth above, as liquidated damages, and not as a penalty for the delay and additional expense to the Town caused thereby.

Respectfully Submitted By:

(Signature) _____

Name (Please Print): _____

Title: _____

Company: _____

Business Address: _____

_____

Business Phone: _____(_____)_____

Business Fax: _____(_____)_____

Email Address: _____

RESOLUTION FOR CORPORATIONS/PROFESSIONAL CORPORATIONS

(TO BE TYPED ON CORPORATION LETTERHEAD)

I (name of Corporation's Secretary), Secretary of (legal name of Corporation) a Corporation duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the Board of Directors of such Corporation, duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the Board of Directors was present and voted in favor of such Resolution. I further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following Officers of this Corporation, or any one of them individually:

(Name and title of Officer or Officers)

are empowered to execute and deliver, in the name of and on behalf of this Corporation, contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to affix the Corporate Seal to such documents and to bind the Corporation to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned has affixed his/her signature and the Corporate Seal of the Corporation, this (date) day of (month) 20__

(Typed name of Corporation's Secretary)

_____

SIGNATURE OF SECRETARY

(*Corporate Seal*)

RESOLUTION FOR LIMITED LIABILITY COMPANIES

(TO BE TYPED ON COMPANY LETTERHEAD)

The undersigned, comprising all Members of (legal name of LLC), a Limited Liability Company duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the Members, duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the voting Members was present and voted in favor of such Resolution. We further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following Members of this Limited Liability Company, or any one of them:

(Name and title of Members)

are empowered to execute and deliver, in the name of and on behalf of this Limited Liability Company, contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to bind the Limited Liability Company to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned have executed this resolution, this (date) day of (month) 20__

_____
(Typed Member Name)

_____
(Typed Member Name)

_____
(Typed Member Name)

_____
(Typed Member Name)

RESOLUTION FOR LIMITED LIABILITY COMPANIES BY MANAGING PARTNER

(TO BE TYPED ON COMPANY LETTERHEAD)

I (name of Managing Member), Managing Member of (legal name of LLC), a Limited Liability Company duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the Members, duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the voting Members was present and voted in favor of such Resolution. I further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following Members of this Limited Liability Company, or any one of them:

(Name and title of Members)

are empowered to execute and deliver, in the name of and on behalf of this Limited Liability Company, contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to bind the Limited Liability Company to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned has affixed his/her signature, this (date) day of (month) 20__

(Typed name of Managing Partner)

_____

SIGNATURE OF MANAGING PARTNER

RESOLUTION FOR PARTNERSHIPS

(TO BE TYPED ON COMPANY LETTERHEAD)

The undersigned, comprising all (partners/general partners) of (legal name of partnership), a (partnership/Limited Partnership/Limited Liability Partnership) duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the voting (partners/general partners), duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the voting partners was present and voted in favor of such Resolution. We further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following (partners/general partners) of this Limited Liability Company, or any one of them:

(Name and title of partners/general partners)

are empowered to execute and deliver, in the name of and on behalf of this (partnership/Limited Partnership/Limited Liability Partnership), contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to bind the (partnership/Limited Partnership/Limited Liability Partnership) to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned have executed this resolution, this (date) day of (month) 20__

_____
(Typed partner/general partner Name)

_____
(Typed partner/general partner Name)

_____
(Typed partner/general partner Name)

_____
(Typed partner/general partner Name)

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
CONTRACT COMPLIANCE REGULATIONS
NOTIFICATION TO BIDDERS

(Revised 09/3/15)

The contract to be awarded is subject to contract compliance requirements mandated by Sections 4a-60 and 4a-60a of the Connecticut General Statutes; and, when the awarding agency is the State, Sections 46a-71(d) and 46a-81i(d) of the Connecticut General Statutes. There are Contract Compliance Regulations codified at Section 46a-68j-21 through 43 of the Regulations of Connecticut State Agencies, which establish a procedure for awarding all contracts covered by Sections 4a-60 and 46a-71(d) of the Connecticut General Statutes.

According to Section 46a-68j-30(9) of the Contract Compliance Regulations, every agency awarding a contract subject to the contract compliance requirements has an obligation to "aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials." "Minority business enterprise" is defined in Section 4a-60 of the Connecticut General Statutes as a business wherein fifty-one percent or more of the capital stock, or assets belong to a person or persons: "(1) Who are active in daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Section 32-9n." "Minority" groups are defined in Section 32-9n of the Connecticut General Statutes as "(1) Black Americans . . . (2) Hispanic Americans . . . (3) persons who have origins in the Iberian Peninsula . . . (4)Women . . . (5) Asian Pacific Americans and Pacific Islanders; (6) American Indians . . ." An individual with a disability is also a minority business enterprise as provided by Section 4a-60g of the Connecticut General Statutes. The above definitions apply to the contract compliance requirements by virtue of Section 46a-68j-21(11) of the Contract Compliance Regulations.

The awarding agency will consider the following factors when reviewing the bidder's qualifications under the contract compliance requirements:

(a) the bidder's success in implementing an affirmative action plan;
(b) the bidder's success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17 of the Administrative Regulations of Connecticut State Agencies, inclusive;
(c) the bidder's promise to develop and implement a successful affirmative action plan;
(d) the bidder's submission of employment statistics contained in the "Employment Information Form", indicating that the composition of its workforce is at or near parity when compared to the racial and sexual composition of the workforce in the relevant labor market area; and
(e) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises. See Section 46a-68j-30(10)(E) of the Contract Compliance Regulations.

INSTRUCTIONS AND OTHER INFORMATION

The following BIDDER CONTRACT COMPLIANCE MONITORING REPORT must be completed in full, signed, and submitted with the bid for this contract. The contract awarding agency and the Commission on Human Rights and Opportunities will use the information contained thereon to determine the bidders compliance to Sections 4a-60 and 4a-60a CONN. GEN. STAT., and Sections 46a-68j-23 of the Regulations of Connecticut State Agencies regarding equal employment opportunity, and the bidder's good faith efforts to include minority business enterprises as subcontractors and suppliers for the work of the contract.

1) Definition of Small Contractor

Section 4a-60g CONN. GEN. STAT. defines a small contractor as a company that has been doing business under the same management and control and has maintained its principal place of business in Connecticut for a one year period immediately prior to its application for certification under this section, had gross revenues not exceeding fifteen million dollars in the most recently completed fiscal year, and at least fifty-one percent of the ownership of which is held by a person or persons who are active in the daily affairs of the company, and have the power to direct the management and policies of the company, except that a nonprofit corporation shall be construed to be a small contractor if such nonprofit corporation meets the requirements of subparagraphs (A) and (B) of subdivision 4a-60g CONN. GEN. STAT.

MANAGEMENT: Managers plan, organize, direct, and control the major functions of an organization through subordinates who are at the managerial or supervisory level. They make policy decisions and set objectives for the company or departments. They are not usually directly involved in production or providing services. Examples include top executives, public relations managers, managers of operations specialties (such as financial, human resources, or purchasing managers), and construction and engineering managers.

BUSINESS AND FINANCIAL OPERATIONS: These occupations include managers and professionals who work with the financial aspects of the business. These occupations include accountants and auditors, purchasing agents, management analysts, labor relations specialists, and budget, credit, and financial analysts.

MARKETING AND SALES: Occupations related to the act or process of buying and selling products and/or services such as sales engineer, retail sales workers and sales representatives including wholesale.

LEGAL OCCUPATIONS: In-House Counsel who is charged with providing legal advice and services in regards to legal issues that may arise during the course of standard business practices. This category also includes assistive legal occupations such as paralegals, legal assistants.

COMPUTER SPECIALISTS: Professionals responsible for the computer operations within a company are grouped in this category. Examples of job titles in this category include computer programmers, software engineers, database administrators, computer scientists,systems analysts, and computer support specialists

ARCHITECTURE AND ENGINEERING: Occupations related to architecture, surveying, engineering, and drafting are included in this category. Some of the job titles in this category include electrical and electronic engineers, surveyors, architects, drafters, mechanical engineers, materials engineers, mapping technicians, and civil engineers.

OFFICE AND ADMINISTRATIVE SUPPORT: All clerical-type work is included in this category. These jobs involve the preparing, transcribing, and preserving of written communications and records; collecting accounts; gathering and distributing information; operating office machines and electronic data processing equipment; and distributing mail. Job titles listed in this category include telephone operators, bill and account collectors, customer service representatives, dispatchers, secretaries and administrative assistants, computer operators and clerks (such as payroll, shipping, stock, mail and file).

BUILDING AND GROUNDS CLEANING AND MAINTENANCE: This category includes occupations involving landscaping, housekeeping, and janitorial services. Job titles found in this category include supervisors of landscaping or housekeeping, janitors, maids, grounds maintenance workers, and pest control workers.

CONSTRUCTION AND EXTRACTION: This category includes construction trades and related occupations. Job titles found in this category include boilermakers, masons (all types), carpenters, construction laborers, electricians, plumbers (and related trades), roofers, sheet metal workers, elevator installers, hazardous materials removal workers, paperhangers, and painters. Paving, surfacing, and tamping equipment operators; drywall and ceiling tile installers; and carpet, floor and tile installers and finishers are also included in this category. First line supervisors, foremen, and helpers in these trades are also grouped in this category..

INSTALLATION, MAINTENANCE AND REPAIR: Occupations involving the installation, maintenance, and repair of equipment are included in this group. Examples of job titles found here are heating, ac, and refrigeration mechanics and installers; telecommunication line installers and repairers; heavy vehicle and mobile equipment service technicians and mechanics; small engine mechanics; security and fire alarm systems installers; electric/electronic repair, industrial, utility and transportation equipment; millwrights; riggers; and manufactured building and mobile home installers. First line supervisors, foremen, and helpers for these jobs are also included in the category.

MATERIAL MOVING WORKERS: The job titles included in this group are Crane and tower operators; dredge, excavating, and lading machine operators; hoist and winch operators; industrial truck and tractor operators; cleaners of vehicles and equipment; laborers and freight, stock, and material movers, hand; machine feeders and offbearers; packers and packagers, hand; pumping station operators; refuse and recyclable material collectors; and miscellaneous material moving workers.

PRODUCTION WORKERS: The job titles included in this category are chemical production machine setters, operators and tenders; crushing/grinding workers; cutting workers; inspectors, testers sorters, samplers, weighers; precious stone/metal workers; painting workers; cementing/gluing machine operators and tenders; etchers/engravers; molders, shapers and casters except for metal and plastic; and production workers.

3) Definition of Racial and Ethnic Terms (as used in Part IV Bidder Employment Information) (Page 3)

White (not of Hispanic Origin)- All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East. Black(not of Hispanic Origin)- All persons having origins in any of the Black racial groups of Africa. Hispanic- All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.	Asian or Pacific Islander- All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa. American Indian or Alaskan Native- All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

BIDDER CONTRACT COMPLIANCE MONITORING REPORT

PART I - Bidder Information

Company Name Street Address City & State Chief Executive	Bidder Federal Employer Identification Number _____ Or Social Security Number_____
Major Business Activity (brief description)	Bidder Identification (response optional/definitions on page 1) -Bidder is a small contractor. Yes __No __ -Bidder is a minority business enterprise Yes __No __ (If yes, check ownership category) Black ___ Hispanic___ Asian American___ American Indian/Alaskan Native ___Iberian Peninsula___ Individual(s) with a Physical Disability___ Female ___
Bidder Parent Company (If any)	- Bidder is certified as above by State of CT Yes__ No__
Other Locations in Ct. (If any)	

PART II - Bidder Nondiscrimination Policies and Procedures

1. Does your company have a written Affirmative Action/Equal Employment Opportunity statement posted on company bulletin boards? Yes__ No__	7. Do all of your company contracts and purchase orders contain non-discrimination statements as required by Sections 4a-60 & 4a-60a Conn. Gen. Stat.? Yes__ No__
2. Does your company have the state-mandated sexual harassment prevention in the workplace policy posted on company bulletin boards? Yes__ No__	8. Do you, upon request, provide reasonable accommodation to employees, or applicants for employment, who have physical or mental disability? Yes__ No__
3. Do you notify all recruitment sources in writing of your company's Affirmative Action/Equal Employment Opportunity employment policy? Yes__ No__	9. Does your company have a mandatory retirement age for all employees? Yes__ No__
4. Do your company advertisements contain a written statement that you are an Affirmative Action/Equal Opportunity Employer? Yes __No __	10. If your company has 50 or more employees, have you provided at least two (2) hours of sexual harassment training to all of your supervisors? Yes__ No__ NA__
5. Do you notify the Ct. State Employment Service of all employment openings with your company? Yes __No __	11. If your company has apprenticeship programs, do they meet the Affirmative Action/Equal Employment Opportunity requirements of the apprenticeship standards of the Ct. Dept. of Labor? Yes __No __NA __
6. Does your company have a collective bargaining agreement with workers? Yes__ No__ 6a. If yes, do the collective bargaining agreements contain non-discrim ination clauses covering all workers? Yes__ No__ 6b. Have you notified each union in writing of your commitments under the nondiscrimination requirements of contracts with the state of Ct? Yes__ No__	12. Does your company have a written affirmative action Plan? Yes __No __ If no, please explain. 13. Is there a person in your company who is responsible for equal employment opportunity? Yes __No __ If yes, give name and phone number. _____

Part III - Bidder Subcontracting Practices

1. Will the work of this contract include subcontractors or suppliers? Yes__ No___

1a. If yes, please list all subcontractors and suppliers and report if they are a small contractor and/or a minority business enterprise. (defined on page 1 / use additional sheet if necessary)

1b. Will the work of this contract require additional subcontractors or suppliers other than those identified in 1a. above? Yes__ No__

PART IV - Bidder Employment Information

Date:

JOB CATEGORY *	OVERALL TOTALS	WHITE (not of Hispanic origin)		BLACK (not of Hispanic origin)		HISPANIC		ASIAN or PACIFIC ISLANDER		AMERICAN INDIAN or ALASKAN NATIVE	
		Male	Female	Male	Female	Male	Female	Male	Female	male	female
Management											
Business & Financial Ops											
Marketing & Sales											
Legal Occupations											
Computer Specialists											
Architecture/Engineering											
Office & Admin Support											
Bldg/ Grounds Cleaning/Maintenance											
Construction & Extraction											
Installation , Maintenance & Repair											
Material Moving Workers											
Production Occupations											
TOTALS ABOVE											
Total One Year Ago											
FORMAL ON THE JOB TRAINEES (ENTER FIGURES FOR THE SAME CATEGORIES AS ARE SHOWN ABOVE)											
Apprentices											
Trainees											

*NOTE: JOB CATEGORIES CAN BE CHANGED OR ADDED TO (EX. SALES CAN BE ADDED OR REPLACE A CATEGORY NOT USED IN YOUR COMPANY)

1. Which of the following recruitment sources are used by you? (Check yes or no, and report percent used)

SOURCE	YES	NO	% of applicants provided by source
State Employment Service			
Private Employment Agencies			
Schools and Colleges			
Newspaper Advertisement			
Walk Ins			
Present Employees			
Labor Organizations			
Minority/Community Organizations			
Others (please identify)			

2. Check (X) any of the below listed requirements that you use as a hiring qualification

(X)	
	Work Experience
	Ability to Speak or Write English
	Written Tests
	High School Diploma
	College Degree
	Union Membership
	Personal Recommendation
	Height or Weight
	Car Ownership
	Arrest Record
	Wage Garnishments

3. Describe below any other practices or actions that you take which show that you hire, train, and promote employees without discrimination

Certification (Read this form and check your statements on it CAREFULLY before signing). I certify that the statements made by me on this BIDDER CONTRACT COMPLIANCE MONITORING REPORT are complete and true to the best of my knowledge and belief, and are made in good faith. I understand that if I knowingly make any misstatements of facts, I am subject to be declared in non-compliance with Section 4a-60, 4a-60a, and related sections of the CONN. GEN. STAT.

(Signature)	(Title)	(Date Signed)	(Telephone)

QUALIFICATIONS OF BIDDER

The undersigned offers the following information as evidence of his qualifications to perform the Work as bid upon according to all the requirements of the Contract Documents, including Plans and Specifications. ***PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:***

Project Name NEW PARKING AREA AT LABOR FIELD

Bidder's Name _____

Bidder's Address _____

When Organized _____

1. How many years has Bidder been engaged in the contracting business under present firm name?

_____

1a. Former firm names (if applicable). List previous names.

_____

_____

_____

2. The names and addresses of all persons interested in the bid (if made by a partnership or corporation) as Principals, are as follows (attach supplementary list if necessary):

_____

_____

_____

_____

_____

3. The Bidder is requested to state in Table 1 (see following page) a minimum of three (3) projects of similar nature to the project described herein, that the Bidder has completed, with name, address, and telephone number of a reference for each project.

TABLE 1

PROJECT 1. Title 2. Description (i.e. square feet of sidewalk)	SPECIALTY WORK	PROJECT DURATION FROM	To	PROJECT COST (BID)	PROJECT COST (FINAL)	NAME, ADDRESS & TELEPHONE NO. 1. Owner 2. Project Engineer/Architect 3. Project Reference

4. List projects presently under contract by the Bidder, dollar value of the contract, percent and estimated time of completion:

_____

_____

_____

_____

_____

5. Has the Bidder ever failed to complete work awarded; and if so, state where and why:

_____

_____

_____

_____

_____

6. If the Bidder has worked under the direction of a Consulting Engineer, list recent projects with name, address and telephone number of the Consultant:

_____

_____

_____

_____

_____

7. Does the Bidder plan to sublet any part of this work; and if so, give details: including name, address, phone number, contact person and list of references for each subcontractor.

_____

_____

_____

_____

8. List equipment the Bidder owns that is available for this project:

_____

_____

_____

_____

_____

9. List equipment the Bidder plans to rent or purchase for this project:

_____

_____

_____

_____

_____

10. List name, address, and telephone number for the following:

Surety: _____

_____

Bank: _____

_____

Major Material Supplier:_____

_____

11. List Key Personnel to be employed for this project:_____

_____

_____

_____

_____

12. Remarks:_____

_____

_____

_____

_____

Respectfully Submitted:

By:_____

_____

_____

_____

The above statement must be subscribed and sworn to before a Notary Public.

By _____ Date _____

State of _____)
) ss _____, A.D. YEAR
County of _____)

Personally appeared before me _____ who subscribed to and made oath to the truth of the foregoing statement.

_____
Notary Public

CONTRACT AWARD FORMS

The Town will make an initial determination of the Lowest Responsible Bidder based on the Town's best interest. That bidder must then complete and return the following documents within ten (10) calendar days in order to be considered for a formal bid award:

- Certificate of Insurance (To be provided by Contractor)
- Anticipated Source of Materials Form
- List of Proposed Subcontractors (To be provided by Contractor)
- OPM Nondiscrimination Certification

Note that the OPM Nondiscrimination Certification *must be submitted to the State of Connecticut, Commission on Human Rights and Opportunities (CHRO). The Town will verify with CHRO that the certification is active. If the apparent low bidder previously submitted a* OPM Nondiscrimination Certification *to a state agency, that same form can be used by CHRO to confirm an active certification.*

TOWN OF EAST HARTFORD PUBLIC WORKS DEPARTMENT

ANTICIPATED SOURCE OF MATERIALS

PROJECT: NEW PARKKING AREA AT LABOR FIELD

BID NO. 16-14

CONTRACTOR:

_____

Submittals are required for the following materials or items:

MATERIAL OR ITEM	ANTICIPATED SOURCE
BITUMINOUS CONCRETE	
CRUSHED STONE SCREENINGS	
PROCESSED AGGREGATE BASE	
GRANULAR FILL	
GEOTEXTILE FABRIC (SEPARATION, HIGH SURVIVABILITY)	
FILTER FABRIC	
TIMBER GUIDE RAIL	
TOPSOIL	
SEED	
FERTILIZER	
WETLAND SEED MIX	
TREES	
MAINTENANCE ACCESS GATE	
LINE STRIPING	
SIGNS	

REQUIRED FOR ALL CONTRACT TYPES
Nondiscrimination Certification
Effective Date: June 30, 2009

Nondiscrimination Certification Forms		
Form A - Representation by Individual	**Form A** - Word format	**Form A** – pdf fillable format
Form B - Representation by Entity	**Form B** - Word format	**Form B** – pdf fillable format
Form C - Affidavit by Entity	**Form C** - Word format	**Form C** – pdf fillable format
Form D - New Resolution by Entity	**Form D** - Word format	**Form D** – pdf fillable format
Form E - Prior Resolution by Entity	**Form E** - Word format	**Form E** – pdf fillable format

---

DESCRIPTION:

CHRO (for municipal public works project) per CGS 4a-60 (c)(2)

The Office of the Attorney General has approved the above nondiscrimination certification forms to assist executive branch agencies in complying with the State's contracting requirements under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended.

By law, a contractor must provide ~~an awarding State agency~~ with *written representation* or *documentation* that certifies the contractor complies with the State's nondiscrimination agreements and warranties prior to the award of a contract. If after the initial submission there is any change in such representation, the contractor shall provide the updated representation to the State or such political subdivision not later than thirty (30) days after such change or upon the execution of a new contract with the state or political subdivision of the state whichever is earlier. Such contractor shall also certify no later than fourteen (14) days after the twelve (12) month anniversary of the most recently filed non-discrimination certification that the representation on file is current and accurate.

A nondiscrimination certification is generally required for all State contracts – regardless of type, term, cost, or value. ***See list of exempt entities (below).***

FORMS:

There are five different certification forms one of which must be submitted in writing or electronically. Form A is *always* used for contracts with an individual who is not an entity, regardless of the contract value. Form B is *always* used for contracts with an entity when the contract value is less than $50,000. Form C is *recommended* for contracts valued at $50,000 or more with an entity. If Form C is not used, either Form D or E must be used; both require a resolution (new or prior).

For Use By:	Value **Less Than $50,000**	Value **$50,000 or More**
Individual	**Form A** *Representation*	
Entity	**Form B** *Representation*	**Form C** *Affidavit*
		Form D *New Resolution*
		Form E *Prior Resolution*

Definitions

- *individual:* a person who is not an entity
- *entity:* corporation, limited liability company, or partnership

EXPLANATION OF FORMS:

Form A. *Representation:* For use by an individual when entering into any contract, regardless of contract value.

Form B. *Representation:* For use by an entity when entering into any contract valued at less than $50,000 for any year of the contract.

Form C. *Affidavit:* (Recommended for contracts at or above $50,000) For use by an entity when entering into any contract valued at $50,000 or more for any year of the contract **and** the entity certifies through an affidavit that a complying nondiscrimination policy is currently in place.

Form D. *New Resolution:* For use by a entity when entering into any contract valued at $50,000 or more for any year of the contract **and** the entity has a complying nondiscrimination policy adopted by a new resolution of the board of directors, shareholders, managers, members, or other governing body.

Form E. *Prior Resolution:* For use by a entity when entering into any contract valued at $50,000 or more for any year of the contract **and** the entity has a complying nondiscrimination policy adopted by a prior resolution of the board of directors, shareholders, managers, members, or other governing body.

EXEMPTIONS:

Pursuant to Public Act No. 09-158, Section 1(a)(5)(d), the entities listed below are exempt and, therefore, not required to submit a nondiscrimination certification form when entering into a contract with the State:

1. political subdivisions of the State of Connecticut, including, but not limited to municipalities;
2. quasi-public agencies, as defined in C.G.S. § 1-120;
3. other states of the United States, including, but not limited to, the District of Columbia, Puerto Rico, U.S. territories and possessions, and federally recognized Indian tribal governments, as defined in C.G.S. § 1-267;
4. the federal government;
5. foreign governments; and
6. an agency of a subdivision, agency, state or government listed in items 1-5.

For Further Information, Contact:

Please direct any questions about the nondiscrimination certification forms to the Commission on Human Rights and Opportunities:
Tel. 860/ 541-3400
Connecticut Toll Free Tel. 1-800/ 477-5737

Content Last Modified on 6/15/2015 1:30:59 PM

Printable Version

450 Capitol Avenue Hartford, CT 06106

Home | CT.gov Home | Send Feedback | Login | Register
State of Connecticut Disclaimer, Privacy Policy, and Web Site Accessibility Policy. Copyright © 2002-2015 State of Connecticut.

STATE OF CONNECTICUT

NONDISCRIMINATION CERTIFICATION — Representation By Individual For All Contract Types Regardless of Value

Written representation that complies with the nondiscrimination agreements and warranties under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended

---

INSTRUCTIONS:

For use by an individual who is not an entity (corporation, limited liability company, or partnership) when entering into any contract type with the State of Connecticut, regardless of contract value. Submit to the awarding State agency prior to contract execution.

REPRESENTATION OF AN INDIVIDUAL:

I, _____ , of _____ ,
Signatory Business Address

represent that I will comply with the nondiscrimination agreements and warranties of Connecticut General Statutes §§ 4a-60(a)(1)and 4a-60a(a)(1), as amended.

_____ _____
Signatory Date

_____
Printed Name

STATE OF CONNECTICUT

NONDISCRIMINATION CERTIFICATION — Representation By Entity For Contracts Valued at Less Than $50,000

Written representation that complies with the nondiscrimination agreements and warranties under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended

---

INSTRUCTIONS:

For use by an entity (corporation, limited liability company, or partnership) when entering into any contract type with the State of Connecticut valued at less than $50,000 for each year of the contract. Complete all sections of the form. Submit to the awarding State agency prior to contract execution.

REPRESENTATION OF AN ENTITY:

I, _____ , _____ , of _____ ,
Authorized Signatory Title Name of Entity

an entity duly formed and existing under the laws of _____ ,
Name of State or Commonwealth

represent that I am authorized to execute and deliver this representation on behalf of

_____ and that _____
Name of Entity Name of Entity

has a policy in place that complies with the nondiscrimination agreements and warranties of Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended.

_____ _____
Authorized Signatory Date

_____
Printed Name

STATE OF CONNECTICUT

NONDISCRIMINATION CERTIFICATION — Affidavit By Entity For Contracts Valued at $50,000 or More

Documentation in the form of an affidavit signed under penalty of false statement by a chief executive officer, president, chairperson, member, or other corporate officer duly authorized to adopt corporate, company, or partnership policy that certifies the contractor complies with the nondiscrimination agreements and warranties under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended

---

INSTRUCTIONS:

For use by an entity (corporation, limited liability company, or partnership) when entering into any contract type with the State of Connecticut valued at $50,000 or more for any year of the contract. Complete all sections of the form. Sign form in the presence of a Commissioner of Superior Court or Notary Public. Submit to the awarding State agency prior to contract execution.

AFFIDAVIT:

I, the undersigned, am over the age of eighteen (18) and understand and appreciate the obligations of

an oath. I am _____ of _____ , an entity
Signatory's Title Name of Entity

duly formed and existing under the laws of _____.
Name of State or Commonwealth

I certify that I am authorized to execute and deliver this affidavit on behalf of

_____ and that _____
Name of Entity Name of Entity

has a policy in place that complies with the nondiscrimination agreements and warranties of Connecticut

General Statutes §§ 4a-60(a)(1)and 4a-60a(a)(1), as amended.

_____
Authorized Signatory

_____
Printed Name

Sworn and subscribed to before me on this _____ day of _____, 20____.

_____ _____
Commissioner of the Superior Court/ Notary Public **Commission Expiration Date**

STATE OF CONNECTICUT

NONDISCRIMINATION CERTIFICATION — New Resolution By Entity For Contracts Valued at $50,000 or More

Documentation in the form of a corporate, company, or partnership policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of a contractor that certifies the contractor complies with the nondiscrimination agreements and warranties under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended

---

INSTRUCTIONS:

For use by an entity (corporation, limited liability company, or partnership) when entering into any contract type with the State of Connecticut valued at $50,000 or more for any year of the contract. Complete all sections of the form. Submit to the awarding State agency prior to contract execution.

CERTIFICATION OF RESOLUTION:

I, _____ , _____ , of _____ ,
Authorized Signatory Title Name of Entity

an entity duly formed and existing under the laws of _____ ,
Name of State or Commonwealth

certify that the following is a true and correct copy of a resolution adopted on the _____ day of

_____ , 20_____ by the governing body of _____ ,
Name of Entity

in accordance with all of its documents of governance and management and the laws of

_____ , and further certify that such resolution has not been modified
Name of State or Commonwealth

or revoked, and is in full force and effect.

RESOLVED: That the policies of _____ comply with the
Name of Entity

nondiscrimination agreements and warranties of Connecticut General Statutes

§§ 4a-60(a)(1) and 4a-60a(a)(1), as amended.

The undersigned has executed this certificate this _____ day of _____ , 20_____ .

_____ _____
Authorized Signatory Date

_____
Printed Name

STATE OF CONNECTICUT

NONDISCRIMINATION CERTIFICATION — Prior Resolution By Entity For Contracts Valued at $50,000 or More

Documentation in the form of a corporate, company, or partnership policy adopted by a prior resolution of the board of directors, shareholders, managers, members or other governing body of a contractor that certifies the contractor complies with the nondiscrimination agreements and warranties under Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended

---

INSTRUCTIONS:

For use by an entity (corporation, limited liability company, or partnership) when entering into any contract type with the State of Connecticut valued at $50,000 or more for any year of the contract. Complete all sections of the form. Attach copy of previously adopted resolution (*State of CT, Nondiscrimination Certification, Form D: New Resolution*). Submit all documentation to the awarding State agency prior to contract execution.

CERTIFICATION OF PRIOR RESOLUTION:

I, the undersigned, am a duly authorized corporate officer or member of _____.
Name of Entity

I have reviewed the attached prior resolution. I certify that:

(1) the attached prior resolution complies with the nondiscrimination agreements and warranties of Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended; and

(2) the prior resolution remains in full force and effect on the date this documentation is submitted to the awarding State agency.

_____ _____
Authorized Signatory Title

_____ _____
Printed Name Date

RESERVED FOR STATE USE

I, the undersigned head of the awarding State agency, or designee, certify that the attached prior resolution complies with the nondiscrimination agreements and warranties of Connecticut General Statutes §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended.

_____ _____
Signature of Agency Head (or designee) Date

_____
Awarding State Agency

AGREMENT FORMS

Upon receipt of notice of contract award, and receipt of the compiled project Agreement, all of the following documents contained within this section must be completed by the awarded bidder and returned within ten (10) calendar days. Note that a new resolution, with date matching the effective date of the Agreement, must be submitted.

- Fully Endorsed Agreement (*3 originals*)
- Resolution for Corporations/Professional Corporations
- Resolution for Limited Liability Companies
- Resolution for Partnerships
- Performance Bond

Note that the correct resolution must be prepared based on the type of business contracting with the Town (corporation, professional corporation, limited liability company, partnership, limited liability partnership, or general partnership). Resolutions must be on company letterhead and the date of the resolution must match the Effective Date of the Agreement.

AGREEMENT

NEW PARKING AREA AT LABOR FIELD

BID NO. 16-14

THIS AGREEMENT is by and between the Town of East Hartford, Connecticut, a municipal corporation with principal office and place of business at 740 Main Street, East Hartford, Connecticut 06108, acting herein through the Town's Mayor, (*hereinafter referred to as Owner*) and _____ with an office and place of business at _____ a corporation/partnership/LLC/LLP/sole proprietorship (*hereinafter referred to as Contractor*) for the construction of the project titled NEW PARKING AREA AT LABOR FIELD (BID NO. 16-14).

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: construction of a paved parking area at Labor Field, 24 Woodlawn Circle, in the Town of East Hartford. It also includes other appurtenant work such as wood guardrail, turf establishment, and wetlands plantings.

ARTICLE 3 – ENGINEER

3.01 The Project was designed by the East Hartford Department of Public Works, Engineering Division.

3.02 The East Hartford Department of Public Works, Engineering Division will act as Owner's representative ("Engineer"), assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Contract Times: Days*

A. The Contractor <u>may not</u> commence construction at the site prior to July 5, 2016.

B. The Work will be substantially completed on or before August 19, 2016, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before September 2, 2016.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal, or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner $200 (two hundred dollars) for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.

2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner $200 (two hundred dollars) for each day that expires after such time until the Work is completed and ready for final payment.

3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) $_____.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such

Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract

    a. 95 percent (95%) of Work completed (with the balance being retainage).

    b. There will be no payment for the cost of materials and equipment not incorporated in the Work.

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 99 percent (99%) of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of eight percent (8%) per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

A. Contractor examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

B. Contractor visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

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

D. Contractor carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Contractor considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related

reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to ___, inclusive).
2. Corporate Resolution
3. Performance bond (pages ___ to ___, inclusive).
4. General Conditions (pages ___ to ___, inclusive).
5. Supplemental General Conditions (pages ___ to ___, inclusive).
6. Technical Specifications as listed in the table of contents of the Bid Specification.
7. Drawings (not attached but incorporated by reference) consisting of ___ sheets with each sheet bearing the following general title: ___.
8. Addenda (numbers ___ to ___, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
   a. Contractor's Bid (pages ___ to ___, inclusive).
   b. Committee of Award Documentation (pages ___ to ___, inclusive).
   c. Contractor's Letter of Award (pages ___ to ___, inclusive).
   d. Contract Award Forms (pages ___ to ___, inclusive).
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:

a. Notice to Proceed.

b. Work Change Directives.

c. Change Orders.

d. Field Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

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

10.02 *Assignment of Contract*

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

10.03 *Successors and Assigns*

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

10.04 *Severability*

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

10.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, the said parties hereto have caused this instrument to be signed in duplicate by their respective duly constituted officers, attested, and sealed pursuant to proper resolutions. One counterpart each has been delivered to Owner and Contractor.

This Agreement will be effective on Month, Day 20xx (*which is the Effective Date of the Agreement*).

Signed and sealed in the presence of:

OWNER

Witness	Mayor Marcia Leclerc Town of East Hartford, Connecticut
Witness	

CONTRACTOR

Witness	*Duly Authorized*
Witness	*Printed Name, Title*

Approved to Form:	**No Delinquent Taxes Owed:**
Signature	*Signature*
Printed Name, Title	*Printed Name, Title*
Date	*Date*

RESOLUTION FOR CORPORATIONS/PROFESSIONAL CORPORATIONS

(TO BE TYPED ON CORPORATION LETTERHEAD)

I (name of Corporation's Secretary), Secretary of (legal name of Corporation) a Corporation duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the Board of Directors of such Corporation, duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the Board of Directors was present and voted in favor of such Resolution. I further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following Officers of this Corporation, or any one of them individually:

(Name and title of Officer or Officers)

are empowered to execute and deliver, in the name of and on behalf of this Corporation, contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to affix the Corporate Seal to such documents and to bind the Corporation to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned has affixed his/her signature and the Corporate Seal of the Corporation, this (date) day of (month) 20__

(Typed name of Corporation's Secretary)

_____

SIGNATURE OF SECRETARY

(*Corporate Seal*)

RESOLUTION FOR LIMITED LIABILITY COMPANIES

(TO BE TYPED ON COMPANY LETTERHEAD)

The undersigned, comprising all Members of (legal name of LLC), a Limited Liability Company duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the Members, duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the voting Members was present and voted in favor of such Resolution. We further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following Members of this Limited Liability Company, or any one of them:

(Name and title of Members)

are empowered to execute and deliver, in the name of and on behalf of this Limited Liability Company, contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to bind the Limited Liability Company to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned have executed this resolution, this (date) day of (month) 20__

_____
(Typed Member Name)

_____
(Typed Member Name)

_____
(Typed Member Name)

_____
(Typed Member Name)

RESOLUTION FOR LIMITED LIABILITY COMPANIES BY MANAGING PARTNER

(TO BE TYPED ON COMPANY LETTERHEAD)

I (name of Managing Member), Managing Member of (legal name of LLC), a Limited Liability Company duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the Members, duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the voting Members was present and voted in favor of such Resolution. I further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following Members of this Limited Liability Company, or any one of them:

(Name and title of Members)

are empowered to execute and deliver, in the name of and on behalf of this Limited Liability Company, contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to bind the Limited Liability Company to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned has affixed his/her signature, this (date) day of (month) 20__

(Typed name of Managing Partner)

_____

SIGNATURE OF MANAGING PARTNER

RESOLUTION FOR PARTNERSHIPS

(TO BE TYPED ON COMPANY LETTERHEAD)

The undersigned, comprising all (partners/general partners) of (legal name of partnership), a (partnership/Limited Partnership/Limited Liability Partnership) duly organized and operating under the laws of (State) and qualified and authorized to do business in the State of Connecticut, DO HEREBY CERTIFY that the following is a true, correct and accurate copy of a Resolution duly adopted at a meeting of the voting (partners/general partners), duly convened and held on (Date of Meeting), at which meeting a duly constituted quorum of the voting partners was present and voted in favor of such Resolution. We further CERTIFY that such Resolution has not been modified, rescinded or revoked since the date on which it was enacted, and it is at present in full force and effect:

RESOLVED: That the following (partners/general partners) of this Limited Liability Company, or any one of them:

(Name and title of partners/general partners)

are empowered to execute and deliver, in the name of and on behalf of this (partnership/Limited Partnership/Limited Liability Partnership), contracts, bids and other documents to the Town of East Hartford, State of Connecticut, and are further authorized to bind the (partnership/Limited Partnership/Limited Liability Partnership) to such contracts, bids and other documents.

IN WITNESS WHEREFORE, the undersigned have executed this resolution, this (date) day of (month) 20__

_____
(Typed partner/general partner Name)

_____
(Typed partner/general partner Name)

_____
(Typed partner/general partner Name)

_____
(Typed partner/general partner Name)

PERFORMANCE BOND

Bond No._____

KNOW ALL MEN BY THESE PRESENTS:

THAT _____as Principal,

Hereinafter called "PRINCIPAL," and _____ as Surety,

hereinafter called "SURETY," are held and firmly bound unto the Town of East Hartford, Connecticut,

as Obligee, hereinafter called "TOWN," in the amount of _____ Dollars,

($ _____), for the payment whereof PRINCIPAL and SURETY bind themselves, their

heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, PRINCIPAL has by written Contract dated _____ entered into

a Contract with TOWN for the project “New Parking Area at Labor Field, 24 Woodlawn Circle, Bid No.

16-14” which Contract is by reference made a part hereof, and is hereinafter referred to as the

"CONTRACT."

NOW, THEREFORE, the condition of this obligation is such that, if PRINCIPAL shall promptly and faithfully perform said CONTRACT, and shall certify in writing that all wages paid under said CONTRACT to any mechanic, laborer or workman were equal to the rates of wages customary or then prevailing for the same trade or occupation in the Town of East Hartford, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

Whenever PRINCIPAL shall be, and declared by the TOWN to be in default under the CONTRACT, the TOWN having performed its obligations thereunder, the SURETY may promptly remedy the default, or shall promptly:

1. Complete the CONTRACT in accordance with its terms and conditions; or

2. Obtain a bid or bids for submission to the TOWN for completing the CONTRACT in accordance with its terms and conditions, and upon determination by the TOWN and SURETY of the lowest possible bidder, arrange for a CONTRACT between such bidder and the TOWN, and make available as work progresses (even though there should be a default or a succession of defaults under the CONTRACT or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof. The term, "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by the TOWN to PRINCIPAL under the

CONTRACT and any amendments thereto, less the amount properly paid by the TOWN to the PRINCIPAL.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the TOWN named herein or the heirs, executors, administrators or successors of TOWN.

Signed and sealed this _____ day of _____, A.D., 20____.

In the Presence of:

_____ _____(SEAL)
(PRINCIPAL)

_____ By: _____

_____ _____
(SURETY)

_____ By: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

EJCDC®
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Issued and Published Jointly by

ACEC
AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASCE
AMERICAN SOCIETY OF CIVIL ENGINEERS

National Society of Professional Engineers®

EJCDC® C-700, Standard General Conditions of the Construction Contract.
Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

Copyright © 2013:

National Society of Professional Engineers

1420 King Street, Alexandria, VA 22314-2794

(703) 684-2882

www.nspe.org

American Council of Engineering Companies

1015 15th Street N.W., Washington, DC 20005

(202) 347-7474

www.acec.org

American Society of Civil Engineers

1801 Alexander Bell Drive, Reston, VA 20191-4400

(800) 548-2723

www.asce.org

The copyright for this document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at www.ejcdc.org, or from any of the sponsoring organizations above.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

Page

Article 1 – Definitions and Terminology 1

1.01 Defined Terms 1

1.02 Terminology 5

Article 2 – Preliminary Matters 6

2.01 Delivery of Bonds and Evidence of Insurance 6

2.02 Copies of Documents 6

2.03 Before Starting Construction 6

2.04 Preconstruction Conference; Designation of Authorized Representatives 7

2.05 Initial Acceptance of Schedules 7

2.06 Electronic Transmittals 7

Article 3 – Documents: Intent, Requirements, Reuse 8

3.01 Intent 8

3.02 Reference Standards 8

3.03 Reporting and Resolving Discrepancies 8

3.04 Requirements of the Contract Documents 9

3.05 Reuse of Documents 10

Article 4 – Commencement and Progress of the Work 10

4.01 Commencement of Contract Times; Notice to Proceed 10

4.02 Starting the Work 10

4.03 Reference Points 10

4.04 Progress Schedule 10

4.05 Delays in Contractor's Progress 11

Article 5 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions 12

5.01 Availability of Lands 12

5.02 Use of Site and Other Areas 12

5.03 Subsurface and Physical Conditions 13

5.04 Differing Subsurface or Physical Conditions 14

5.05 Underground Facilities 15

EJCDC® C-700, Standard General Conditions of the Construction Contract.
Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

5.06 Hazardous Environmental Conditions at Site 17
Article 6 – Bonds and Insurance 19
6.01 Performance, Payment, and Other Bonds 19
6.02 Insurance—General Provisions 19
6.03 Contractor's Insurance 20
6.04 Owner's Liability Insurance 23
6.05 Property Insurance 23
6.06 Waiver of Rights 25
6.07 Receipt and Application of Property Insurance Proceeds 25
Article 7 – Contractor's Responsibilities 26
7.01 Supervision and Superintendence 26
7.02 Labor; Working Hours 26
7.03 Services, Materials, and Equipment 26
7.04 "Or Equals" 27
7.05 Substitutes 28
7.06 Concerning Subcontractors, Suppliers, and Others 29
7.07 Patent Fees and Royalties 31
7.08 Permits 31
7.09 Taxes 32
7.10 Laws and Regulations 32
7.11 Record Documents 32
7.12 Safety and Protection 32
7.13 Safety Representative 33
7.14 Hazard Communication Programs 33
7.15 Emergencies 34
7.16 Shop Drawings, Samples, and Other Submittals 34
7.17 Contractor's General Warranty and Guarantee 36
7.18 Indemnification 37
7.19 Delegation of Professional Design Services 37
Article 8 – Other Work at the Site 38
8.01 Other Work 38
8.02 Coordination 39
8.03 Legal Relationships 39

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

Article 9 – Owner's Responsibilities 40
9.01 Communications to Contractor 40
9.02 Replacement of Engineer 40
9.03 Furnish Data 40
9.04 Pay When Due 40
9.05 Lands and Easements; Reports, Tests, and Drawings 40
9.06 Insurance 40
9.07 Change Orders 40
9.08 Inspections, Tests, and Approvals 41
9.09 Limitations on Owner's Responsibilities 41
9.10 Undisclosed Hazardous Environmental Condition 41
9.11 Evidence of Financial Arrangements 41
9.12 Safety Programs 41
Article 10 – Engineer's Status During Construction 41
10.01 Owner's Representative 41
10.02 Visits to Site 41
10.03 Project Representative 42
10.04 Rejecting Defective Work 42
10.05 Shop Drawings, Change Orders and Payments 42
10.06 Determinations for Unit Price Work 42
10.07 Decisions on Requirements of Contract Documents and Acceptability of Work 42
10.08 Limitations on Engineer's Authority and Responsibilities 42
10.09 Compliance with Safety Program 43
Article 11 – Amending the Contract Documents; Changes in the Work 43
11.01 Amending and Supplementing Contract Documents 43
11.02 Owner-Authorized Changes in the Work 44
11.03 Unauthorized Changes in the Work 44
11.04 Change of Contract Price 44
11.05 Change of Contract Times 45
11.06 Change Proposals 45
11.07 Execution of Change Orders 46
11.08 Notification to Surety 47
Article 12 – Claims 47

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

12.01 Claims 47
Article 13 – Cost of the Work; Allowances; Unit Price Work 48
13.01 Cost of the Work 48
13.02 Allowances 50
13.03 Unit Price Work 51
Article 14 – Tests and Inspections; Correction, Removal or Acceptance of Defective Work 52
14.01 Access to Work 52
14.02 Tests, Inspections, and Approvals 52
14.03 Defective Work 53
14.04 Acceptance of Defective Work 53
14.05 Uncovering Work 53
14.06 Owner May Stop the Work 54
14.07 Owner May Correct Defective Work 54
Article 15 – Payments to Contractor; Set-Offs; Completion; Correction Period 55
15.01 Progress Payments 55
15.02 Contractor's Warranty of Title 58
15.03 Substantial Completion 58
15.04 Partial Use or Occupancy 59
15.05 Final Inspection 59
15.06 Final Payment 59
15.07 Waiver of Claims 61
15.08 Correction Period 61
Article 16 – Suspension of Work and Termination 62
16.01 Owner May Suspend Work 62
16.02 Owner May Terminate for Cause 62
16.03 Owner May Terminate For Convenience 63
16.04 Contractor May Stop Work or Terminate 63
Article 17 – Final Resolution of Disputes 64
17.01 Methods and Procedures 64
Article 18 – Miscellaneous 64
18.01 Giving Notice 64
18.02 Computation of Times 64
18.03 Cumulative Remedies 64

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

18.04 Limitation of Damages 65
18.05 No Waiver 65
18.06 Survival of Obligations 65
18.07 Controlling Law 65
18.08 Headings 65

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.

3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

5. *Bidder*—An individual or entity that submits a Bid to Owner.

6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.

7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.

8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.

14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .

15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.

17. *Cost of the Work*—See Paragraph 13.01 for definition.

18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.

20. *Engineer*—The individual or entity named as such in the Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.

22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.

26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.

27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.

32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.

33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.

35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.

43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

46. *Unit Price Work*—Work to be paid for on the basis of unit prices.

47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*:

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*:

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

D. *Defective*:

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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

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

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.

C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.

B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

2. a preliminary Schedule of Submittals; and

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

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

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

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

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

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

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

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal weather conditions;

3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

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

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

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

5.03 *Subsurface and Physical Conditions*

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

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and

3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

2. is of such a nature as to require a change in the Drawings or Specifications; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments*:

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;

b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:

a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or

b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

c. Contractor failed to give the written notice as required by Paragraph 5.04.A.

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.

4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;

b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;

c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and

d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Possible Price and Times Adjustments*:

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

    a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;

    b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;

    c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and

    d. Contractor gave the notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.

3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

5.06 *Hazardous Environmental Conditions at Site*

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

1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and

2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.H shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

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

E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.

2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).

3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.

2. claims for damages insured by reasonably available personal injury liability coverage.

3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:

   a. Such insurance shall be maintained for three years after final payment.

   b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.

2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.

3. Broad form property damage coverage.

4. Severability of interest.

5. Underground, explosion, and collapse coverage.

6. Personal injury coverage.

7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.

8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.

H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.
2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."

2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.

3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.

4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
6. extend to cover damage or loss to insured property while in transit.
7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
8. allow for the waiver of the insurer's subrogation rights, as set forth below.
9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
10. not include a co-insurance clause.
11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
12. include performance/hot testing and start-up.
13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.

C. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.

D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3) it has a proven record of performance and availability of responsive service; and

4) it is not objectionable to Owner.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

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

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

a. shall certify that the proposed substitute item will:

1) perform adequately the functions and achieve the results called for by the general design,

2) be similar in substance to that specified, and

3) be suited to the same use as that specified.

b. will state:

1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,

2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from that specified, and

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

2) available engineering, sales, maintenance, repair, and replacement services.

d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

7.09 *Taxes*

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

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

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

7.12 *Safety and Protection*

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

1. all persons on the Site or who may be affected by the Work;

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

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

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

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

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples*:

   a. Contractor shall submit the number of Samples required in the Specifications.

   b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

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

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures*:

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

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal;

6. the issuance of a notice of acceptability by Engineer;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by Owner.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
2. an itemization of the specific matters to be covered by such authority and responsibility; and
3. the extent of such authority and responsibilities.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

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

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

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

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

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

B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

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

10.02 *Visits to Site*

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

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

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

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders*:

a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

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

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or

2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

    a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

    b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

    c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

    d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

    e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

    f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*: When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

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

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

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

14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished under the Contract Documents;

4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

B. *Applications for Payments*:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*:

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*:

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

E. *Reductions in Payment by Owner*:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. the Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. the Contract Price has been reduced by Change Orders;

i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.

2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

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

15.06 *Final Payment*

A. *Application for Payment*:

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents;

   b. consent of the surety, if any, to final payment;

   c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

   d. a list of all disputes that Contractor believes are unsettled; and

   e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

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

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;
2. correct such defective Work;
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;

3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and

2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses,

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
2. agree with the other party to submit the dispute to another dispute resolution process; or
3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Headings*

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

Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

TOWN OF EAST HARTFORD, CONNECTICUT

SUPPLEMENTAL CONDITIONS

These Supplemental Conditions amend or supplement the Standard General Conditions of the Construction Contract (EJCDC_C700, 2013 edition.) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

5.01 Availability of Lands

Amend this article as follows:

1) The Contractor shall not store materials or equipment within Town or State right-of-way.

2) Evidence of agreement(s) with private property owner(s) for the storage of equipment and materials must be provided to the Town.

3) The Contractor may be allowed to store materials or equipment on Town parcels with written permission from the Engineer. Terms and conditions of the use of Town parcels will be negotiated before the start of work.

4) In no case, even with the property owner's consent, will storage of materials or equipment be allowed where such storage will impact sightlines at intersecting roadways.

5) Access to all businesses and residences within the project limits must be maintained at all times. The Contractor shall coordinate his/her work, provide safe and ready means of ingress and egress to all stores and shops, public and private professional offices, and any other businesses or residences in the project area, both day and night, for the duration of the project. As required by the Engineer, the Contractor shall install and maintain temporary ramps at driveways. If there is a lump sum bid price for the Maintenance and Protection of Traffic, the cost of installing, maintaining, and removing the temporary ramps shall be included in the lump sum price bid for Maintenance and Protection of Traffic. Otherwise, this Work will be performed without additional compensation.

5.02 Use of Site and Other Areas

Amend this article as follows:

1) The Contractor shall conduct the Work at all times in such a manner as to ensure the least possible obstruction to both vehicular and pedestrian traffic. All equipment and materials shall be placed or stored in such a way and in such locations as will not create a hazard to the general public.

2) The Contractor shall notify residents and businesses in writing at least 24 hours in advance of any Work which will impact access to their property. Work shall be coordinated such that no residential or commercial driveway access is fully closed at any time.

3) The Contractor shall provide such barricades, signs, warnings, flagmen and shall conduct his Work in such a manner so that hazards to vehicular and pedestrian traffic are at a minimum. If, in the opinion

of the Engineer or other Town Public Safety Authorities, additional precautions or measures should be taken in the interest of public safety, the Contractor shall so comply promptly.

4) If the Contractor finds it necessary to close a portion of the road to vehicular traffic, then a Road Closure permit shall be obtained from the Engineer and the Chief of the East Hartford Police Department. The Contractor shall notify the Fire Department and any other concerned agencies of such road closing. Access shall be provided at all times to fire hydrants and precautions shall be taken to prevent freezing of any exposed or partially uncovered water lines.

5.05.A.2.c Underground Facilities: Contractor's Responsibilities

Amend this article as follows:

1) At least two full days before, (excluding Saturdays, Sundays and holidays) but not more than thirty days prior to commencing excavation, the Contractor shall call the telephone number 1-800-922-4455 (Call Before You Dig) to allow notification of utilities.

2) The Contractor shall be responsible to support all utility poles in the vicinity of excavations necessary to perform Work under this project. The Contractor must obtain all approvals required by the custodian of the utility pole, and coordinate all Work. There will be no direct payment for the support of utility poles.

5.06 Hazardous Environmental Conditions at Site

Delete paragraph I in its entirety.

7.08 Permits

Amend this article as follows:

1) Permits and licenses obtained by the Contractor prior to performing any Work and may include water and sewer permits (MDC), building permits, driveway and sidewalk permits, excavation permits, and Connecticut Department of Transportation Encroachment permits.

2) The Contractor will give all permit notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the Contract Drawings and Specifications are at variance therewith, he will give the Engineer prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, he will bear all costs arising there from.

3) For any Work within the Town right-of-way, on Town properties, or within the State highway right of way (for sidewalks only), the Contractor shall obtain a license and permit from the East Hartford Department of Public Works for the project. The license requires submission of a separate insurance certificate, a $10,000 bond, and a hold harmless agreement. Licenses expire on December 31 of the year of issue. The Contractor is required to pay a $35.00 license fee. Once the license has been

obtained, the Contractor shall apply for a permit for this project. The $50.00 permit fee will be waived for this project.

4) Prior to any construction involving or impacting facilities owned and/or operated by the Metropolitan District Commission (MDC), the Contractor must obtain all necessary permits pertinent to the work being performed.

5) Certain work including, but not limited to, retaining wall construction and electrical work, requires a building permit. The Contractor shall secure building permit(s) for such work at the Town of East Hartford Inspections and Permits Department. Unless otherwise noted in a "Notice to Contractor", the Town's portion of the permit fee will be waived. The Contractor will be required to pay the State of Connecticut portion of any building permit. Contact the Inspections and Permits office at 860-291-7345 for building permit information.

6) Some projects require special approval(s) from the Town of East Hartford Planning and Zoning Commission, the State of Connecticut Department of Environmental Protection (DEP), the United States Army Corps of Engineers or any other agency with jurisdictional rights. In most of these cases, separate plans have been approved and are on file. Any specific permit approval(s) by another agency or commission will be attached to the Contract Documents. If such permits are identified, then the approved permit plans are hereby made part of the Contract Documents and the Contractor represents that he/she is fully aware of all the requirements of the permit and his/her intention to comply with such requirements.

7.09 Taxes

Amend this article as follows:

1) Materials and equipment purchased for installation in this project will be exempt from the Connecticut Sales and Use Tax under the Connecticut Education, Welfare and Public Health Tax Act.

7.12 Safety and Protection

Amend this article as follows:

1) The Contractor shall be responsible for the protection and replacement of all survey markers, streetline monuments, and private property markers. Any survey markers, streetline monuments or private property markers disturbed or destroyed during construction will be replaced at the Contractor's own expense. Work must be performed by a Land Surveyor licensed in the State of Connecticut.

2) The Contractor shall protect his Work so as to prevent damage and/or vandalism to newly poured sidewalks and other concrete surfaces. Any newly poured sidewalks or ramps which are damaged or defaced shall be promptly repaired or replaced at the Contractor's expense. Determination to repair or replace will be at the sole discretion of the Engineer.

3) The Contractor will take precautionary measures to protect all public and private trees or shrubs remaining within or adjacent to the Project area. This also includes protection of root systems that may become damaged due to the excavation activities near or adjacent to vegetation designated to remain.

4) The Contractor shall be fully responsible for compensation, repair, or replacement of any damaged tree or shrub because of neglect by the Contractor or any of his/her assigned Subcontractors.

5) The Contractor's attention is called to the fact that there are underground traffic control facilities (e.g. loop detectors) at various intersections in the Town of East Hartford. Should these facilities become damaged during the course of the Work; the Contractor will be responsible for replacement of the equipment in accordance with the current Connecticut DOT installation standards. Splicing of the detector loops will not be permitted. Replacement of traffic control equipment will be at the Contractor's expense.

8.02 Coordination

Amend this article as follows:

1) The Contractor shall accommodate routine and emergency maintenance operations performed by the Town (i.e. refuse pickup, leaf collection, snow plowing, etc.) within the Work area.

12.01 Claims

Amend this article as follows:

1) Any claims received by the Owner for damage to private property as a result of the Contractor's operations, or lack of protective measures to prevent such damage, will be forwarded directly to the Contractor for resolution. For each claim, the Contractor shall provide to the Town evidence that the claim has been resolved.

14.02 Tests, Inspections and Approvals

Amend this article as follows:

1) The Contractor shall always notify the Engineer of its intention to perform work on the Project, including notice of the particular work it intends to perform, at least 24 hours before the Contractor commences that work. The Engineering Division can be reached between 8:30 a.m. and 4:30 p.m. at (860) 291-7380.

2) In instances when it shall be necessary to utilize Department inspectors during other than normal Department working hours, the Contractor shall make payment to the Town of East Hartford for such use. Normal working hours for the Department are from 8:30 a.m. to 4:30 p.m. daily, Monday through Friday, excluding holidays. Payment will be made in accordance with the following:

    a. For each Department employee utilized by the Contractor, the Town shall receive the standard overtime rate paid to the employee by the Department.

b. In the event a Department employee is called out after the end of normal working hours, minimum payment to the Town by the Contractor for each Department employee utilized shall be at the standard overtime rate for a period no less than four (4) hours. Payment for overtime that is a continuation of the normal working day shall be at the standard overtime rate for the actual hours worked. There will be no charge for use of Department personnel during normal working hours for services provided by the Department.

15.01 Progress Payments

Amend this article as follows:

1) The Contractor shall submit a list of claims, and their status, with each application for a progress payment.

15.06 Final Payment

Amend this article as follows:

2) The Town will not release final retainage for any project where there are any unresolved claims for private property damage, as described in the Supplemental Condition for Article 12.01.

16.01 Owner May Suspend Work

Amend this article as follows:

1) If the time specified for completion of the Project, with time extensions, is due to expire after November 15 TH, then contract time will not be charged during a winter shutdown period between November 15TH and April 1ST. The Contractor will not be allowed to work during the winter shutdown (other than maintaining the project area) without the approval of the Engineer. Prior to a winter shutdown, the Contractor and the Town shall meet to discuss the Contractor's procedures for preparing the Work area for a winter shutdown. No additional compensation will be paid for demobilization, remobilization, or other costs associated with a winter shut down but these costs shall be included in the general cost of the Work.

2) However, if the time specified for completion of the Project, with time extensions, is due to expire before November 15 TH and the Project is not completed before November 15 TH, then the time charged to the Contractor will continue to run through the winter shutdown period.

TECHNICAL SPECIFICATIONS

NOTICE TO CONTRACTOR – REFERENCED SPECIFICATIONS

State of Connecticut Department of Transportation Standard Specifications for Roads, Bridges, and Incidental Construction, Form 816, dated 2004, including the latest supplemental, referred to herein as the "Standard Specifications," are incorporated into the work of this Contract by reference and shall be made a part of these Contract Documents with regard to the method and manner of performing the work, or the quantities and qualities of materials to be furnished under the Contract. When a bid item is listed in the Bid Proposal Sheets, the method of measurement and basis of payment are also incorporated into this Contract by reference. References to “State” contained within Form 816, shall be understood to mean “Town”.

While the entirety of Form 816 is incorporated by reference, the majority of the Work of this Project can be found in the following Sections:

- 2.01 Clearing and Grubbing
- 2.02 Roadway Excavation, Formation of Embankment and Disposal of Surplus Materials
- 2.05 Trench Excavation
- 2.08 Free-Draining Material
- 2.09 Subgrade
- 2.10 Water Pollution Control (Soil Erosion)
- 2.19 Sedimentation Control System
- 3.04 Processed Aggregate Base
- 4.06 Bituminous Concrete
- 7.55 Geotextile
- 9.13 Chain Link Fence
- 9.22 Bituminous Concrete Sidewalk, Bituminous Concrete Driveway
- 9.44 Topsoil
- 9.49 Furnishing, Planting and Mulching/Trees, Shrubs, Vines and Ground Cover Plants
- 9.50 Turf Establishment
- 9.52 Selective Clearing and Thinning
- 9.75 Mobilization and Project Closeout
- 9.80 Construction Staking
- 12.08 Sign Face – Sheet Aluminum
- 12.09 Painted Pavement Markings

Specifications for materials can be found in the following sections of Form 816:

- M.01 Gradation of Aggregate
- M.02 Granular Fill, Subbase, Granular Base and Surfaces Stone Base Pervious Structure Backfill Free-Draining Material Crusher-Run Stone
- M.06 Metals
- M.10 Railing and Fence
- M.13 Roadside Development

These lists are not all-inclusive. Other Sections of Form 816 may be necessary to fully describe the materials and methods for the Work.

NOTICE TO CONTRACTOR - PERMITS

Since this project requires work within the Town property and/or right-of-way, the Contractor shall obtain a license and permit from the East Hartford Department of Public Works. The licensing documents and permit application must be submitted to the Engineering Division Office at Town Hall, 740 Main Street. The license requires submission of an insurance certificate (separate from the certificate that accompanies the contract), a $10,000 bond, and a hold harmless agreement. Licenses expire on December 31 of the year of issue. The Contractor is required to pay a $35.00 license fee. Once the license has been obtained, the Contractor shall apply for a permit for this project. The $50.00 permit fee will be waived for this project. Licensing and permit requirements are included in Appendix A.

NOTICE TO CONTRACTOR - SALVAGE

When demolition items are noted as "salvage" on the Drawings, they shall be carefully detached from any supports and disassembled. Salvage items shall be delivered to the Department of Public Works Facility on Ecology Drive. Delivery of salvage items shall be coordinated with the DPW Highway or Parks Superintendent. The Contractor may store salvage items at the construction site to minimize the number of deliveries. Such temporary storage of salvage items shall be in a location to avoid damage due to the public or the Contractor's actions.

NOTICE TO CONTRACTOR – TREE REMOVAL & TRIMMING

If it is necessary to remove or trim any trees throughout the project area, the Contractor is required to contact the Town's Tree Warden prior to any removal. The Contractor will be responsible for flagging all public trees to be removed or trimmed. The Engineer will then review the trees to confirm compliance with the Drawings. The Town will then post the trees, with a 10 day notice/waiting period required. If the tree removal or trimming is protested, an appeal process with a Public Hearing will be held prior to the tree removal or trimming.

NOTICE TO CONTRACTOR – UTILITY RELOCATION

Overhead and/or underground utility lines may be in conflict with the required temporary or permanent construction or the equipment necessary to perform this required construction. The actual relocations (permanent or temporary) are the responsibility of the individual utility owners within the public right-of-way. The Contractor may be required to relocate utilities in public (Town) property that is not public right-of-way. Regardless, the Contractor is required to coordinate the exact location and timing of all utility relocations with the individual utility owners, and to phase his construction operations as shown on the plans or as required to accommodate all (temporary or permanent) utility relocations. In addition to field meetings and correspondence, this coordination may include staking locations, excavation and temporary grading, providing access to existing and future utility pole and conduit locations, or other physical work as required to allow for utility relocation work. The Contractor shall engage in the necessary coordination of utility relocations and associated work at no additional cost to the project or owner, and shall have no right to additional compensation for delays or staging and phasing of his work because of utility relocation work.

The Contractor's schedule of operations and construction phasing plans, if different from the sequence of construction, shall show the anticipated utility relocations in the sequence of construction.

The Contractor must coordinate with each utility owner and develop their own schedule of utility relocation work and time required to complete this work based upon their own operational plan and equipment.

The following utility companies have facilities within the project limits:

1. Electric - Eversource
2. Cable – Comcast of Connecticut, Inc. dba Comcast/Hartford
3. Telephone – Frontier Communications
4. Communication – Lighttower
5. Natural Gas - Connecticut Natural Gas Corp. (CNG)
6. Water & Sanitary Sewer - Metropolitan District Commission (MDC)

SECTION 2.08 FREE-DRAINING MATERIAL

Amend Section 2.08 as follows:

2.08.01 - Description:

Stone Diaphragm consist of excavation, geotextile, and crushed stone.

2.08.02 - Materials:

Geotextile shall conform to Section 7.55 and M.08.19. Crushed stone for the Stone Diaphragm shall conform to Section 2.16 and M.02.05.

2.08.03 - Construction Methods:

Geotextile for the Stone Diaphragm shall be trimmed so it is not visible above grade. Overlap geotextile a minimum of 12" at seams.

2.08.04 - Method of Measurement:

Payment lines for "Stone Diaphragm" shall coincide with the limits of compacted free-draining stone installed as actually placed and ordered by the Engineer.

Non-woven geotextile shall not be measured for payment and the cost shall be included in the Bid price for "Stone Diaphragm".

Trench excavation shall not be measured for payment and the cost shall be included in the Bid price for "Stone Diaphragm".

2.08.05 - Basis of Payment:

Payment will be made at the contract unit price per cubic yard for "Stone Diaphragm"

Pay Item	Pay Unit
Stone Diaphragm	CY

SECTION 2.10 WATER POLLUTION CONTROL (SOIL EROSION)

Amend Section 2.10 as follows:

2.10.01 - Description:

Work under this item shall consist of furnishing, installing, maintaining and removing a crushed stone construction entrance on filter fabric and returning to the original condition upon completion at the location and details shown on the plans or ordered by the Engineer.

2.10.02 - Materials:

Materials for the construction entrance shall conform to the requirements of Article M.01.01, No.3 for crushed stone, and Article M.08.01-19 for geotextile filter fabric.

2.10.03 - Construction Methods:

Clear area of construction entrance fabric over the full width and length of excavated area and cover with No. 3 crushed stone to a depth of no less than 4”.

The construction entrance shall be uniformly graded to produce the entry and exit path to the site for all construction equipment. The construction entrance shall be maintained of sufficient grading and stone surface to capture all soils and sediment from equipment tires prior to such exiting from the site.

Stone shall be replenished or replaced as necessary or as ordered by the Engineer to assure sufficient capture of sediment at the construction site. Any sediment tracked off the site shall be immediately cleaned, swept and removed by the Contractor at no cost to the Town.

2.10.04 - Method of Measurement:

This work will be measured for payment by the number of square yards of accepted construction entrance completed as shown on the plans or ordered by the Engineer.

2.10.05 - Basis of Payment:

This work will be paid for at the contract unit price per square yard for "Construction Entrance,” which price shall include furnishing, placing, maintaining, removing all construction entrance materials and returning the location back to the original condition upon completion, equipment, tools and labor incidental thereto as well as cleaning, sweeping any sediment tracked off site.

Pavement removal required to install construction entrance will be paid under item "Earth Excavation".

Pay Item	Pay Unit
Construction Entrance	SY

SECTION 3.04 PROCESSED AGGREGATE BASE

Amend Section 3.04 as follows:

3.04.01 - Description:

Recovered Aggregate Base shall consist of existing aggregate base in areas where pavement will be eliminated. Recovered Aggregate Base can be used as the lower portion of the base for new paving areas.

3.04.02 - Materials:

Recovered Aggregate Base shall conform to Section 3.04 and M.05.01.

3.04.03 - Construction Methods:

Recovered Aggregate Base that is contaminated with topsoil or underlying subsoil shall not be utilized in the base for new paving areas.

3.04.04 - Method of Measurement:

Recovered Aggregate Base will be measured horizontally in place after final grading and compaction. Materials placed beyond the horizontal limits indicated on the plans will not be measured for payment.

The total thickness shall be as indicated on the plans, or as ordered by the Engineer and within a tolerance of minus three-fourths of an inch (3/4") to plus one-half inch (+ 1/2").

3.04.05 - Basis of Payment:

This work will be paid for at the Contract unit price per cubic yard for "Recovered Aggregate Base," complete in place, which price shall include all materials, tools, equipment and work incidental thereto.

Pay Item	Pay Unit
Recovered Aggregate Base	CY

SECTION 9.13 CHAIN LINK FENCE

Amend Section 9.13 as follows:

9.13.01 - Description:

The Maintenance Access Gate shall consist of chain link fence posts, shaped and sized as shown on the plans or as directed by the Engineer, gate hardware, and concrete post foundations.

9.13.02 - Materials:

Metal posts and gate shall conform to M.10.05.2. Hardware shall be stainless steel. Concrete for post bases shall conform to M.03.

9.13.03 - Construction Methods:

Install posts plumb. Provide top caps for gate posts.

Bent portion of gate shall not be kinked. End plates shall be provided on the bent portion of the gate with drainage holes at low points.

Ensure that the gate operates smoothly and that the locking hasp connects to the anchor post, allowing a lock to be placed on the hasp.

9.13.04 - Method of Measurement:

The Maintenance Access Gate shall be measured as a lump sum, complete in place and accepted by the Engineer.

9.13.05 - Basis of Payment:

The Maintenance Access Gate will be paid for at the Contract lump sum price, compete in place which shall include all posts and the gate, all caps and hardware, the concrete post bases, and all materials equipment, tools and labor incidental thereto.

Pay Item	Pay Unit
Maintenance Access Gate	LS

SECTION 9.17 WOOD GUIDE RAIL

9.17.01 - Description:

Work under this item shall consist of all layouts, materials, equipment, tools, services, transportation, supervision, and labor required to complete wood guide rail installation as shown on the plan or as directed by the Engineer.

9.17.02 - Materials:

1) Wood: All wood rail and post components shall conform with the following:
   a) Commercial lumber grade No. 1 or better after treatment;
   b) AASHTO M 168;
   c) Minimum stress rating of 1350 psi;
   d) Rough sawn (non-planed) or S4S (surface four side) Southern Yellow Pine or Douglas Fir- Larch with nominal dimensions as indicated on the plans. Variations in the size of any dimension shall not be more than + ¼".
   e) All wood components shall be pressure treated with CCA or ACZA depending on species supplied conforming to AWPA Standard P5 to a minimum net retention of 0.60lb/cubic foot in the assay zone in accordance with AWPA Standard.
   f) The bottom of the posts shall be sawed square, and the tops shall have a slope to allow drainage. This sawing shall be performed at the source of supply, and not in the field.
   g) All wood components shall be fabricated (including, but not necessarily limited to, cutting, drilling, dapping and chamfering) prior to treatment.
   h) All wood components shall be free of excess preservative and solvent at the conclusion of the treating process. Post treatment cleaning shall be by expansion bath or steaming in accordance with AWPA Standard C2.
   i) Kiln or air dried to a maximum moisture content of 25% after treatment (KDAT - 25);
   j) Grade-marked after treatment by an agency certified by the American Lumber Standard Committee (ALSC);
   k) If necessary, surfaces damaged by cutting, drilling or other method shall be field treated with a hot preservative.
   l) If required, fabricate the steel backing elements from structural steel and fastener hardware conforming to AASHTO M 222M.

2) Bolts, Rods, Washers, and Nuts: The nuts for anchor bolts and rods shall meet ASTM A563, Grade B. The washers for anchor bolts or rods shall meet the requirements of ASTM F 436. All other bolts and nuts, unless otherwise noted on the plans, shall meet the requirements of ASTM A 307.

3) Galvanized Coating Touch-up: The zinc dust-zinc oxide paint for galvanized coating shall meet the requirements of AASHTO M 180.9.6.1.

SECTION 9.17 WOOD GUIDE RAIL (cont'd)

9.17.03 - Construction Methods:

1) Posts
   a) Do not use a wood guiderail post that has a through check, shake, or end split in the same plane as, or a plane parallel to the bolt hole and extending from the top of the post to within 3 inches of the bolt hole.
   b) Post shall be driven by an approved mechanical device. When, in the opinion of the Engineer, driving operations are producing unsatisfactory results, the posts shall be set in dug or bored holes. Drive poles into pilot holes that are punched or drilled. The dimensions of the pilot hole shall not exceed the dimensions of the post by more than 5/8 inches. Set post plumb, backfill, and compact.
   c) Install posts below finish grade to a minimum of 3.0 feet.
   d) Posts shall be set plumb.
   e) When the Drawings require that the ends of a section of guiderail be curved outward or downward, the posts shall be set to accommodate the curve.
   f) The posts shall be backfilled with acceptable material and thoroughly compacted to the satisfaction of the Engineer.
   g) Any damage to the posts, pavement, shoulders and adjacent slopes resulting from post driving shall be repaired at the Contractor's expense.

2) Rail Elements
   a) Install the rail elements after the pavement adjacent to the guiderail is complete. Do not modify specified hole diameters or slot dimensions.
   b) The rail element shall be erected according to the Drawings in a manner resulting in a smooth, continuous installation with laps in the direction of traffic flow.
   c) Field cut wood rails to produce a close fit at joints. Treat field cuts with 2 coats of chromate copper arsenate.
   d) All bolts shall be drawn tight and extend at least one-fourth-inch beyond the nuts. Except where required for adjustments, bolts shall not extend more than one-half-inch beyond the nuts.

9.17.04 - Method of Measurement:

The length of Wood Guide Rail measured for payment will be the number of linear feet of accepted rail of the type or designation installed, measured along the top of the rail between centers of end posts in each continuous section.

9.17.05 - Basis of Payment:

Wood Guide Rail will be paid for at the contract unit price per linear foot for the type or designation indicated on the plan or ordered by the Engineer, complete in place. The price shall include all materials, fittings, back-up rail, posts, equipment, and tools and labor incidental to the installation of the rail.

Pay Item	Pay Unit
Wood Guide Rail	LF

SECTION 9.20 CRUSHED STONE TRAIL

9.20.01 - Description:

Work under this item shall consist of all layouts, materials, equipment, tools, services, transportation, supervision, and labor required to complete crushed stone trail as shown on the plan or as directed by the Engineer

9.02.02 - Materials:

Stone dust screenings shall be native blue-grey crushed “traprock” material conforming to ConnDOT 816, M.01.01 grading for screenings.

Processed aggregate base shall conform to ConnDOT 816, Section 2.09 and M.05.01

9.20.03 - Construction Methods:

Install processed stone base in accordance with ConnDOT 816, Section 3.04.

Install and compact stone dust screenings to provide a smooth, stable walking surface. Maintain walk and provide additional screenings as required due to washout, settlement, flooding or construction traffic until project is accepted.

Smoothly blend the new trail surfaces with existing trails to remain and all adjacent conditions, existing and proposed.

9.20.04 - Method of Measurement:

Payment lines for “Crushed Stone Trail” shall be coincident with the outside edges of the crushed stone trail.

9.20.05 - Basis of Payment:

Crushed Stone Trail will be paid for at the Contract unit price per square foot, complete in place, which price shall include all materials, tools, equipment and work incidental thereto.

Pay Item	Pay Unit
Crushed Stone Trail	SF

SECTION 9.44 TOPSOIL

Amend Section 9.44 as follows:

9.44.04 - Method of Measurement:

This work will be measured for payment by the number of cubic yards of topsoil in place at the depth shown on the drawings, or as directed by the Engineer, and accepted as complete.

9.44.05 - Basis of Payment:

This work will be paid for at the contract unit price per cubic yard for "Furnishing and Placing Topsoil" which price shall include all materials, equipment, tools, labor and work incidental thereto

Pay Item	Pay Unit
Furnishing and Placing Topsoil	CY

SECTION 9.50 TURF ESTABLISHMENT

Replace Section 9.50 with the following:

9.50.01—Description: The work included in this item shall consist of providing an accepted uniform stand of established perennial turf grasses by furnishing and placing fertilizer, seed, and mulch on all areas to be treated as shown on the plans or where designated by the Engineer. The work will also include the installation of erosion control matting consisting of mulch and netting woven together as one unit where shown on the plans or as directed by the Engineer.

9.50.02—Materials: Topsoil, limestone, and fertilizer for this work shall conform to the requirements of Section M.13.

Seed mixture for lawn areas shall meet the following requirements:

Seed shall be fresh, clean and selected from the previous year's crop; weed seed content not to exceed 1 percent; complying with applicable Federal and State seed laws; furnished and delivered premixed in unopened containers in the following proportions:

	Percent Proportion	Percent Germination (min)	Percent Purity (min)
Creeeping Red Fescue	50%	85%	95%
Kentucky Bluegrass (improved varieties)	50%	85%	90%
Manhattan Perennial Rye	10%	90%	95%

The seed mixture shall be delivered in new, clean, sealed containers. Labels and contents shall conform to all State and Federal regulations. Seed shall be subject to the testing provisions of the AOSA.

The seed shall be delivered to the project accompanied by a properly executed affidavit for each type and shipment of seed. The affidavit shall be of the form shown herein. The Engineer reserves the right to take such samples and to make such tests as he may deem necessary to insure compliance with these specifications. The Contractor shall supply such additional acceptable material and perform such work as required to rectify any deficiencies without cost to the Town.

Form for Affidavit—Seed (Official Stationery of Supplier)

Date ……

To Whom It May Concern:

I hereby certify that …….pounds. (kilograms) of seed mixture, lot number …….., (Label attached) has been sold and delivered to …….

for……..

(Contractor's Name)

Connecticut Department of Transportation Project number(s)

…….

at …….., Connecticut. The material was delivered on …… . The labels and contents meet all State and Federal regulations. The mixture consists of:

(State component parts, proportions, minimum purity, minimum germination.)

Signature …….

Company Official

Signature and Seal……..

Notary Public

New England Wetland Seed Mix shall be New England Wetmix (Wetland Seed Mix) produced by New England Wetland Plants, Inc., Amherst, MA www.newp.ccom or an equivalent seed mix, as determined by the Engineer.

9.50.03—Construction Methods: Construction Methods shall be those established as agronomically acceptable and feasible and which are approved by the Engineer.

1. Preparation of the Seedbed:

(a) Level areas, medians, interchanges and lawns: These areas shall be made friable and receptive for seeding by disking or by other approved methods to the satisfaction of the Engineer. In all cases the final prepared and seeded soil surface shall meet the lines and grades for such surface as shown in the plans, or as directed by the Engineer.

(b) Slope and Embankment Areas: These areas shall be made friable and receptive to seeding by approved methods which will not disrupt the line and grade of the slope surface. In no event will seeding

be permitted on hard or crusted soil surface.

(c) All areas to be seeded shall be reasonably free from weeds taller than 3 inches. Removal of weed growth from the slope areas shall be by approved methods, including hand-mowing, which do not rut or scar the slope surface, or cause excessive disruption of the slope line or grade. Seeding on level areas shall not be permitted until substantially all weed growth is removed. Seeding on slope areas shall not be permitted without removal or cutting of weed growth except by written permission of the Engineer.

(d) Areas to received New England Wetland Seed Mix shall be clean, weed free (bare) topsoil with adequate moisture to ensure proper soil-seed contact. Lightly rake or roll the surface to ensure the proper soil-seed contact. Follow manufacturer's recommendations for seed bed preparation.

2. Seeding Season: The calendar dates for seeding shall be:

Spring—March 15 to June 15

Fall—August 15 to October 15

All disturbed soil areas shall be treated during the seeding seasons as follows:

(a) Areas at final grade: Seeding will be accomplished.

(b) "Out-of-season" seedings shall be performed in the same manner as "in-season" seedings. Since acceptable turf establishment is less likely, the Contractor shall be responsible for "in-season" reseeding until the turf stand conforms to 9.50.03-5.

(c) During "out-of-season" periods unseeded areas shall be treated in accordance with Section 2.10, Water Pollution Control.

3. Seeding Methods: The grass seed mixture conforming to Article M.13.04 shall be applied by any agronomically acceptable procedure. The rate of application shall be no less than 175 pounds per acre (195 kg/hectare).

Place New England Wetland Seed Mix by hand.

Fertilizer conforming to M.13.03 shall be initially applied at a rate of 320 pounds per acre during or preceding seeding. When wood fiber mulch is used, it shall be applied in a water slurry at a rate of 2,000 pounds per acre with or immediately after the application of seed, fertilizer and limestone. When the grass seeding growth has attained a height of 6 inches, the specified areas designated herein shall be mowed to a height of 3 inches. Following mowing, all seeding grass areas (mowed and un-mowed) shall receive a uniform application of fertilizer hydraulically placed at the rate of 320 pounds per acre.

Do not fertilize areas to received New England Wetland Seed Mix.

4. Compaction: The Contractor shall keep all equipment and vehicular and pedestrian traffic off areas that have been seeded to prevent excessive compaction and damage to young plants. Where such compaction has occurred, the Contractor shall rework the soil to make a suitable seedbed; then re-seed and mulch such areas with the full amounts of the specified materials, at no extra expense to the Town.

5. Stand of Perennial Turf Grasses: The Contractor shall provide and maintain a uniform, weed free stand of established turf grass species having attained a height of 6 inches consisting of no less than 200 plants per square foot throughout the seeded areas until the entire project has been accepted.

6. Establishment: The Contractor shall keep all seeded areas free from weeds and debris, such as stones, cables, baling wire, and he shall mow at his own expense, on a one-time-only basis, all slopes 4:1 or less (flatter) and level turf established (seeded) areas to a height of 3 inches when the grass growth attains a height of 6 inches. Clean-up shall include, but not be limited to, the removal of all debris from the turf establishment operations on the shoulders, pavement, and/or elsewhere on adjacent properties publicly and privately owned.

7. Erosion Control Matting: Erosion control matting shall be installed following seeding where called for on the plans or as directed by the Engineer. Staples shall be installed as per Manufacturer's recommendations. Where two lengths of matting are joined, the end of the upgrade strip shall overlap the down-grade strip. The Contractor shall maintain and protect the areas with erosion control matting until such time as the turf grass is established. The Contractor shall replace or repair at his own expense any and all erosion control matting areas damaged by fire, water or other causes including the operation of construction equipment. No mowing will be required in the locations where erosion control matting is installed.

9.50.04—Method of Measurement:

This work will be measured for payment by the number of square yards of surface area of accepted established perennial turf grass as specified or by the number of square yards (square meters) surface area of seeding actually covered and as specified.

Turf establishment using New England Wetland Seed Mix will be measured for payment by the number of square yards of surface area of accepted wetland plant growth.

Erosion control matting will be measured by the number of square yards (square meters) of surface area of erosion control matting installed and accepted.

SECTION 9.50 TURF ESTABLISHMENT (cont'd)

9.50.05—Basis of Payment:

Turf grass work will be paid for at the contract unit price per square yard for "Turf Establishment" which price shall include all materials, mowing, maintenance, equipment, tools, labor, and work incidental thereto. Partial payment of up to 60% may be made for work completed, but not accepted.

Wetland planting work will be paid for at the contract unit price per square yard for "Turf Establishment – New England Wetland Mix" which price shall include all materials, maintenance, equipment, tools, labor, and work incidental thereto. Partial payment of up to 60% may be made for work completed, but not accepted.

Erosion control matting will be paid for at the contract unit price per square yard (square meter) for "Erosion Control Matting" complete in place and accepted, which price shall include the hay mulch, netting, staples, maintenance, equipment, tools, labor, and work incidental thereto.

Pay Item	**Pay Unit**
Turf Establishment	SY
Turf Establishment – New England Wetland Mix	SY

SECTION 9.74 REMOVAL OF EXISTING MASONRY

Amend Section 9.74 as follows:

9.74.05 - Basis of Payment:

Payment for removing existing masonry will be made at the contract unit price per cubic yard for "Removal of Existing Masonry," which price shall include all equipment, tools and labor incidental to the removal of the material and the disposal thereof as directed by the Engineer. For the removal of the former wading pool, payment for “Removal of Existing Masonry” shall include all equipment, tools, and labor incidental to the termination of the former water service to the wading pool, both at the pool and at the source.

Pay Item	Pay Unit
Removal of Existing Masonry	CY

APPENDIX A
DEPARTMENT OF PUBLIC WORKS LICENSE AND PERMIT REQUIREMENTS

To All Contractors Working in East Hartford - LICENSE AND PERMIT REQUIREMENTS:

Over the years, many contractors have come to our office to obtain a permit, found that something has been missing in their file, and walked away empty-handed. This situation has caused confusion and lost time, especially when time is of the essence.

In an effort to avoid lost time on both of our sides, we have prepared a list of required items. These items must be up to date and properly executed in order for us to issue a permit. If you are not sure about any item, call ahead. Your cooperation will improve efficiency and is greatly appreciated.

The following information and documentation is required from all contractors performing work on Town property.

Also, in addition to the normal State Permit, any work performed on State of Connecticut property, other than the actual paved roadway (curb to curb), will require a Town permit.

1. Certificate of Insurance

a. The original signed certificate of insurance form must be on file in the Engineering Division.
b. The certificate must contain the following language: "The Town of East Hartford, its officials, employees and volunteers are named as additional insured's as respects all liability arising out of the permit activities of the business".
c. The certificate must contain the following liabilities limits:
   Broad Form CGL: $1,000,000.00
   Business Auto Liability: $1,000,000.00
   Worker's Compensation: As required by State Law.
d. The cancellation clause must not be less than 30 days.

2. Hold Harmless Agreement

A "Hold Harmless Agreement" form must be on file with the Engineering Division. (Town form supplied)

3. Bonds

a. RENEWAL CERTIFICATES ARE NOT ACCEPTABLE.
b. Bonds must be on Town's Bond Form. Original form must be filed with the Engineering Division.
c. Bonds must be signed, sealed, and dated by person named on power of attorney and also by contractors (President or Secretary for Contractors). For corporations, the corporate seal will be required. A Power of Attorney form must be attached to the bond with the same date as the bond. Contractors name must be printed. At least two witnesses must sign the bond.
d. All signatures including witnesses must have printed names and titles below signatures.
e. The bonding company must be approved to do business in the State of Connecticut.

All of the information noted above must be submitted and approved by the Town's Corporation Counsel Office and Risk Manager prior to the issuance of any licenses or permits. The approval process will require a minimum of forty-eight hours.

4. License (Apply for in person when Bond and Insurance are approved.)

a. A valid "Town License" certificate must be on file with the Engineering Division. (Town Form.)
b. The fee for an annual license is $35.00
c. All licenses shall expire on December 31st of the year that they are issued.

5. ***Permit Application form*** (Town Form, available in the office, or on the East Hartford website)

a. Each permit will require a filled-out and signed application.
b. All excavation, driveway, and sidewalk permits will require a "Call Before You Dig" number for the project.
c. All contractors working for the utility companies will be required to provide a work order number for the project.

Blank "Town Forms" are available in the Engineering Division Office.
Most forms available to download on "www.easthartfordct.gov"

Permit Fee Schedule: Driveway and Sidewalk Permits - $50.00/per location
Excavation Permits - $50.00/per permit (permit holder is responsible for permanent pavement repairs in accordance with Town Specifications)
Road Closure/Detour Permits - $35.00

HOLD HARMLESS AGREEMENT

_____, in consideration of a permit
(Name of Permittee/Licensee)
or license issued to it by the Town of East Hartford on _____, hereby
(Date)
covenants and agrees to and shall, at all times, indemnify, protect and save harmless and defend the Town from and against all costs or expenses resulting from any and all losses, damages, detriment, suits, claims, demands, costs and charges, including attorneys' fees, if any, which the Town may directly or indirectly suffer, sustain or be subjected to by reason or on account of the work to be performed pursuant to such license or permit or any activities in connection with said license or permit, whether such losses and damages be suffered or sustained by the Town directly or by its employees, licensees or invitees, or be suffered or sustained by other persons or corporations who may seek to hold the Town liable therefor. The existence (or non-existence) of any insurance coverage purchased by _____
(Permittee/Licensee)
shall in no way affect the Town's rights pursuant to the terms of this agreement.

Signature of Permittee/Licensee: _____

Address: _____

_____

Date: _____

Hold Harmless Agreement

BOND NO. _____

TOWN OF EAST HARTFORD
DRIVEWAY, CURB & WALK LAYER'S BOND

Know ALL MEN BY THESE PRESENT, that _____,
(NAME OF COMPANY)
a_____, (type of organization, e.g. Corp., partnership, sole proprietor, LLC,)
ACTING HEREIN BY _____, ITS _____ as principal,
(PRINTED NAME) (TITLE)
and _____ ACTING HEREIN BY _____,
(BONDING COMPANY) (PRINTED NAME)
its attorney in fact pursuant to the attached Power of Attorney, as surety, are held and firmly bound unto the TOWN OF EAST HARTFORD (The "TOWN"), in the sum of Ten Thousand Dollars ($10,000.00), lawful money of the United States of America, to be paid to the Town, its successors and assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the above bonded principal has been duly licensed by the Town as a drainlayer for a term beginning on the _____day of _____, 20___, and ending on _____ day of _____, 20___.

NOW, THEREFORE, IF THE SAID _____ shall well and truly keep and perform, during said term all the terms and conditions of the ordinances of the Town, regulating the laying of private drains, and rules specified by the Director of Public Works relating to driveway apron, and shall indemnify and save harmless the Town and its servants and employees from all suits and actions of every name and description brought against the Town, or any officers of said Town, for or on account of any injuries or damages received or sustained by any person in consequence of or resulting from any work performed by said principal _____ servants or agents, shall faithfully perform said work in all respects and shall also guarantee his work for a period of <u>two</u> <u>years</u> after completion of the latest work performed under a permit obtained pursuant to this Bond, against any failure caused by defective materials, or defective workmanship and will make good such defects, if so ordered, to the satisfaction of the Director of Public Works, and shall comply in all respects with the rules and regulations established by the said Director,

relative to such work, and with the terms of the permits that may be issued to him, and shall also pay all fines imposed upon him for violation of any such rule, or regulations, then this obligation shall be of no effect, otherwise, it shall remain in full force and virtue.

DATED AT _____, this _____ day of _____, 20_____.

SIGNED, SEALED AND WITNESSED IN THE PRESENCE OF:

WITNESS OF PRINCIPAL:

_____
(Signature)

_____
(Printed Name)

PRINCIPAL:

BY _____ (SEAL)
(Signature)

_____
(Printed Name)

ITS _____
(Title)

WITNESS OF SURETY:

_____
(Signature)

_____
(Printed Name)

SURETY:

BY _____ (SEAL)
(Signature)

_____
(Printed Name)

ITS _____
(Title)

TOWN OF EAST HARTFORD
DRAIN LAYER'S BOND

Know ALL MEN BY THESE PRESENT, that _____,
(NAME OF COMPANY)
a_____, (type of organization, e.g. Corp., partnership, sole proprietor, LLC,)
ACTING HEREIN BY _____, ITS _____ as principal,
(PRINTED NAME) (TITLE)
and _____ ACTING HEREIN BY _____,
(BONDING COMPANY) (PRINTED NAME)
its attorney in fact pursuant to the attached Power of Attorney, as surety, are held and firmly bound unto the TOWN OF EAST HARTFORD (The "TOWN"), in the sum of Ten Thousand Dollars ($10,000.00), lawful money of the United States of America, to be paid to the Town, its successors and assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the above bonded principal has been duly licensed by the Town as a drainlayer for a term beginning on the _____day of _____, 20___, and ending on _____ day of _____, 20___.

NOW, THEREFORE, IF THE SAID _____ shall well and truly keep and perform, during said term all the terms and conditions of the ordinances of the Town, regulating the laying of private drains, and rules specified by the Director of Public Works relating to driveway apron, and shall indemnify and save harmless the Town and its servants and employees from all suits and actions of every name and description brought against the Town, or any officers of said Town, for or on account of any injuries or damages received or sustained by any person in consequence of or resulting from any work performed by said principal _____ servants or agents, shall faithfully perform said work in all respects and shall also guarantee his work for a period of <u>one</u> <u>year</u> after completion of the latest work performed under a permit obtained pursuant to this Bond, against any failure caused by defective materials, or defective workmanship and will make good such defects, if so ordered, to the satisfaction of the Director of Public Works, and shall comply in all respects with the rules and regulations established by the said Director,

relative to such work, and with the terms of the permits that may be issued to him, and shall also pay all fines imposed upon him for violation of any such rule, or regulations, then this obligation shall be of no effect, otherwise, it shall remain in full force and virtue.

DATED AT _____, this _____ day of _____, 20_____.

SIGNED, SEALED AND WITNESSED IN THE PRESENCE OF:

WITNESS OF PRINCIPAL:

_____
(Signature)

_____
(Printed Name)

PRINCIPAL:

BY _____ (SEAL)
(Signature)

_____
(Printed Name)

ITS _____
(Title)

WITNESS OF SURETY:

_____
(Signature)

_____
(Printed Name)

SURETY:

BY _____ (SEAL)
(Signature)

_____
(Printed Name)

ITS _____
(Title)

INSTRUCTIONS FOR FILLING OUT A TOWN OF EAST HARTFORD BOND

(for ***Driveway, Curb and Walk Layer's*** or ***Drain Layer's*** Bond)

Know ALL MEN BY THESE PRESENT, that _____***(1)***_____,
(NAME OF CONTRACTOR)
a_____***(2)***_____, (type of organization, e.g. Corp., partnership, sole proprietor, LLC,)
ACTING HEREIN BY _____***(3)***_____, ITS _____***(4)***____ as principal,
(PRINTED NAME) (TITLE)
and _____***(5)***_____ ACTING HEREIN BY _____***(6)***_____,
(BONDING COMPANY) (PRINTED NAME)
its attorney in fact pursuant to the attached Power of Attorney, as surety, are held and firmly bound unto the TOWN OF EAST HARTFORD (The "TOWN"), in the sum of Ten Thousand Dollars ($10,000.00), lawful money of the United States of America, to be paid to the Town, its successors and assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the above bonded principal has been duly licensed by the Town as a drainlayer for a term beginning on the _***(7a)***_day of ___***(7b)***__, 20***(7c)*** and ending on __***(8a)***___ day of ___***(8b)***_, 20***(8c)***

NOW, THEREFORE, IF THE SAID _____***(9)***_____ shall well and truly keep and perform, during said term all the terms and conditions of the ordinances of the Town, regulating the laying of private drains, and rules specified by the Director of Public Works relating to driveway apron, and shall indemnify and save harmless the Town and its servants and employees from all suits and actions of every name and description brought against the Town, or any officers of said Town, for or on account of any injuries or damages received or sustained by any person in consequence of or resulting from any work performed by said principal _____***(10)***_____ servants or agents, shall faithfully perform said work in all respects and shall also guarantee his work for a period of XXX year after completion of the latest work performed under a permit obtained pursuant to this Bond, against any failure caused by defective materials, or defective workmanship and will make good such defects, if so ordered, to the satisfaction of the Director of Public Works, and shall comply in all respects with the rules and regulations established by the said Director,

relative to such work, and with the terms of the permits that may be issued to him, and shall also pay all fines imposed upon him for violation of any such rule, or regulations, then this obligation shall be of no effect, otherwise, it shall remain in full force and virtue.

DATED AT _____***(11)***_____, this _***(12a)*** day of __***(12b)***____, 20_***(12c)***

SIGNED, SEALED AND WITNESSED IN THE PRESENCE OF:

WITNESS OF PRINCIPAL:

_____***(15a)***_____
(Signature)

_____***(15b)***_____
(Printed Name)

PRINCIPAL:

BY _____***(13a)***_____ (SEAL)
(Signature)

_____***(13b)***_____
(Printed Name)

ITS _____***(13c)***_____
(Title)

WITNESS OF SURETY:

_____***(16a)***_____
(Signature)

_____***(16b)***_____
(Printed Name)

SURETY:

BY _____***(14a)***_____ (SEAL)
(Signature)

_____***(14b)***_____
(Printed Name)

ITS _____***(14c)***_____
(Title)

INSTRUCTIONS FOR FILLING OUT A TOWN OF EAST HARTFORD BOND

TYPE OR WRITE IN:

(1) the **full legal name of the contractor**.
(2) the contractor's **form of organization**.(ex., Corporation, Limited Liability Company, Partnership, Sole Proprietor)
(3) the **name of the person** who is authorized by the contractor to sign as principal on page 2.
(4) the **correct title** of the person named in *(3)*. (ex., Corporations [President, Vice President, Secretary, Treasurer], LLC [Member or Managing Member], Partnership [Partner, General Partner].
(5) the **name of the bonding (insurance) company**. (The full name of the underwriting company must appear; not the name of the agent, agency or broker.)
(6) the **name of the authorized Agent** at the bonding company who will be signing the Bond on page 2 under "SURETY". *See (14a,b,c).*
(7a,b,c) the **beginning date** of the Bond's term of coverage.
(8a,b,c) the **ending date** of the Bond's term of coverage.
(9) the **full legal name of the contractor** - *same as (1).*
(10) the **full legal name of the contractor** - *same as (1).*
(11) the **city and state** where the Bond was produced.
(12a,b,c) the **day, month** and **year** the Bond was produced.

THEN:

(13a,b,c) The Principal - *same as (3)* - must fill in **Signature, Printed Name**, and **Title** - *same as (4)*, and affix the corporate **SEAL**, if a corporation.
(14a,b,c) The authorized Agent – *same as (6)* – must fill in **Signature, Printed Name**, and **Title**, *("Attorney In Fact")*, and affix the company **SEAL.**
(15a,b) The person witnessing the Principal's signature – *see (13a)* – must **sign** and **print** his/her **name**.
(16a,b) The person witnessing the Agent's signature – *see (14a)* – must **sign** and **print** his/her **name**.

ALSO:

- The Bond must be filled out completely, including signatures. Do not leave any spaces blank.
- A **Power of Attorney** form must be attached to the Bond with the same date as the Bond.
- The person named on the **Power of Attorney** must be the same as ***(6)*** & ***(14).***

PERMIT # _____

Town of East Hartford
Department of Public Works
PERMIT APPLICATION

CHECK PERMIT TYPE: **Driveway** ☐ **Curb/Sidewalk** ☐ **Excavation (Pavement Cut)** ☐
Obstruction/Encroachment ☐ **Road Closure/Detour** ☐ **Excavation (Right-of-way)** ☐

WORK LOCATION INFORMATION

1. **Location of Work:** _____

   _____

2. **"Call Before You Dig" #:** _____

3. **Order # / Work Order #:** _____

APPLICANT INFORMATION

4. **Contractor / Owner Name:** _____

5. **Company Name:** _____

6. **"Doing Business As" Name:** _____

7. **Address:** _____
   Street # & Name P.O. Box # City, State, Zip Code

8. **Phone #:** _____ 9. **Cell Phone #:** _____

DESCRIPTION OF WORK

10. **Description of Work:** (Include appropriate dimensions, names of nearest cross streets, and any other necessary details.) _____

_____

_____

_____

_____

_____

11. **Attach all necessary drawings, work orders, approvals, etc.**

PERMIT FEE: $50.00 (ROAD CLOSURE/DETOUR FEE: $35.00)

FEE AMOUNT: _____ **DATE PAID:** _____ **CASH:** _____ **CHECK #:** _____

CONTINUED

RULES PERTAINING TO EXCAVATION PERMITS:

In consideration of the grant by the Town of East Hartford of an Excavation Permit, the undersigned agrees, for itself and its agents, assigns, employees, contractors and/or subcontractors to adhere to the following rules while carrying out the work detailed in its application for such permit:

1. The road or roads on or around the work area will not be closed to traffic at any time while the work is being carried out. At least one lane, wide enough to permit the safe passage of all vehicles, shall be maintained fully open at all times.
2. Traffic on roads on or around the work areas will not be detoured prior to receipt of express permission to do so from the Director of Public Works. If the detouring of traffic becomes necessary, the undersigned will submit for approval by the Director of Public Works a detailed plan showing signs, arrangement of traffic lanes, number of flag persons to be used at the detour, the period of time during which traffic will be detoured and any other safety measures that may be ordered by the Director.
3. Any and all portions of the road(s) disturbed by the applicant and/or its agents, assigns, employees, contractor and/or sub-contractors shall be speedily restored to their original condition in accordance with the Temporary Patch detail plan or as directed by the Director of Public Works.
4. In the event the Town is required to repair, alter or improve any temporary patch or patches installed by the applicant on Town roads, the applicant will reimburse the Town for all costs of such work.
5. Applicant will comply with all laws, ordinances, rules and regulations of the Town and/or State while carrying out the work detailed in its application and permit. Applicant agrees that it will promptly comply with any and all requests and/or orders related to such work issued by the Town and will hold the Town harmless for any and all injuries, (including death), and/or damage to property related to its work which may occur while such work is being carried out for its benefit.
6. The excavation permit shall become null and void if the work for which such permit has been issued is not commenced within thirty (30) calendar days from the date of issue.
7. Any failure by the applicant, its agents, assigns, employees, contractors and/or sub-contractors to adhere to the preceding rules will result in immediate revocation of the excavation permit. In addition, such failure will result in denial by the Town of further excavation permits to the applicant.

IMPORTANT! After completing items 1-11 on front, and reading the "Rules Pertaining to Excavation Permits" above, SIGN AND DATE BELOW, MAKE CHECK PAYABLE TO "TOWN OF EAST HARTFORD", AND SUBMIT TO THE ENGINEERING DIVISION, TOWN OF EAST HARTFORD, 740 MAIN STREET, EAST HARTFORD, CT 06108.

ALL WORK REQUESTED BY THIS APPLICATION SHALL BE AUTHORIZED BY THE TOWN OF EAST HARTFORD PRIOR TO COMMENCEMENT AND SHALL BE CARRIED OUT ACCORDING TO THE REGULATIONS AND BY-LAWS OF THE TOWN OF EAST HARTFORD.

APPLICANT SIGNATURE: _____ **DATE:** _____

PRINT NAME: _____

(OFFICE USE ONLY)

CURRENT BOND: Driveway, Curb, & Walk Layer's ☐ Drain Layer's ☐

CURRENT CERTIFICATE OF INSURANCE: ☐

CURRENT LICENSE & HOLD HARMLESS AGREEMENT: ☐

Driveway apron replacement: ☐ **Yes** ☐ **No**

8" reinforced concrete sidewalk required: ☐ **Yes** ☐ **No**

Inland Wetlands / Buffer Zone _____

Site Review _____

Zoning Approval (Inspections & Permits) _____

This application is hereby: APPROVED ☐ **DISAPPROVED** ☐ **APPROVED W/CONDITIONS** ☐

BY: _____ **DATE:** _____ **EXP. DATE:** _____

CONDITIONS: _____

APPENDIX B
PERMITS

MARCIA A. LECLERC
MAYOR

ENGINEERING DIVISION

TOWN OF EAST HARTFORD

740 Main Street
East Hartford, Connecticut 06108

Phone: 860 291-7380
Fax: 860 289-0831

VIA: CERTIFIED MAIL

April 2, 2015

Mr. Timothy Bockus
Town of East Hartford
740 Main Street
East Hartford, CT 06108

Re: Proposed Parking Lot – Labor Field
24 Wodlawn Circle
East Hartford, CT

Dear Mr. Bockus:

This letter is to notify you that at the April 1, 2015 meeting of the Inland-Wetlands-Environment Commission of the Town of East Hartford, the Commission:

A. File # 2015-004 Application of the Town of East Hartford to conduct a regulated activity in the inland wetlands and inland wetland upland review area in conjunction with the construction of a new parking lot in Labor Field, located at 24 Woodlawn Circle.

This approval was granted with the following conditions:

1. The permit is non-transferable without the written consent of the Town of East Hartford Inland Wetlands – Environment Commission.
2. Soil sedimentation and erosion controls acceptable to the Town Engineer are to be maintained at all times.
3. All work in the Inland Wetlands and/or Inland Wetland Upland Review Area shall be commenced within five (5) years from the effective date. The activity shall be completed within one (1) year from the commencement of the activity.
4. Written notice shall be submitted to the Town Engineer 48 hours prior to the starting date of the approved activity.
5. In evaluating this application, the Inland Wetlands - Environment Commission has relied on information provided by the applicant, and if such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, this permit shall be modified, suspended, or revoked.

6. Approval is granted based on the maps submitted with the application with plans revised to February 13, 2015.

Sincerely,

M. Denise Horan, P.E.
Designated Agent for the Inland
Wetlands-Environment Commission

Copy to: Michael Dayton, Town Planner
Greg Grew, Director of Inspections & Permits

MARCIA A. LECLERC,
MAYOR

DEVELOPMENT
DEPARTMENT

TOWN OF EAST HARTFORD

740 Main Street
East Hartford, Connecticut 06108

Phone: 860 291-7300
Fax: 860 291-7298

April 10, 2015

Town of East Hartford
Attn: Tim Bockus, Public Works Director
740 Main Street
East Hartford CT 06108

RE: Town Planning and Zoning Commission
24 Woodlawn Circle aka Labor Field
East Hartford, CT

Dear Sir or Madam:

This letter is to notify you of the results of the Town Planning and Zoning Commission's meeting on April 8, 2015 regarding the following:

- **Construction of a paved parking lot, wood guide rails, trees with associated grading on land located at 24 Woodlawn Circle aka Labor Field**

The Commission **Voted** to **approve** the 8-24 referral for 24 Woodlawn Circle aka Labor Field.

Please contact me at 860-291-7301 if you should have any questions.

Sincerely,

M Dayton

Michael J. Dayton
Town Planner

xc: Greg Grew, Director of Permits and Inspections
Eileen Buckheit, Director of Development
File

APR 1 0 2015
TOWN OF EAST HARTFORD
ENGINEERING DIVISION

MARCIA A. LECLERC,
MAYOR

DEVELOPMENT
DEPARTMENT

TOWN OF EAST HARTFORD

740 Main Street
East Hartford, Connecticut 06108

Phone: 860 291-7300
Fax: 860 291-7298

April 10, 2015

Town of East Hartford
740 Main Street
East Hartford CT 06108

Attn: Tim Bockus, Public Works Director

RE: Town Planning and Zoning Commission
24 Woodlawn Circle aka Labor Field
East Hartford

Dear Sir or Madam:

This letter is to notify you of the results of the Town Planning and Zoning Commission's meeting on April 8, 2015 on the following:

SOIL EROSION AND SEDIMENTATION CONTROL APPLICATION - 24 Woodlawn Circle A.K.A Labor Field to allow construction of a paved parking lot, wood guide rails, trees with associated grading.
Assessor's Map# 59 Lot# 383
Applicant: Town of East Hartford, Department of Public Works

The Commission Voted to **approve** the above soil and sedimentation control application.

Please contact me at 860-291-7301 if you should have any questions.

Sincerely,

M Dayton

Michael J. Dayton
Town Planner

xc: Greg Grew, Director of Permits and Inspections
Eileen Buckheit, Director of Development
File

Received
APR 10 2015
TOWN OF EAST HARTFORD
ENGINEERING DIVISION

MARCIA A. LECLERC,
MAYOR

DEVELOPMENT
DEPARTMENT

TOWN OF EAST HARTFORD

740 Main Street
East Hartford, Connecticut 06108

Phone: 860 291-7300
Fax: 860 291-7298

April 10, 2015

Town of East Hartford
740 Main Street
East Hartford CT 06108

Attn: Tim Bockus, Public Works Director

RE: Town Planning and Zoning Commission
24 Woodlawn Circle aka Labor Field
East Hartford

Dear Sir or Madam:

This letter is to notify you of the results of the Town Planning and Zoning Commission's meeting on April 8, 2015 on the following:

MAJOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATION- Under section 601 to allow construction of a paved parking lot, wood guide rails, trees with associated grading on land located at 24 Woodlawn Circle A.K.A Labor Field.
Assessor's Map# 59 Lot# 383
Applicant: Town of East Hartford, Department of Public Works

The Commission **Voted** to **approve** the above major flood hazard development permit application, with the following condition:

1. Site lighting plan to be reviewed and approved by the East Hartford Police Department.

Please contact me at 860-291-7301 if you should have any questions.

Sincerely,

M Dayton

Michael J. Dayton
Town Planner

xc: Greg Grew, Director of Permits and Inspections
Eileen Buckheit, Director of Development
File

RECEIVED
APR 16 2015
TOWN OF EAST HARTFORD
ENGINEERING DIVISION

US Army Corps of Engineers®
New England District

Appendix 1A: Category 1 Certification Form
(Required for all Inland Projects in Connecticut)

Submit this form **before** work commences to the following addresses:

U.S. Army Corps of Engineers, Permits & Enforcement Branch B (CT),
696 Virginia Road, Concord, MA 01742-2751

Connecticut Department of Energy & Environmental Protection, CT DEEP,
Inland Water Resources Division, 79 Elm Street, Hartford, CT 06106-5127
(not required if work is done within exterior boundaries of Mashantucket)

Permittee Name & Address: Town of East Hartford, Department of Public Works

Phone number & Email address: (860) 291-7380 // dwilson@easthartfordct.gov

Work Location/Address: Labor Field, 24 Woodlawn Circle, East Hartford, CT

Latitude/Longitude coordinates: 41.781287, -72.594879

Waterway name: Hockanum River

Contractor Name & Address: _____

Phone number & Email address: _____

Proposed Work Dates: Start: _____ Finish: _____

Work will be done within Inland Waters & Wetlands under the following categories – refer to Appendix 1 (check all that apply):

__X__ 1.A. New Fill and/or Fill Associated with Excavation

_____1.B. Stream Bank Stabilization

_____ 1.C. Repair & Maintenance of Existing Authorized or Grandfathered Fill.

Wetland impact: __2,596__ square feet (sf) Waterway impact: ___0___sf and/or ___0__ linear feet

Brief Project Description Construction of a 57 space, paved parking area

Project purpose: Improve parking area at existing park & restrict vehicle access to remote portions of park

Secondary Impacts include but are not limited to impacts to inland waters or wetlands drained, dredged, flooded, cleared or degraded resulting from a single and complete project. See General Condition 3.

Does your project include any of these secondary impacts? Y/(N) – If yes, please describe them:

_____

_____

Your signature below, as permittee, indicates that you accept and agree to comply with the terms, eligibility criteria, and general conditions of Category 1 of this Connecticut General Permit.

Permittee Signature: _____ **Date:** _____
Timothy Bockus, Director of Public Works

APPENDIX C
TEST PIT PHOTOGRAPHS

LABOR FIELD NEW PARKING AREA
TEST PITS - JUNE 1, 2015

TEST PIT #1 - SOUTH SIDE
Water at 19" BFG and rising (after ~1.5 hours)

TEST PIT #1 - OVERALL
Collapsing sidewalls in silt layer (after ~1.5 hours)

LABOR FIELD NEW PARKING AREA
TEST PITS - JUNE 1, 2015

TEST PIT #1
initial weep upon excavation ~38" BFG
Stable initial sidewall in silt layer

TEST PIT #2 - WEST SIDE
Weep at 18" below Y/B sandy loam layer/top of silt layer

LABOR FIELD NEW PARKING AREA
TEST PITS - JUNE 1, 2015

TEST PIT #3 - SOUTH SIDE
till overlaying silt with sand layer
water at 70" BFG

TEST PIT #4 - EAST SIDE
Layers of udorthents underlying existing paving and base

APPENDIX D
CONNECTICUT DEPARTMENT OF LABOR
WAGE RATES

NOTE: PREVAILING WAGE RATES WILL BE PROVIDED WHEN RECEIVED FROM THE CTDOL.