



CONTRACT BID DOCUMENTS

FOR

**FURNITURE, FIXTURES, AND DOCUMENT MOVING PROJECT
LEBANON TOWN HALL**

LEBANON, CONNECTICUT

PREPARED FOR

**TOWN OF LEBANON
579 EXETER ROAD
LEBANON, CT 06249**

FEBRUARY, 2024

**Barton
& Loguidice**

**41 Sequin Drive
Glastonbury, CT 06033
T: 860.633.8770
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Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

TAB A

Invitation to Bid

**INVITATION TO BID
FURNITURE, FIXTURES AND DOCUMENT MOVING PROJECT**

This project generally consists of the packing and movement of furniture, fixtures, and documents from the second floor of the Lebanon Town Hall, to accommodate a flooring removal and replacement project. All furniture, fixtures and documents shall be moved back into the Town Hall's second floor, when the flooring removal and replacement project is complete. This work includes the packing and movement of sensitive legal documents to and from the Town Clerk's second floor vault and into a vault located on first-floor. Sensitive document management shall be done under chain-of-custody procedures and the direct supervision of the Town Clerk.

The work described above includes furnishing all materials and equipment necessary for the project as well as performing or providing all labor, supervision, equipment, temporary storage containers, and services unless otherwise noted within the bid documents.

A mandatory pre-bid meeting will be held at 11:00 AM on Thursday, March 7, 2024 at the Lebanon Town Hall, 579 Exeter Road, Lebanon, Connecticut, 06249.

Sealed bids shall be delivered to Kevin Cwikla, First Selectman, Lebanon Town Hall, 579 Exeter Road, Lebanon, Connecticut, 06249 by 11:00 AM on Monday, March 25, 2024. Sealed Bids will not be publicly opened, bid results will be posted on the Lebanon Town Hall's website.

Contract documents, pdf format, can be obtained from the Town's website and the Department of Administrative Services (DAS) Construction Services website.

A satisfactory Bid Bond or Certified Check, in an amount equal to five percent (5%) of the base bid, shall be submitted with each bid. The Bid Bond shall be made payable to the Town of Lebanon and shall be properly executed by the Bidder and acceptable sureties. All bonds must be from sureties registered in the State of Connecticut.

No Bidder may withdraw his Bid for a period of sixty (60) days after the date of Bid opening.

The Lebanon Town Hall reserves the right to accept or reject any or all options, bids or proposals; to waive any technicality in any bid or part thereof, and to accept any bid deemed to be in the best interest of the Lebanon Town Hall.

The Lebanon Town Hall is an Affirmative Action/Equal Opportunity Employer. Minority/Women's Business Enterprises are encouraged to apply.

Kevin Cwikla, First Selectman

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

TAB B

Instructions to Bidders

INSTRUCTIONS TO BIDDERS

1. PROJECT DESCRIPTION:

This project generally consists of the packing and movement of furniture, fixtures, and documents from the second floor of the Lebanon Town Hall, to accommodate a flooring removal and replacement project. All furniture, fixtures and documents shall be moved back into the Town Hall's second floor, when the flooring removal and replacement project is complete. This work includes the packing and movement of sensitive legal documents to and from the Town Clerk's second floor vault and into a vault located on first-floor. Sensitive document management shall be done under chain-of-custody procedures and the direct supervision of the Town Clerk.

The work described above includes furnishing all materials and equipment necessary for the project as well as performing or providing all labor, supervision, equipment, temporary storage containers, and services unless otherwise noted within the bid documents.

2. GENERAL:

Sealed bids shall be delivered to Kevin Cwikla, First Selectman, Lebanon Town Hall, 579 Exeter Road, Lebanon, Connecticut, 06249 by 11:00 AM on Monday, March 25, 2024. Sealed bids are to be submitted to the address shown on the Bid Proposal form. Bids received after the bid opening will be returned unopened. Sealed bids will not be publicly opened; bid results will be posted on the Town of Lebanon's website.

3. CONTRACT DOCUMENTS:

These Contract Documents include a complete set of proposal forms which shall be utilized when bidding this project.

4. BIDS:

Bids shall be enclosed in a sealed envelope clearly marked "**SEALED BID – LEBANON TOWN HALL FURNITURE, FIXTURES, AND DOCUMENT MOVING PROJECT**" along with the name of bidder organization and the bid due date in order to guard against premature opening of the bid.

All bids must be submitted on forms supplied by the Owner and shall be subject to all requirements of the Contract Documents, including "Instruction to Bidders". All bids must be regular in every respect; no interlineations, ditto marks, excisions or special conditions shall be made or included in the bid form by the bidder organization.

The Owner may consider as irregular any bid on which there are any omissions, alterations of form, additions not called for, conditional or alternate bids, or irregularities of any kind

and, at its option, may reject same. The blank spaces in the bid must be filled in correctly where indicated for each and every item for which a quantity is given typed or printed in ink. If any price is omitted, the bid may be rejected. The Bidder shall sign his bid correctly. If the bid is made by an individual, his name and post office address must be shown. If made by a firm, partnership, or by a corporation, the bid must be signed by an official of the firm, partnership, or corporation authorized to sign contracts, and also must show the post office address of the firm, partnership or corporation.

A Non-Collusion Affidavit shall be completed and returned with the submitted bid. More than one bid from an individual, a firm or partnership, a corporation or association under the same or different names will not be considered. Reasonable ground for believing that any Bidder is interested in more than one bid for the work contemplated will cause the rejection of all bids in which such Bidder is interested. Bids in which the prices are obviously unbalanced may be rejected.

5. ADDENDA & INTERPRETATIONS:

Any request from a prospective Bidder for interpretation of meaning of Contract Drawings, Specifications or other Contract Documents shall be made in writing to the office of Barton and Loguidice, LLC. 41 Sequin Dr. Glastonbury, CT 06033 and to be given consideration must be received at least seven (7) days prior to date fixed for opening of proposals. Interpretations will be made in the form of written Addenda to Contract Documents, which Addenda shall become a part of the Contract. Such requests may be sent to Barton and Loguidice, LLC via e-mail to kgrindle@bartonandloguidice.com. Not later than four (4) days prior to date fixed for opening of proposals, Addenda will be published. It is the responsibility of the bidder to verify that all Addenda have been received and incorporated into the submitted bid. Failure of any Bidder to receive any such Addenda shall not relieve Bidder from any obligations under his proposal as submitted. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

6. SITE CONDITIONS:

All information on the Drawings or in the contract Documents relating to conditions, utilities, and other structures is from best sources available at present to the Owner. All such information and drawings of existing construction are furnished only for the information and convenience of bidders.

At the date fixed for opening of bids, it will be presumed that each Bidder has made an examination of location and site of work to be done under Contract; has satisfied himself as to actual conditions, requirements and quantities of work; has considered federal, state and local laws and regulations that may affect cost, progress, performance or furnishing the Work; and has read and become thoroughly familiar with Contract Documents including Contract Drawings, Specifications, Addenda, and documents referenced therein.

The Owner and the Engineer assume no responsibility whatsoever with respect to ascertaining for the Contractor any facts concerning physical characteristics at the site of the project.

7. BIDDER'S QUALIFICATIONS:

The Owner shall make such investigation as deemed necessary to determine the ability of the Bidder to discharge his Contract. After bid opening, Bidder shall be prepared to furnish the Owner with all written evidence as may be required for this purpose (e.g., financial data, previous experience, present commitments) within five (5) days after Owner requests such evidence.

Each bid must contain evidence of Bidder's qualification to do business in the State of Connecticut (or covenant to obtain such qualification prior to award of the contract) and a minimum of four references for similar projects completed by the bidder.

Bids received from Bidders who have previously failed to complete contracts within the time required, or who have previously performed similar work in an unsatisfactory manner, may be rejected. A bid may be rejected if the Bidder cannot show that he has the necessary capital and experience, and owns, controls, or can procure the necessary plant to commence and complete the work at the rate or time specified, and that he is not already obligated for the performance of other work which would delay the commencement, prosecution, or completion of the work.

8. MODIFICATION:

Any Bidder may modify his bid at any time prior to the scheduled closing time for receipt of bids, by submitting an appropriate document duly executed in a manner that bid must be executed and delivered to the place where bids are to be submitted. After opening of bids, no Bidder may withdraw his bid for a period of sixty (60) days. Owner may, in its sole discretion, release any bid prior to that date.

9. REJECTION OF BIDS:

The Owner also reserves the right to reject any or all bids, for any reason it deems advisable, and to award Contract to any of the Bidder organizations, regardless of amount of bid.

10. TIME OF COMPLETION & LIQUIDATED DAMAGES:

The Bidder must agree to fully complete all work within the number of consecutive calendar days of the issuance of the Notice to Proceed set forth in the Agreement. The Bidder must agree also to pay as liquidated damages a sum of \$750.00 as set forth in the Agreement for each consecutive calendar day thereafter. Liquidated damages may be incurred if the Contractor fails to complete the initial move prior to the initiation of the Flooring Project, and/or if the Contractor fails to complete the return move within the required schedule(s).

11. AWARD OF CONTRACTS:

If the Contract is awarded, Owner will give successful Bidder a Notice of Award within thirty (30) days after the day of Bid opening. The successful Bidder shall then execute and deliver to the Owner, within seven (7) days after notification of the award, three (3) executed Agreements, Final Certificate of Insurance, Performance Bond, Payment Bond, Contractors Minority Business Enterprise Utilization Form and Schedule of Values on forms provided by the Owner. If the successful Bidder fails to comply with the requirements of these documents within seven (7) days of receiving said Notice, that Bidder shall forfeit Bid Security and, at the option of the Owner, the Award may become null and void. The Owner may then proceed to Award the Contract to another of the Bidders.

12. BID SECURITY:

Each bid must be accompanied by a surety bond, certified or bank check, or a letter of credit, in the amount of 5% of the total of the bid. Bid security of the successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the bid security will be returned. The bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement or the sixty-first day after bid opening, whereupon the bid security furnished by such Bidders will be returned. Bid security with bids which are not competitive will be returned within seven (7) days of bid opening.

13. SCHEDULE OF VALUES:

The apparent successful Bidder or Bidders must submit, prior to the execution of an Agreement, a preliminary schedule of values for all work. The preliminary schedule of values must be submitted after Bidding by the apparent low Bidder or Bidders, and the schedule of values must be deemed acceptable by the Engineer, before the Agreement is executed.

14. SECURITY FOR FAITHFUL PERFORMANCE:

In addition to the Agreement, the successful Bidder or Bidders shall also provide, within the time stipulated, a Construction Performance Bond by a company satisfactory to the Owner in an amount equal to One Hundred Percent (100%) of Estimated Total Contract Price recorded in the bid section of the Contract as executed, and a Construction Payment Bond in like amount will be required from the successful Bidder for faithful performance of the Contract.

15. SUSPENSION OR DEBARMENT:

The Municipality agrees and acknowledges that suspended or debarred contractors, consulting engineers, suppliers, materialmen, lessors, or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or

debarment regardless of their anticipated status at the time of contract award or commencement of work.

Certification

A. The signature on the Master Agreement by the Municipality shall constitute certification that to the best of its knowledge and belief the Municipality or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal or State funds: Schedule H2

(i) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(ii) Has not, within the prescribed statutory time period preceding this Master Agreement, been convicted of or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of Records, making false statements, or receiving stolen property;

(iii) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A(ii) of this certification; and

(iv) Has not, within a five-year period preceding this Master Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

B. Where the Municipality is unable to certify to any of the statements in this certification, such Municipality shall attach an explanation to this Master Agreement.

C. The Municipality agrees to insure that the following certification be included in each subcontract agreement to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

(i) The prospective subcontractors, sub-subcontractors participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(ii) Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

TAB C

Forms

- Bid Proposal Form
- Qualifications Form
- Non-Collusion Affidavit of Bidder
- Bid Bond
- Agreement
- Construction Performance Bond
- Construction Payment Bond

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

BID PROPOSAL FORM

BID PROPOSAL FORM

PROJECT IDENTIFICATION:

Lebanon Town Hall Furniture, Fixtures, and Document Moving Project
579 Exeter Road, Lebanon, CT 06249

PROJECT NO.: _____

SUBMIT BID TO:

Office of the First Selectman
Lebanon Town Hall
579 Exeter Road
Lebanon, Connecticut 06249
Attention: Kevin Cwikla, First Selectman

GENERAL DESCRIPTION

This project generally consists of the packing and movement of furniture, fixtures, and documents from the second floor of the Lebanon Town Hall, to accommodate a flooring removal and replacement project. All furniture, fixtures and documents shall be moved back into the Town Hall's second floor, when the flooring removal and replacement project is complete. This work includes the packing and movement of sensitive legal documents to and from the Town Clerk's second floor vault and into a vault located on first-floor. Sensitive document management shall be done under chain-of-custody procedures and the direct supervision of the Town Clerk.

The work described above includes furnishing all materials and equipment necessary for the project as well as performing or providing all labor, supervision, equipment, temporary storage containers, and services unless otherwise noted within the bid documents.

All work will be done in compliance and accordance with the Bid Plans and Bid Specifications as well as all local, state, and federal regulations, guidance, and regulations. Including but not limited to the State of Connecticut Department of Public Health's Office of Vital Records and the Connecticut State Library's Public Records Administrator.

The Undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

Bidder accepts all terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for sixty (60) days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within ten (10) days after the date of Owner's Notice of Award.

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

1. Bidder has examined and carefully studied the Bidding Documents and the following Addenda receipt all of which is hereby acknowledged (List Addenda by Addendum Number and Date):

2. Bidder has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance and furnishing of the Work.
3. Bidder is familiar with and is satisfied as to all federal, state and local Laws and regulations that may affect cost, progress, performance and furnishing of the Work.
4. Bidder is aware of the general nature of Work to be performed by Owner and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
5. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and data with the Contract Documents.
6. Bidder has given Engineer written notice of all conflicts, errors, ambiguities or discrepancies that Bidder has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
7. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any

group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

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

LUMP SUM PRICE – Furniture, Fixture, and Document Moving for the Lebanon Town Hall:

Provide all materials, tools, temporary storage containers, and labor to complete the moving of furniture, fixtures, and documents located at the Lebanon Town Hall to prepare for and then to restore these items after the Lebanon Town Hall Flooring Abatement/Replacement Project. The flooring project shall be performed by others and work on the two projects must be carefully coordinated. The work for this project shall be performed in accordance with the plans and specifications for the project as depicted on the Contract documents.

Lump Sum:

\$ _____

(in numbers)

Dollars

(in words)

- 9. Bidder agrees that the Work will be substantially completed and ready for final payment in accordance with Article 14 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 10. Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.
- 11. The following documents are attached to and made a part of this Bid:

Required Bid Security in the form of _____
- 12. Communications concerning this Bid shall be addressed to the address of Bidder below.
- 13. Terms used in this Bid which are defined in the General Conditions or Instructions to Bidders will have the same meanings indicated in the General Conditions or Instructions to Bidders.

SUBMITTED on: _____, 2024.

By: _____ Title: _____

Bidder: _____

Address: _____

SEAL – if Bid is by a Corporation

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

QUALIFICATIONS FORM

QUALIFICATIONS FORM

Provide four references for similar projects conducted in the State of Connecticut:

Project & Location: _____

Approx Size (cost): _____

Date When the Work was Completed: _____

Reference Name, Phone, and Email: _____

Project & Location: _____

Approx Size (cost): _____

Date When the Work was Completed: _____

Reference Name, Phone, and Email: _____

Project & Location: _____

Approx Size (cost): _____

Date When the Work was Completed: _____

Reference Name, Phone, and Email: _____

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

Project & Location: _____

Approx Size (cost): _____

Date When the Work was Completed: _____

Reference Name, Phone, and Email: _____

Certification

I, _____, on behalf of the Bidder, _____,
certify that the Bidder is qualified to provide these services in the State of Connecticut.

By: _____ Title: _____

Bidder: _____

Address: _____

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

NON-COLLUSION AFFIDAVIT OF BIDDER

NON-COLLUSION AFFIDAVIT OF BIDDER

State of: _____)

_____) SS:

County of: _____)

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

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

Signed: _____

Title: _____

Subscribed and sworn before me this _____ day of _____, 2024.

Notary Public: _____

My Commission expires _____, _____

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

BID BOND

BID BOND

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

BIDDER (Name and Address):

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

OWNER (Name and Address):

BID

Bid Due Date:

Project (Brief Description Including Location):

BOND

Bond Number:

Date (Not later than Bid due date):

Penal sum

_____)
(Words)

_____)
(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

(Seal
)

(Seal)

Bidder's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature and Title

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title

Attest: _____
Signature and Title

Note: Above addresses are to be used for giving required notice.

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

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

AGREEMENT

AGREEMENT

BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is dated as of the _____ day of _____ in the year _____ by and between the Town of Lebanon (hereinafter called OWNER) _____ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Furniture, Fixtures, and Document Moving Project

Article 2. ENGINEER

The Project has been designed by:

Barton and Loguidice, LLC.
41 Sequin Drive
Glastonbury, Connecticut 06033
Phone: (860) 633-8770

who is hereinafter called ENGINEER and who is to act as OWNER's representative from time to time, assume some duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents. OWNER will perform most of the duties associated with processing applications for payments in lieu of ENGINEER.

Article 3. CONTRACT TIMES

- 3.1 The Work will be substantially completed within sixty-seven (67) calendar days of issuance of Notice to Proceed as provided in paragraph 2.03 of the General Conditions and as modified by the Supplementary Conditions.
- 3.2 *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER may suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly,

instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER seven hundred fifty dollars (\$750.00) for each calendar day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER seven hundred fifty dollars (\$750.00) for each calendar day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment. Liquidated damages may be incurred if the Contractor fails to complete the initial move prior to the initiation of the Flooring Project, and/or if the Contractor fails to complete the return move within the required schedule(s).

Article 4. CONTRACT PRICE

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.1 below:

- 4.1 In accordance with the Bid Proposal Form (BP-1 thru BP-4), the Bidder will complete the Project in accordance with the Contract Documents for the following prices:

Lebanon Town Hall Furniture, Fixtures, and Document Moving Project

Lump Sum of: \$ _____

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by OWNER or ENGINEER as provided in the General Conditions and Supplementary Conditions.

- 5.1 *Progress Payments; Retainage.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by the ENGINEER, each month during construction as provided in paragraphs 5.1.1 and 5.1.2. below. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions (and in the case of Unit Price Work based on the number of units completed), or, in the event there is no schedule of values, as provided in the General Requirements.

- 5.1.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or

OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions.

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

90% (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.02 of the General Conditions).

5.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98% of the Contract Price (with the balance being retainage), less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions.

5.2 *Final Payment.* At the end of the One Year Correction Period, the CONTRACTOR shall submit to ENGINEER an Application for Payment of the retainage in accordance with paragraph 14.07 of the General Conditions.

Article 6. INTEREST

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the project.

Article 7. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents including "technical data".
- 7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.
- 7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- 7.4 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.
- 7.5 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

- 7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written solution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 8.1 This Agreement (pages A-1 to A-6, inclusive).
- 8.2 Exhibits to this Agreement (Exhibits A, B, C, D, E,).
- 8.3 Exhibit A – Contractor’s Certificate of Insurance
- 8.4 Exhibit B – Contractor’s Performance Bond & Payment Bond.
- 8.5 Exhibit C – Contractor’s Bid Proposal
- 8.6 Exhibit D – Bid Addenda
- 8.7 Exhibit E – Original Bid Documents
- 8.8 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.0.4 of the General Conditions.

The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed in this Article 8. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.0.4 of the General Conditions.

Article 9. MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and

legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

- 9.4 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.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement, in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, 2024, (which is the Effective Date of the Agreement).

OWNER: **Town of Lebanon** _____

CONTRACTOR: _____

By: **Kevin Cwikla, First Selectman** _____
[CORPORATE SEAL]

By: _____
[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

579 Exeter Road _____

Lebanon, CT 06249 _____

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

Address for giving notices:

License No. _____

Agent for service of process: _____

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

PERFORMANCE BOND

PERFORMANCE BOND

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

CONTRACTOR (Name and Address):

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

OWNER (Name and Address):

CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Bond Number:

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Company:

Signature: _____ (Seal)

Name and Title:

SURETY

(Seal)

Surety's Name and Corporate Seal

By: _____

Signature and Title

(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

Attest: _____

Signature and Title

CONTRACTOR AS PRINCIPAL

Company:

Signature: _____ (Seal)

Name and Title:

SURETY

(Seal)

Surety's Name and Corporate Seal

By: _____

Signature and Title

(Attach Power of Attorney)

Attest: _____

Signature and Title:

EJCDC No. C-610 (2002 Edition)

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, and the American Institute of Architects.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

2. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.

3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:

3.1. Owner has notified Contractor and Surety, at the addresses described in Paragraph 10 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and

3.2. Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 3.1; and

3.3. Owner has agreed to pay the Balance of the Contract Price to:

1. Surety in accordance with the terms of the Contract;
2. Another contractor selected pursuant to Paragraph 4.3 to perform the Contract.

4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:

4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or

4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or

4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
2. Deny liability in whole or in part and notify Owner citing reasons therefor.

5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 4.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

6. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To a limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

6.1. The responsibilities of Contractor for correction of defective Work and completion of the Contract;

6.2. Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and

6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

8. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

12.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.

12.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY – Name, Address and Telephone
Surety Agency or Broker
Owner's Representative (engineer or other party)

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

PAYMENT BOND

PAYMENT BOND

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

CONTRACTOR (Name and Address):

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

OWNER (Name and Address):

CONTRACT

Date:
Amount:
Description (Name and Location):

BOND

Bond Number:
Date (Not earlier than Contract Date):
Amount:
Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Company:

Signature: _____ (Seal)
Name and Title:

SURETY

Surety's Name and Corporate Seal (Seal)

By: _____
Signature and Title
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

Attest: _____
Signature and Title

CONTRACTOR AS PRINCIPAL

Company:

Signature: _____ (Seal)
Name and Title:

SURETY

Surety's Name and Corporate Seal (Seal)

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title:

EJCDC No. C-615 (2002 Edition)

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2. Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2. Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS

- 15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

**FOR INFORMATION ONLY – Name, Address and Telephone
Surety Agency or Broker:
Owner's Representative (engineer or other party):**

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

TAB D

General Conditions

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 Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

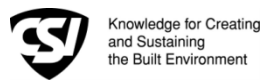
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AMERICAN SOCIETY OF CIVIL ENGINEERS

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The Associated General Contractors of America



Construction Specifications Institute

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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314

American Council of Engineering Companies
1015 15th Street, N.W., Washington, DC 20005

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor Nos. C-520 or C-525 (2002 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC Construction Documents, General and Instructions (No. C-001) (2002 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. C-800) (2002 Edition).

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

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

2. *Agreement*--The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

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

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*--The individual or entity named as such in the Agreement.

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

21. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

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

25. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

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

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

37. *Resident Project Representative*--The authorized representative of Engineer who may be assigned to the Site or any part thereof.

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

39. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *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.

41. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

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

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

44. *Subcontractor*--An individual or entity having a direct contract with Contractor or with any other

Subcontractor for the performance of a part of the Work at the Site.

45. *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.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

47. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

48. *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 any Subcontractor.

49. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work*--Work to be paid for on the basis of unit prices.

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

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following 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 requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. Day

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

D. Defective

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

a. does not conform to the Contract Documents, or

b. does not meet the requirements of any applicable inspection, reference standard, test, or

approval referred to in the Contract Documents, or

c. has been damaged prior to Engineer's - recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. Furnish, Install, Perform, Provide

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

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

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

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

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

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

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

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

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

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

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

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

2. a preliminary Schedule of Submittals; and

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

2.06 *Preconstruction Conference*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

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

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

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

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

A. Standards, Specifications, Codes, Laws, and Regulations

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

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

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.

B. Resolving Discrepancies

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

- a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or
3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, 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 Engineer's consultants, including electronic media editions; or
2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract.

Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party..

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as

necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

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

4.02 *Subsurface and Physical Conditions*

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

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

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

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

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

4.03 *Differing Subsurface or Physical Conditions*

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

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

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

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

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

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

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

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

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous

areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

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

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

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

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. Not Shown or Indicated

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further

disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

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

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

A. Reports and Drawings: Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

B. Limited Reliance by Contractor on Technical Data Authorized: Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified

in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

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

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

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

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on

a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06. G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the

Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

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

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

5.04 *Contractor's Liability Insurance*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

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

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

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

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

b. by any other person for any other reason;

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

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

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

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions,

and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, (other than caused by flood) and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

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

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

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

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

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order .

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

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

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract

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

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

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

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or

received from the superintendent shall be binding on Contractor.

6.02 *Labor; Working Hours*

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

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

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

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. "*Or-Equal*" Items: If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

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

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

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

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

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

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

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

2. Substitute Items

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

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

1) shall certify that the proposed substitute item will:

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

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time;

b) whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

c) whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

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

b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change,

B. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

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

E. Engineer's Cost Reimbursement: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the charges of Engineer for making changes in the Contract

Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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

6.06 Concerning Subcontractors, Suppliers, and Others

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

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

2. shall anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual

or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

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

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

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

6.08 *Permits*

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

6.09 *Laws and Regulations*

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

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 Taxes

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

6.11 Use of Site and Other Areas

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

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

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

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

6.12 Record Documents

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

6.13 Safety and Protection

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

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

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

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

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

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Draw-

ings or Specifications or to the acts or omissions of Owner or Engineer or , 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).

D. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

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

2. *Samples*: Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

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

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

C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

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

b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

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

d. shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents

with respect to Contractor's review and approval of that submittal.

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

D. Engineer's Review

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

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures

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

6.18 Continuing the Work

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or

disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 Contractor's General Warranty and Guarantee

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

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

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

2. normal wear and tear under normal usage.

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

1. observations by Engineer;

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

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

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

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

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

7. any correction of defective Work by Owner.

6.20 Indemnification

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, 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 respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

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

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

shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

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

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

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

ARTICLE 7 - OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and

properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
2. the specific matters to be covered by such authority and responsibility will be itemized; and
3. the extent of such authority and responsibilities will be provided.

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

7.03 *Legal Relationships*

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

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

C. Contractor shall be liable to Owner and any other contractor for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's action or inactions.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

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

8.11 *Evidence of Financial Arrangements*

A. If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and will not be changed without written consent of Owner and Engineer.

9.02 *Visits to Site*

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

Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

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

9.03 *Project Representative*

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

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

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

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

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believe that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show

partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

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

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

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall

promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

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

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

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

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice 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) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

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

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

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

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 at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and

Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have

resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

C. Contractor's Fee: When all the Work is performed on the basis of cost-plus, Contractor's fee shall

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

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

11.02 Allowances

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. Cash Allowances

1. Contractor agrees that:

a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. Contingency Allowance

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 Unit Price Work

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

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

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an

allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

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

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

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

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted

by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

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

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.01 *Notice of Defects*

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

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to

be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or
2. correct such defective Work; or
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications .

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress

payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations on the Site of the executed Work as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent

inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due

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

D. Reduction in Payment

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

- a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
- b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
- c. there are other items entitling Owner to a set-off against the amount recommended; or
- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

14.03 Contractor's Warranty of Title

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

14.04 Substantial Completion

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, , Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial

Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions.

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

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

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals

that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. Application for Payment

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

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

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations

under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and , will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

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

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance

with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

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

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

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

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be

governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or

2. agrees with the other party to submit the Claim to another dispute resolution process, or

3. gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

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

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

TAB E

Supplementary Conditions

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the General Conditions 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.

ARTICLE 1 REVISIONS:

1.01.29 Engineer

After the word “performed,” add the words “Owner may designate in writing one or more authorized representatives who shall have express authority to bind the Owner with respect to matters requiring Owner’s approval or authorization. The Engineer does not have such authority. The term “Owner” means the Owner, and the Owner’s Authorized Representative. The Owner’s Authorized Representative is not to be confused with the owner’s representative to which Article 9 refers.”

Add the following:

1.01.53 Project Manager

The person employed by the Town of Lebanon on behalf of the owner. All major decisions and determinations required during the work will be made jointly by the owner, and the project manager; and if applicable, the architect/engineer, however, instructions to the contractor are to be from the Owner. If the contractor performs work beyond the scope of the project at the direction or request of any person other than the owner, it will be at his own risk and expense. If this work must be removed or revised, that also will be at the expense of the contractor.

ARTICLE 2 REVISIONS:

2.05 Before Starting Construction

To Paragraph 2.05.A, after the word “review,” add the words “and Owner’s approval:”

Delete Article 2.05.B.3 and add the following new Article 2.05.D:

Documentation submitted by CONTRACTOR prior to execution of Agreement shall include a preliminary schedule of values for all of the Work that 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. The approved schedule of values shall follow the format provided in the Bidding Documents.

2.07 Initial Acceptance of Schedules

To Paragraph 2.07.A, after the word “Engineer,” in line 4, add the words “and Owner”. And after the word “Engineer” in line 10, add the words “for its review and the Owner’s approval.”

To Paragraph 2.07.A.1, after the word “Engineer,” in line 2, add the words “and Owner”. And after the word “Engineer” in line 4, add the words “and Owner.” And after the word “therefore” in line 8, add “The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. A Contractor’s construction schedule and any and all updates shall be prepared and maintained by the Contractor using the Critical Path Method and shall contain a minimum of 25 activities. The Contractor shall submit its schedules to the Owner and Engineer at regular intervals, not to exceed one month. Each submittal shall include, at a minimum, plots of bar charts showing progress of the Work, Total Float and Critical Paths, in addition to a listing of the supporting data organized in tabular form. The Contractor’s construction schedule updates shall identify the Work completed to date based on completed activities as a percentage of the total Work.”

To Paragraph 2.07.A.2, after the word “Engineer,” in line 2, add the words “and Owner”.

To Paragraph 2.07.A.3, after the word “Engineer,” in line 2, add the words “and Owner”.

ARTICLE 3 REVISIONS:

3.07 Add the following:

The Contract Documents are complementary; what is called for by one is as binding as if called for by all. In resolving conflicts, errors, and discrepancies, the documents shall be given precedence in the following order: Agreement, Specifications, Drawings. Within the specifications the order of precedence shall be as follows: Special Provisions, Instructions to Bidders, General Conditions, Technical Provisions. Figure dimensions on Drawings shall govern over scale/dimensions, and detailed Drawings shall govern over general Drawings. The Contractor assumes full responsibility for having familiarized itself with the nature and extent of the Contract Documents, work, locality, and local conditions that may in any manner affect the work to be done.

ARTICLE 4 REVISIONS:

4.01 Availability of Lands

Add the following:

- D. If the Contractor, by direct negotiation and bargaining with any land owner, lessee or tenant, has secured for himself any right to use more space or greater privileges in the space provided for purposes incidental to the performance of the Contract, he shall, upon request of the Owner's Representative, furnish to the Owner's Representative proper evidence that such additional right have been properly secured and assurance that no damage to or claim upon the Owner will arrive there from. The Owner shall not be liable in any way for any expense incurred by the Contractor in securing any such right to use additional property.
- E. If access is provided by means of any road or driveway or through private lands, the Contractor shall permit the regular Owners or users thereof to use the same so far as it is consistent with the construction of the work. If any existing driveway or road is damaged by his use thereof, the Contractor shall at once restore it to as good condition as it would have been had he not used it. The Contractor and those under him using any private road or driveway must assume to use that road or driveway on an "as is" basis and use it at their own risk. Neither the Owner nor the land owner shall be liable for damage to persons or property of the Contractor's forces arising from any defect in such road or driveway, except as such defect may be the consequence of negligence of the Owner or the land owner after the award of the Contract.

4.05 Reference Points

To Paragraph 4.05.A, after the word "Work," in line 4, add the words "The Contractor shall be entitled to rely on the accuracy of the information furnished by the Owner unless the Contractor has actual knowledge to the contrary."

ARTICLE 5 REVISIONS:

5.01 Performance, Payment, and Other Bonds

To Paragraph 5.01.A, add "The Contractor shall deliver the executed, approved bonds to the Owner at the time of execution of this Contract. In the alternative, Contractor shall furnish Owner with an irrevocable, documentary standby letter of credit in the amount of the Contract sum. The letter of credit may be drawn upon by the Owner if a default under the Contract occurs and/or to pay any Liquidated Damages Amount. If the Owner draws on the letter of credit to pay any of the Liquidated Damages amounts, the Contractor shall remain liable for any remaining Liquidated Damages Amount after such draw(s). The letter of credit (a) shall be in a form and by a financial institution reasonably acceptable to the Owner, (b) shall be payable on sight draft, in partial draws,

if applicable, to Owner without other conditions except for the beneficiaries certificate that it is entitled to draw thereon, (c) shall not expire prior to Final Completion of the Work, and (d) shall be for an initial term of one (1) year, which term shall be automatically renewable for subsequent one-year terms thereafter, or for an initial term of one (1) year with a provision that the Owner receive thirty (30) days prior written notice of the termination date of the letter of credit, at which time the Owner may draw on the letter of credit, whether or not a default under the Contract exists, prior to such termination date; provided, however, that such letter of credit shall be returned no later than thirty (30) days following Final Completion of all of the work. The Contractor shall deliver such executed, approved letter of credit to Owner at the time of the execution of this Contract.”

5.03 Certificates of Insurance

To Paragraph 5.03.A, add “Contractor shall also deliver to Owner copies of each of the insurance policies required of Contractor under this Contract, including without limitation, declarations, and any other document evidencing types of coverage, limits of coverage, insureds, and additional insureds.”

5.04 Contractor’s Liability Insurance

Add the following:

- C. The insurance required by Paragraph 5.04 shall be written for not less than amounts set forth below or required by law, whichever coverage is greater. Coverages shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. Such coverages shall be maintained by insurance carriers acceptable to Owner and Owner’s lender in all respects.
 1. Workers’ Compensation and Employer’s Liability Insurance: Workers’ Compensation limits shall not be less than those statutorily required by the State of Connecticut and shall include Employers Liability limits of liability of \$1,000,000 bodily injury per accident/employee; \$1,000,000 bodily injury per disease/employee; \$1,000,000 policy by disease;
 2. Commercial General Liability Insurance: Limits of liability shall not be less than Two Million dollars (\$2,000,000) per occurrence combined Bodily Injury and Property Damage and Four Million dollars (\$4,000,000) in the aggregate. The limits may be provided through a combination of Primary and Umbrella/Excess Liability policies acceptable to the Owner;
 3. Commercial Automobile Liability Insurance: Limits of liability shall not be less than Two Million dollars (\$2,000,000) per occurrence combined Bodily Injury and Property Damage. The limit may be provided through a combination of Primary and Umbrella/Excess Liability policies acceptable to the Owner;

4. The Contractor shall, within 30 days of being awarded the contract, provide the Owner with copies of the insurance policies required of it under this contract, each of which names the Town of Lebanon and Barton & Loguidice, LLC as additional insureds, with the Town of Lebanon as the Certificate Holders. The "Hold Harmless" endorsement of the insurance shall include the interest of the Town of Lebanon. The Contractor and Subcontractors and other interests shall be so named. The policy shall insure against all risks of physical damages except as modified by the Contract Documents and subject to the normal all risk exclusions.
 5. The amount of insurance contained in aforementioned insurance coverage shall not be construed to be a limitation of the obligation or liability on the part of the Contractor or any of its subcontractors under the provisions of this Contract or at law.
 6. The aforementioned insurance coverage outlined in this section and any other coverage that Contractor may consider necessary are the Contractor's sole responsibility and any deficiency in coverage or policy limits of the Contractor will be the sole responsibility of the Contractor.
 7. In the event of failure of the Contractor to furnish and maintain the aforementioned insurance and to furnish satisfactory evidence thereof, such failure shall constitute a breach of this Contract and the Owner shall have the right, in addition to any other rights, to immediately cancel and terminate this Contract without any further costs to the Owner or, at the Owner's option, to take out and maintain the same on behalf of the Contractor who agrees to furnish all necessary information relative thereto and to pay the cost thereof to the Owner immediately upon presentation of a bill
- D. Insurance requirements shall also apply to all Subcontractors, and the Contractor shall not allow any Subcontractor to commence work until the Subcontractor's insurance has been obtained.

5.06 Property Insurance

Delete Paragraph 5.06.A.2, and replace with the following new Paragraph 5.06.A.2: "Property insurance shall be on an "all-risk" form and shall include, without limitation, insurance against earthquake, flood, windstorm, falsework, testing and startup, demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Engineer's and Contractor's services and expenses required as a result of such insured loss."

To Paragraph 5.06.B, in line 10, delete the words "and shall be listed as an insured or additional insured."

5.07 Waiver of Rights

To Paragraph 5.07.A, in line 14, delete the words "Owner and", replace the word "waive," with "waives", and after the word "against", add "Owner." From line 15, delete the word

“their” and replace with “its”. Add “The Contractor shall require of the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the Owner. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.”

Add the following:

- D. Claims for Consequential Damages. Except as otherwise provided in the Contract Documents, the Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:
1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
 2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination in accordance with Article 15. Nothing contained in this section 5.07 shall be deemed to preclude an award of liquidated non-consequential damages, when applicable, in accordance with the requirements of the Contract Documents.”

ARTICLE 6 REVISIONS:

Add the following:

6.10 Supervision and Superintendence

To Paragraph 6.01.A, after the phrase “Contract Documents” in line 5, add “in a manner consistent with the degree of care and skill usually exercised by contractors experienced in projects of similar scope and in accordance with the standards of skill and care expected of contractors experienced in projects similar to the Project. Under no circumstances shall the quality and completeness of Work be less than recognized industry standards.”

To Paragraph 6.01.B, add “The Superintendent shall be satisfactory to the Owner and the Owner shall have the right to request Contractor to dismiss from the Project any

Superintendent whose performance is not satisfactory to Owner. In the event Owner and Contractor fail to agree as to whether such dismissal is warranted, the Engineer shall make such determination and both parties shall agree to abide by the decision of the Engineer. The Contractor shall not replace the Superintendent without the consent of the Owner, which consent shall not be unreasonably withheld.”

6.02 Labors; Working Hours

To Paragraph 6.02.A, after the word “Site” in line 5, add “The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors. If the Owner or Engineer has reasonable objection to an employee of the Contractor or any of its Subcontractors, the Contractor must submit an acceptable substitute person or entity to the Owner.”

6.04 Progress Schedule

To Paragraph 6.04.A.1, after the words “Engineer for”, add “review and Owner”.

6.06 Concerning Subcontractors, Suppliers, and Others

To Paragraph 6.06.A, add “Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner or the Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Engineer to reply promptly shall constitute notice of no reasonable objection.”

To Paragraph 6.06.G, add “Any part of the work performed for the Contractor by a Subcontractor shall be pursuant to a written Subcontract between the Contractor and Subcontractor. Copies of all Subcontractor bids or proposals, and ultimately, subcontracts, shall, upon request of Owner, be submitted to Owner and Engineer.”

Add the following:

“H. The Contractor shall obtain lien waivers from Subcontractors and material suppliers upon payment to such parties and shall supply copies of the same to Owner promptly upon receipt thereof. If Contractor fails to comply with the provisions of this Paragraph 6.06.H, and for so long as such failure continues,

Owner may make all payments attributable to a Subcontractor or material supplier co-payable to the Contractor and such Subcontractor or material supplier.”

6.08 Permits

To Paragraph 6.08.A, add “The Contractor will perform and complete the Work in accordance with all requirements of law and with the Contract Documents and no work shall be undertaken until the Contractor has been issued all required permits. Contractor shall prosecute all work diligently to assure completion no later than the date specified therefore.”

6.09 Laws and Regulations

To Paragraph 6.09.A, after the word “Work” in line 3, add “Contractor shall review the Contract Documents and notify the Owner and the Engineer of any discrepancy between building codes and regulations of which the Contractor has actual knowledge without independent investigation. The Contractor shall not violate any zoning, set-back or other locational requirements of applicable laws, codes or ordinances, or of any recorded covenants of which the Contractor has actual knowledge. If the Contractor observes or is told by any building inspector that portions of the Contract Documents are at variance with applicable laws, statutes ordinances, building codes, rules or regulations, the Contractor shall promptly notify the Engineer and Owner in writing, and necessary changes shall be accomplished by appropriate modification.”

Add the following:

“D. The Contractor shall be responsible to procure Certificate(s) of Occupancy, if required, from the authorities having jurisdiction.”

“E. The Contractor shall maintain policies of employment as follows:

1. The Contractor and the Contractor’s subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

2. The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin."

6.10 Taxes

To Paragraph 6.10.A, add "The Contractor shall not be paid or reimbursed for any state, consumer, use, service, ad valorem or other tax paid by the Contractor related to the performance of the Work. The Town of Lebanon is exempt from payment of taxes. Therefore, the Contractor should obtain from the Owner's Department of Finance tax exempt certificates for each of the Contractor's vendors and suppliers in order to avoid the imposition of any of the aforesaid taxes. In any event, the Owner will not pay or reimburse the Contractor for any taxes that the Contractor may pay in the performance of the Work."

6.11.A.1 Use of Site and Other Areas

- A.1 "The exact limit of Work and equipment storage shall be verified and agreed to by Owner and Contractor in the field."

6.12 Record Documents

To Paragraph 6.12.A, add "In the event that either party to this Agreement terminates the Agreement, the Contract Documents and Project files that were maintained in paper and electronic formats shall be the property of and reside with the Owner."

6.19 Contractor's General Warranty and Guaranty

To Paragraph 6.19.A, after the word "guarantee" in line 5, add "The Contractor warrants to the Owner and Engineer that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor further warrants and represents that:

1. The Contractor is financially solvent, able to pay all debts as they mature and possessed of sufficient working capital to complete the work and perform all obligations under the Contract Documents;
2. the Contractor is able to furnish the tools, materials, supplies, equipment and labor required to complete the work and perform all obligations under the Contract Documents, and has sufficient experience and competence to do so;
3. the Contractor is authorized to do business in the state where the Project is located and is properly licensed by all necessary governmental, public and other authorities having jurisdiction over the Contractor and the Project;
4. the persons executing the Contract Documents are authorized to do so;
5. the Contractor has visited the site of the Project and become familiar with the Contract Documents and the conditions of the site, and knows of no reason why the work cannot be performed as set forth in the Contract Documents;
6. The Contractor shall warrant all Work for a period of one (1) year after Final Completion; and
7. The Contractor shall assign any extended warranties (in excess of the Contractor's one (1) year warranty) on equipment and materials furnished as part of the Work to the Owner."

6.20 Indemnification

To Paragraph 6.20.A, after the word "performance" in line 10, add "or non-performance".

6.22 Prevailing Wage Rate Requirements

- A. "Town of Lebanon construction contracts are subject to Connecticut's prevailing wage law as codified in Connecticut General Statutes Section 31-53 and 31-53a. The Contractor shall be required to comply with all requirements of Connecticut's prevailing wage laws if the project value exceeds the monetary thresholds which are described in Connecticut General Statutes Section 31-53(g)."
- "B. Upon the award of the Contract, the Contractor shall certify, under oath, to the Labor Commissioner the pay scale to be used by the Contractor and any of its Subcontractors for the work to be performed under the Contract. Additionally, the Contractor and any of its Subcontractors must file certified payrolls with the Owner containing information, including but not limited to, employee names;

occupations; hours worked; rates paid; and the employers compliance with various provisions of law.

- C. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them in either its own organization, or in any of its subcontractor's respective organizations. All work required to be done by persons licensed under all applicable governmental requirements and codes shall be performed by such licensed persons. Contractor agrees to maintain a harmonious job site and to use laborers, suppliers and subcontractors that will not cause any labor disruptions or disharmony in connection with the performance of the Work or any other work being performed at the Project. Contractor agrees to address any labor disputes or disruptions promptly."

ARTICLE 7 REVISION:

7.01 Related Work at Site

To Paragraph 7.01.C, after the word "Engineer" in line 4, add "and Owner."

ARTICLE 8 REVISION:

8.11 Evidence of Financial Arrangements

Delete Paragraph 8.11.A in its entirety.

ARTICLE 9 REVISION:

9.04 Authorized variations in Work

To Paragraph 9.04.A, after the word "Engineer," in line 1, add the words "after having received approval from the Owner,".

9.08 Decisions on Requirements of Contract Documents and Acceptability of Work

Delete Paragraph 9.08.A in its entirety.

9.09 Limitations on Engineer's Authority and Responsibility

Add the following:

- "F. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Owner's designated representative about matters arising out of or relating to the Contract. Communications by and with the Engineer's consultants shall be through the

Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner's designated representative."

ARTICLE 10 REVISIONS:

10.05 Claims

Delete Paragraph 10.05.E in its entirety.

ARTICLE 11 REVISIONS:

Add the following:

11.04 Equipment Rental Rates Not Otherwise Covered

With regard to rental rates applicable to work not covered by either Lump Sum pay items or Unit Adjustments, for any power-operated machinery, trucks or equipment, necessary to use, the Engineer will allow the Contractor the rental rate set forth in the most current edition of the "Rental Rate Blue Book," including all Rate Adjustment Tables and amendments, as published by Dataquest, Inc. of San Jose, California in effect at the time the work is performed for Contractor-owned equipment or at a lower rate, if submitted by the Contractor.

- A. Should the proper completion of the work require equipment of a type not covered by the above-mentioned schedule, the Engineer will allow Contractor a reasonable rental rate which shall be based on that prevailing in the area of the work and shall be agreed upon in writing before the work is begun. However, the Contractor shall show the sources for the rates he has proposed.
- B. For power-operated machinery, truck or equipment, which the Contractor must obtain by rental, he shall inform the Engineer of his need to rent the equipment prior to using it on the work. He shall be paid the actual rental for the equipment, provided that rate does not exceed the rental rate set forth in the "Rental Rate Blue Book", including all Rate Adjustment Tables and amendments as published by Dataquest, Inc. The Contractor shall provide a copy of the paid receipt for the rental expense incurred.
- C. The estimated operating cost per hour will apply only to the actual time the equipment is operating. Operators will be paid as stated hereinbefore for labor except for certain trucks listed in the "Rental Rate Blue Book" as published by Dataquest, Inc. which show the operators to be included.
- D. For rented equipment not owned by the Contractor or a subsidiary of the Contractor, the following rates shall apply:
 - 1. The daily rate per hour shall apply when the equipment is specifically assigned to the work by the Engineer for a period of 7 consecutive calendar days or less.

2. The weekly rate per hour shall apply when the assigned time exceeds 7 consecutive calendar days but does not exceed 21 calendar days.
 3. The monthly rate per hour shall apply when the assigned time exceeds 21 consecutive calendar days.
- E. For Contractor-owned equipment or equipment rented or obtained from a subsidiary of the Contractor, the maximum hourly rate to be used shall be the monthly rate as set forth in the current edition of the "Rental Rate Blue Book", including Rate Adjustment Tables and amendments as published by Dataquest, Inc., divided by 176 (176 working hours per month).

ARTICLE 12 REVISIONS:

12.03 Delays

To Paragraph 12.03.B, after the words "equitable adjustment in" in line 6, delete the words "Contract Price or the", and after the words "Contract Times, delete the words ", or both". Add "Such an adjustment to the Contract Time shall be the Contractor's sole and exclusive remedy for the delays discussed in this paragraph 12.03."

To Paragraph 12.03.C, after the words "Contract Times" in line 9, add the words "and only to the extent that the critical path to the Project Schedule is extended."

ARTICLE 13 REVISIONS:

13.03 Delays

Delete section 13.03.B, and replace with the following new section 13.03.B:

"All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be retained by the contractor as part of his obligation. The owner reserves the right to approve/disapprove the firm(s) selected to perform any and all tests/inspections and to be given a copy of any reports thus generated.

Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

Any authorized agent of the Municipality shall be permitted to inspect the project in general or any of its phases. "

13.07 Correction Period

To Paragraph 13.07.A, after the words “the date of” in line 1, delete the words “Substantial Completion”, and replace with the words “Final Completion.”

ARTICLE 14 REVISIONS:

14.01 Schedule of Values

To Paragraph 14.01.A, after the words “acceptable to Engineer” in line 4, add the words “and Owner.”

14.02.C Payment Becomes Due

To Paragraph 14.02.C.1, add “In no event shall the Owner be obligated to pay the Contractor for more than the amount certified by the Engineer for each Application for Payment, plus any pending change orders that the Owner agreed to approve.”

14.07 Final Payment

Add Paragraph 14.07.D – Acceptance of Final Payment as Release

The acceptance by the contractor of final payment shall be and shall operate as a release to the owner of all claims and all liability to the contractor for all things done or furnished in connection with this work and for every act and neglect of the owner and others relating to or arising out of this work. No payment, final or otherwise, shall operate to release the contractor or his subcontractors or his surety from any obligation under this contract or the bonds affixed thereto.

Add the Following:

14.10 Withholding of Payments

The Owner may withhold payments necessary to pay laborers, mechanics, apprentices and trainees employed by the contractor or subcontractor on the work, the full amount of wages required by the contract. In the event of failure to pay any laborer, mechanic, apprentice or trainee employed or working on the site of the project or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, all or part of the wages required by the contract, the Municipality may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

ARTICLE 15 REVISIONS:

Delete the word “persistent” from Article 15.0.2.A.1

15.03 Owner may Terminate for Convenience

To Paragraph 15.03.A.1, delete from line 3 the words “including fair and reasonable sums for overhead and profit on such Work.”

To Paragraph 15.03.A.2, delete from line 5 the words “plus fair and reasonable sums for overhead and profit on such expenses.”

To Paragraph 15.03.A.4, add “, but no overhead and profit on work not executed.”

Add the following:

“C. In no event shall the Contractor or any Subcontractor employed on the Project be entitled to profit, overhead, or damages on work that was not performed as of the date of termination, regardless of the reasons for termination.”

“D. Upon receipt of written notice from the Owner of such termination for the Owner’s convenience, the Contractor shall:

1. cease operations as directed by the Owner in the notice;
2. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work;
3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders; and
4. provide a detailed inventory to the Owner that indicates the value, nature, and description of all material, labor, and equipment supplied as of the date of termination.”

ARTICLE 16 REVISIONS:

Delete Paragraph 16.01.A, and replace with the following new Paragraph 16.01.A.:

“Owner, in its sole discretion, may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05. The mediation will be governed by the Construction Industry Mediation Rules of the American Dispute Resolution Center, New Britain, Connecticut, currently in effect.”

Delete Paragraph 16.01.C, and replace with the following new Paragraph 16.01.C:

“Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived in the Contract Documents, shall, at the sole discretion of the Owner, be subject to arbitration. If the Owner chooses to Arbitrate the Claims, the arbitration shall be in accordance with the Construction Industry Arbitration Rules of the American Dispute Resolution Center, New Britain, Connecticut, currently in effect. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Dispute Resolution Center, and a copy shall be filed with the Engineer.”

ARTICLE 17 REVISIONS:

Add the following:

17.07 Time for Completion and Liquidated Damages:

- A. It is hereby understood and mutually agreed, by and between Contractor and Owner, that the date of beginning and the time for completion as specified in the Agreement of the work to be done hereunder are essential conditions of this Contract; and it is further mutually understood and agreed that the Work embraced in this Agreement shall be commenced on a date to be specified in the Notice to Proceed.
- B. Contractor agrees that said Work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between Contractor and Owner, that the time for the completion of the Work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and conditions in this locality.
- C. If said Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by Owner, then the Contractor does hereby agree to pay to Owner the amount specified in the Agreement, not as a penalty but as Liquidated Damages for such breach of Agreement, for each and every calendar day that Contractor shall be in default after the time stipulated in the Agreement for completing the Work.
- D. The said amount is fixed and agreed upon by and between Contractor and Owner because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages Owner would in event sustain, and said amount shall be retained from time to time by the Owner from current periodical estimates.
- E. It is further agreed that time is of the essence of each and every portion of this contract and of the specification wherein a definite and certain length of time is

fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any of the work, the new time limit fixed by such extension shall be of the essence of this contract, provided that the contractor shall not be charged with liquidated damages or any excess cost when the owner determines that the contractor is without fault and the contractor's reasons for the time extension are acceptable to the owner, provided further that the contractor shall not be charged with liquidated damages or any excess cost when the delay of completion of the work is due:

1. to any preference, priority or allocation order duly issued by the government;
 2. to unforeseeable cause beyond the control and without the fault or negligence of the contractor, including but not restricted to, acts of the owner, acts of another contractor in the performance of a contract with the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and/or
 3. to any delays of subcontractors or suppliers occasioned by any of the causes specified in the preceding two paragraphs, provided further that the contractor shall, within ten (10) days from the beginning of such delay, unless the owner shall grant a further period of time prior to the date of final settlement of the contract, notify the owner, in writing, of the cause of delay, who shall ascertain the facts and extent of the delay and notify the contractor within a reasonable time of its decision in the matter.
- F. Liquidated damages may be incurred if the Contractor fails to complete the initial move prior to the initiation of the Flooring Project, and/or if the Contractor fails to complete the return move within the required schedule(s).

17.08 REQUIRED PROVISIONS DEEMED INSERTED:

Each and every provision of law required to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any provision is not inserted, or is inserted incorrectly then upon the application of either party the contract shall be amended to make such insertion or correction.

17.09 EMPLOYMENT OF CERTAIN PERSONS PROHIBITED:

No person under the age of sixteen and no person who at the present time is serving sentence in a penal or correctional institute shall be employed on the work covered by this contract.

17.10 OTHER PROHIBITED INTERESTS:

No official of the owner who is authorized solely or jointly to negotiate, make, accept, or approve any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the owner who is authorized in a capacity to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or any part thereof.

17.11 NO CONFLICT

No member or Delegate to Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit to arise from the same.

17.12 SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION:

In order to protect the life and health of his employees under the contract, the contractor shall comply with all pertinent provision of the Contract Work Hours and Safety Act commonly known as the Construction Safety Act as pertains to health and safety standards; and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under this contract.

The contractor alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

17.13 PROJECT MANAGER'S AUTHORITY:

The project manager shall give all orders and directions contemplated under this contract and specifications relative to the execution of the work. The project manager shall determine the amount, quality, acceptability and fitness of the several kinds of

work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to the work. The project manager's estimates and decisions shall be final and conclusive, except as otherwise provided. In case any question shall arise between the parties hereto relative to the contract or specifications, the determination or decision of the project manager shall be a condition precedent to the right of the contractor to receive any money or payment for work under this contract affected in any manner or to any extent by such question.

The project manager shall decide the meaning and intent of any portion of the specifications and of any plan or drawing where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the contractor and any other contractors performing work for the owner shall be adjusted and determined by the project manager.

17.14 NOTICE AND SERVICE THEREOF:

Any notice from the owner to any contractor regarding any part of this contract shall be in writing and considered delivered and the service thereof completed when the notice is posted by certified or registered mail to the contractor at his last given address, or delivered in person to the contractor or his authorized representative on the work site.

17.15 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS:

The contractor may be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract.

The additional drawings and instructions thus supplied to the contractor will coordinate with the contract documents. The contractor shall carry out the work in accordance with the additional detail drawings and instructions. The contractor and the project manager will prepare jointly (a) a schedule, fixing the dates at which specific detail drawings will be required, such drawings, if any, to be furnished by the project manager in accordance with said schedule and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacturer's testing, installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule is subject to change in accordance with actual work progress.

17.16 CONTRACTOR'S TITLE TO MATERIAL:

No materials or supplies for the work shall be purchased by the contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The contractor warrants

that he has good title to all materials and supplies used in the work, free from all liens, claims or encumbrances.

17.17 PREVAILING WAGE RATES:

Prevailing wage rates will be applicable for bids over \$100,000 per C.G.S. 31-53g. It is the contractor's responsibility to obtain the annual prevailing wage rate increases directly from the State Department of Labor website. The owner will not allow additional costs for Labor rate increase during the course of the project.

17.18 SUBCONTRACTING:

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 the approval of the owner. Approval will not be given until the contractor submits to the owner a written statement including appropriate certifications concerning the proposed award to the subcontractor, which statement will contain such information as the owner may require.

The contractor shall be as fully responsible to the owner 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 persons employed directly 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 terminating any subcontract that the owner may exercise over the contractor under any provision of the contract documents.

Nothing contained in this contract shall create any contractual relation between any subcontractor and the owner.

The contractor shall insert these same general and supplemental conditions in any subcontract he awards.

17.19 MUTUAL RESPONSIBILITY OF CONTRACTORS:

If through acts of neglect on the part of the contractor, any other contractor or subcontractor shall suffer loss or damage on work, the contractor agrees to settle with

such other contractor or subcontractor by agreement or arbitration if the other contractor or subcontractor shall assert any claim against the owner on account of any damage alleged to have been sustained, the owner shall notify the contractor, who shall indemnify and save harmless the owner against any such claim.

17.20 WEATHER CONDITIONS:

In the event of temporary suspension of work, or during inclement weather, or whenever the project manager shall direct, the contractor will, and will cause his subcontractors to, carefully protect his and their work and materials against damage or injury from the weather. If, in the opinion of the project manager, any work or materials shall have been damaged or injured by reason of failure on the part of the contractor or any of his subcontractors to so protect his work, such materials shall be removed and replaced at the expense of the contractor.

17.21 PROTECTION OF WORK AND PROPERTY - EMERGENCY:

The contractor shall, at all times, protect the owner's property from injury or loss in connection with this contract. He shall, at all times, safely guard and protect his own work, and that of adjacent property, from damage. The contractor shall replace or make good any such damage, loss or injury unless it was caused directly by errors contained in the contract or by the owner, or the owner's duly authorized representative.

In case of an emergency which threatens loss or injury of property and/or safety of life, the contractor will be allowed to act, without previous instructions from the project manager immediately thereafter. Any claim for compensation by the contractor due to such extra work shall be promptly submitted to the project manager for approval.

Where the contractor has not taken action but has notified the project manager of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the project manager.

The amount of reimbursement paid to the contractor on account of any emergency action shall be determined by the project manager and owner based on their review of submitted documentation of actual costs incurred by the contractor.

17.22 EXTRAS:

Without invalidating the contract, the project manager may order extra work of the kind bid upon or make changes by altering, adding to or deducting from the work. The contract sum will be adjusted accordingly, and the consent of the surety will be obtained as required. All of the work of the kind bid upon shall be paid for at the prices

stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the project manager and the cost therefore is stated in the order.

17.23 ANTI-LOBBYING:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- C. It will require that the language of paragraph (n) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

17.24 QUANTITIES OF ESTIMATE:

Wherever the quantities of work to be done and materials to be furnished on a unit basis under this contract are shown in any of the documents including the proposal, they are given for use in comparing bids. The owner reserves the right to increase or decrease the units as may be deemed reasonably necessary or desirable to complete the work in this contract. Any such increase/decrease shall in no way invalidate this contract, nor shall any such increase/decrease give cause for claims or liability for damages.

17.25 ASSIGNMENTS:

The contractor shall not assign the whole or any part of this contract or any monies due or to become due hereunder without the express, written consent of the owner. In case the contractor assigns all or any part of any monies due or to become due under

this contract, the instruments of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this contract.

17.26 GENERAL GUARANTY:

Neither the final payment nor partial or entire occupancy of the premises constitute an acceptance of any work not done in accordance with the contract documents; nor does either condition relieve the contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The owner will give notice of observed defects with reasonable promptness.

17.27 OSHA

Any contract awarded on or after July 1, 2009 requires any mechanic, laborer, or worker who performs work in a classification listed on the prevailing wage rate schedule on any public works project is required to complete a ten (10) hour federal OSHA safety and health course and provide proof of completion.

17.28 EQUAL EMPLOYMENT OPPORTUNITY:

- A. The Contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job related qualifications are employed and that employees are treated when employed with out regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- B. The contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal

opportunity employer” in accordance with regulations adopted by the commission;

- C. The contractor agrees to provide each labor union or representative of workers with such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers’ representative of the contractor’s commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
- D. The contractor agrees to comply with each provision of Conn. Gen. Stat. §§ 4a-60, 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. §§ 46a-56, as amended by Section 5 of Public Act 89-253, 46a-68e;
- E. The contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56. If the contract is a public work contract, the contractor agrees and warrants that he will make good faith efforts to employ minority and women business enterprises as subcontractors and suppliers of materials on such public works project.

Pursuant to the provisions of Conn. Stat. Sect. 4a-60a.

- A. The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientations, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
- B. The contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers’ representative of the contractor’s commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- C. The contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f of the general statutes and with each regulation or relevant order issued by said Commission pursuant to section 46a-56, 46a-68e and 46a-68f of the general statutes;
- D. The contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56 of the general statutes.

Executive Order 11246.30 Federal Regulations 12319 (1965) Equal Opportunity Clause.

“During the performance of this contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, and to make available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers’ representatives of the contractor’s commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- D. The contractor will comply with all provisions of (Federal) Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the (United States) Secretary of Labor.
- E. The contractor will furnish all information and reports required by (Federal) Executive Order 11246 of September 24, 1965, and by the rules and regulations, and orders of the (United States) Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD, by the State Department of Housing and by the (United States) Secretary of Labor, for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further (United States) Government contracts or federally assisted construction contracts procedures authorized in (Federal) Executive Order 11246 of September 24, 1965, or order of the (United States) Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the (United States) Secretary of Labor issued pursuant to Section 204 of (Federal) Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as HUD shall direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interest of the United States"

Exemptions from above Equal Employment Opportunity Clause (4)(CFR Chap. 60):

- A. Contracts and subcontracts of \$10,000 or less (other than Government bills of lading) are exempt. The amount of the contract, rather than the amount of the Federal financial assistance shall govern in determining the applicability of this exemption.

- B. Except in the case of subcontracts for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.
- C. Contracts and subcontracts of \$100,000 or less for standard commercial supplies or raw materials are exempt.

The contractor shall not be nor enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

The contractor shall carry out sanctions and penalties for violation of these specifications and the Equal Employment Clause, including suspension, termination and cancellation of existing subcontracts, as imposed or ordered by the Office of Federal Contract Compliance in accordance with Executive Order 11246. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in the sub-paragraphs above, so as to achieve maximum results from its employees to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

The contractor shall designate a responsible official to monitor all employment-related activity in order to ensure that the company EEO policy is being carried out. The designated official must keep records and submit reports relating to the provisions hereof as required by the Municipality. Records shall include for each employee the name, address, telephone numbers, construction trade union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

Nothing herein shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents

(e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Executive Order Number 3.

This contract is subject to the provisions of Executive Order No. 3 of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this contract may be canceled, terminated, or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any State or Federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

Executive Order Number 17.

This contract is subject to the provision of Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, and, as such, this contract may be canceled, terminated, or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to listing all employment openings with the Connecticut State Employment Service.

Certification of Nonsegregated Facilities as required by 41CFR 60-1.8, must be submitted prior to the award of federally assisted construction contracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Clause.

Contractors receiving federally assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Clause shall be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Employment Clause:

- A. A certification of non-segregated facilities as required by the 32CFR 7439, May 19, 1967, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity Clause.

- B. Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity Clause shall be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Employment Opportunity Clause.

TAB F

Special Provisions

SPECIAL PROVISIONS

DESCRIPTION:

These Special Provisions contain information and requirements that the Contractor shall adhere to throughout the prosecution of work under this Contract. Also, included within these Special Provisions, are the individual Technical Specifications.

GENERAL INFORMATION:

The Owner is the Town of Lebanon. The Engineer is Barton & Loguidice, LLC. The project site is the Lebanon Town Hall located at 579 Exeter Road in Lebanon CT.

This project generally consists of the packing and movement of furniture, fixtures, and documents from the second floor of the Lebanon Town Hall, to accommodate a flooring removal and replacement project. All furniture, fixtures and documents shall be moved back into the Town Hall's second floor, when the flooring replacement project is complete. This work includes the packing and movement of sensitive legal documents to and from the Town Clerk's second floor vault and into a vault located on first-floor. Sensitive document management shall be done under chain-of-custody procedures and the direct supervision of the Town Clerk.

The work described above includes furnishing all materials and equipment necessary for the project as well as performing or providing all labor, supervision, equipment, temporary storage containers, and services unless otherwise noted within the bid documents.

COORDINATION OF WORK:

The Contractor is hereby notified that the project site is a town hall. Every effort shall be made to complete work on the schedule outline below. It is important that the contractor meets these schedules so that the flooring removal and replacement project can occur on the required schedule. The schedule for this work shall be as follows:

- Contractor provides Town with packing containers two weeks before moving commences. **Monday April 8, 2023**
- Contractor conducts all moving activities in preparation for flooring removal and replacement projects – Two weeks. **Work starts Monday April 22, 2024 and must be completed by Friday May 3, 2024**
- Flooring removal and replacement by others – Four weeks.

- Contractor conducts moving activities to replace all furniture, fixtures, and documents back to their original locations – Two Weeks. **Work starts Tuesday June 4, 2024 and must be completed by Tuesday June 18, 2024**
- Town Hall re-opens on Tuesday June 18, 2024.

The Contractor shall coordinate all work with the Owner and its agent, the Engineer, the flooring contractor, and regulatory agencies.

CONTRACT SUPERVISION:

The Contractor shall have a supervisor onsite at all times when work is being performed throughout the entire course of this Contract. This person shall be the responsible individual in charge onsite whom the Engineer shall coordinate all onsite activities (i.e., inspections, etc.). The Contractor shall identify this person at the pre-construction meeting and provide contact information (including emergency contact information ie. outside of onsite work hours).

CONSTRUCTION OVERSIGHT:

The Contractor is hereby notified that the Town of Lebanon’s agent, Barton and Loguidice, LLC., will perform construction oversight to support this project. Project monitoring services will include observation, to the extent feasible, of the moving contractor’s work, visual inspections, and coordination with Town of Lebanon representatives.

SCHEDULE:

The contract time for this project is sixty-seven (67) consecutive calendar days, starting on the Notice to Proceed date. The intended project schedule is as follows:

Pre-Bid Meeting:	March 7, 2024
Proposals Due:	March 25, 2024
Notice of Award:	March 26, 2024
Contract Signing:	April 1, 2024
Notice to Proceed:	April 8, 2024
Substantial Completion	June 18, 2024

LIQUIDATED DAMAGES:

The Contractor is hereby notified that liquidated damages in the amount of seven hundred fifty dollars (\$750.00) per consecutive calendar day apply to this project in order to help ensure a timely completion. Liquidated damages may be incurred if the Contractor fails to complete the initial move prior to the initiation of the Flooring Project, and/or if the Contractor fails to complete the return move within the required schedule(s).

LICENSES:

The Contractor and its subcontractors performing the work shall hold a relevant license issued by the State of Connecticut. All work under this Contract shall be subject to the rules and ordinances of the State of Connecticut, and the Town of Lebanon.

PERMITS:

The Contractor is responsible for obtaining all necessary permits, including all associated costs, required for this Contract work.

SUBMITTALS:

The Contractor shall submit (3) copies of each required submittal to the Owner or its agent for approval, prior to construction. The Owner or its agent will endeavor to respond with their approval and/or review comments within a two (2) week period of their receipt of said submittals. The Contractor shall make submittals on any items that are specifically described within the individual technical specifications.

MATERIALS & INSTALLATIONS:

The Contractor shall furnish all materials necessary to complete this project unless specifically otherwise noted. The Contractor shall furnish all materials to meet or exceed those specified.

CONSTRUCTION FIELD OFFICE:

The Contractor is hereby notified that the Contractor shall provide an adequate construction field office space to support this project, if deemed necessary. It is not anticipated that a construction field office trailer will be required. The Contractor shall notify the Owner and Engineer if a trailer is to be installed and have the location confirmed. The Contractor shall keep a complete current set of plans and specifications, with past revisions if applicable, and approved shop drawings at the construction site at all times. There shall be no separate measure and payment for construction field office.

DUMPSTERS:

The Contractor is hereby notified that the Contractor shall furnish suitable dumpsters as necessary for properly disposing any materials generated by the Contractor for the work. There shall be no separate measurement and payment for dumpsters.

FINAL CLEANING:

The Contractor shall be responsible for disposing of all materials generated by this project in accordance with all local, state, and federal regulations. The Contractor shall perform an overall final cleaning of the entire Contract work area prior to and in preparation for

the Owner's final inspection. Following the Owner's final inspection and acceptance of the entire Contract work, the Contractor shall remove all tools and equipment from Owner's property. There shall be no separate measurement and payment for final cleaning.

WARRANTY & GUARANTEE:

The Contractor shall warranty and guarantee all work under this Contract against theft, breakage and damage. The Contractor performing the work shall secure warranties and guaranties from its subcontractors for their parts of the work under this Contract.

TAB G

Technical Specifications

**SECTION 11 20 00
COMMERCIAL EQUIPMENT
FURNITURE, FIXTURES, AND DOCUMENT MOVING**

PART 1 - GENERAL

1.01 SUMMARY

- A. This Section specifies the requirements for packing and movement of furniture, fixtures, and documents from the second floor of the Lebanon Town Hall, to accommodate a flooring removal and replacement project. All furniture, fixtures and documents shall be moved back into the Town Hall's second floor, when the flooring removal and replacement project is complete. This work includes the packing and movement of sensitive legal documents to and from the Town Clerk's second floor vault and into a vault located on first-floor. Sensitive document management shall be done under chain-of-custody procedures and the direct supervision of the Town Clerk.
- B. All furniture, fixtures, sensitive documents, and non-sensitive documents and items shall be removed from the second floor of the Town Hall to facilitate the flooring removal and replacement project.
- C. All sensitive documents will be moved from the secure second floor vault to the secure first floor vault. All moving of sensitive documents will be conducted following chain-of-custody procedures, under the direct supervision of the Town Clerk, and in accordance with plans approved by the State of Connecticut. Sensitive documents shall be moved in sealed containers and the contents of each container shall be inventoried.
- D. Furniture, fixtures, and non-sensitive documents will be moved to:
- The first floor (lower level) of the Town Hall,
 - One of two off-site locations located within one (1) mile of the project site or,
 - Temporary storage trailers to be supplied by the Contractor and located within the paved parking lot on site at 579 Exeter Road, for the duration of this project.
- E. The Contractor shall provide packing boxes or other temporary storage containers two weeks prior to the move for Town employees to pack their materials.

- F. Asbestos and non-asbestos flooring removal and flooring replacement on the second floor of the Town Hall will be conducted by the Flooring Contractor. The Contractor shall carefully coordinate all work and schedules with the Town, the Engineer, and the Flooring Contractor.

1.02 PERMITS AND FEES

- A. The Contractor shall obtain any required project permits and pay all associated fees, including any bonds that may be required.

1.03 CODES AND REGULATIONS

- A. It is the Contractor's full responsibility to comply with all applicable federal, state and local regulations related to this project, including but not limited to the management of sensitive documents.

1.04 SUBMITTALS

- A. The Contractor shall submit a work schedule within five (5) days of being awarded the project.

PART 2 - PRODUCTS

2.01 MATERIALS

- A. The Contractor shall supply general packing containers of size, type, and quantity suitable for Town staff to pack all the items from their work space for the duration of the project. These containers shall be of sufficient material to support the materials that must be moved. Covers or lids shall be provided so that the containers can be stacked.
- B. The Contractor shall supply double-walled or multi-layered corrugated cardboard boxes for moving sensitive documents from the second floor vault to the first floor vault. Each box shall be equipped with a cover or lid that are able to be marked and sealed for secure document transfer. The containers shall be of sufficient material to support the materials that must be moved and be equipped with reinforced handles to limit the potential for tearing during movement.
- C. The Contractor shall also supply adhesive materials to seal and secure the covers or lids in place.

- D. The Contractor shall supply storage containers of size, type, and quantity suitable for moving sensitive legal documents, maps and plans from the second floor vault to the first floor vault without damage. These containers shall be of sufficient material to support the materials that must be moved.
- E. The Contractor shall supply ground-level storage containers (i.e., trailers) of size, type, and quantity suitable for storing furniture and fixtures onsite, but outside of the Town Hall building for the duration of the project. These ground-level storage containers shall be weather-proof and lockable.

PART 3 - EXECUTION

3.01 PREPARATION

- A. The Contractor shall provide all containers required for this project at least two weeks prior to date of the move. If it is determined that additional containers are necessary during the packing phases of the project, the Contractor shall provide them at no additional cost.
- B. The Contractor shall provide ground-level storage containers (i.e., trailers) for storing some furniture and fixtures outside of the building, the quantity and locations for these storage containers shall be approved by the Town prior to shipment to the site.
- C. Town employees will pack their personal items and documents/records/equipment that they will need while the Town Hall is closed, prior to the date of the move. Each container will be marked with a label designating where it is to be moved.
- D. When designating locations for items and containers to be moved, the Town will endeavor to maximize the quantity of items that can be moved to the first floor of Town Hall or to the Contractor-supplied onsite storage trailer(s). Other designated locations will be in Town.

3.02 GENERAL

- A. All furniture, fixtures, equipment, sensitive documents, and non-sensitive documents or records shall be removed from the second floor of the Town Hall to facilitate the flooring project.
- B. Non-sensitive documents currently stored in the first floor vault shall be packed and moved by the Contractor from the vault to an adjacent location on the first floor of the Town Hall. This will make room for sensitive documents from the second floor

vault to be moved to this vault. These non-sensitive records will not need to be accessible while the Town Hall is closed.

- C. Each move will include but not be limited to; chairs, desks, filing cabinets, shelving units, shelves for hanging maps, etc., some items may need to be disassembled and re-assembled for document storage during the flooring project. The Town will designate each of these items to the contractor, prior to the start of the move.
- D. All furniture, fixtures, equipment, sensitive documents, and non-sensitive documents or records shall be moved in a manner such that no items are damaged or lost during the moves or storage. The Contractor shall maintain an inventory of all items or containers moved and the location to which they were moved.
- E. The Contractor is responsible for moving all items packed by Town employees to their designated locations, except those being moved to the employee's homes.
- F. The Contractor shall provide a supervisor onsite at all times when the work is being performed. The supervisor shall be the responsible individual in charge onsite and shall coordinate all activities with the Town and the Engineer.
- G. Upon completion of the flooring project, the Contractor shall return all furniture, fixtures, equipment, sensitive documents, and non-sensitive documents or records to their original location.

3.03 SENSITIVE DOCUMENT MANAGEMENT

- A. The Contractor shall be responsible for packing and moving all sensitive documents from the second floor vault to the first floor vault, and then for returning them to the second floor vault upon completion of the flooring project. This work shall be conducted in conjunction with and under the direct supervision of the Town Clerk.
- B. Sensitive records shall be placed in boxes supplied by the Contractor.
- C. A list of all items in each box will be developed by the Contractor and checked by the Town Clerk. A copy of the list for each box will be placed inside each box and the original will be maintained by the Town Clerk. In the event that the Town Clerk or Assistant Town Clerk needs to access any sensitive documents stored in these boxes during the flooring project, the associated list will be updated and initialed.
- D. Each box shall be labelled and sealed prior to moving to protect the confidentiality and to secure the sensitive documents enclosed.

- E. The Contractor shall develop a master inventory control list of each box and the location where it was moved to. This master inventory control list shall be checked by the Town Clerk before and after each move.
- F. The Contractor shall submit a proposed chain-of-custody document to be used to maintain control of each box for approval by the Town Clerk. This chain-of-custody document will be used to track the custody of all boxes of sensitive documents during each move.

3.04 ANTICIPATED SCHEDULE

- A. Timing of the initial move, the return move, and the flooring project is critical to the success of the overall project. The Contractor shall carefully coordinate all work with the Owner, the Engineer, the flooring contractor, and any regulatory agencies.
- B. Commencing on the move start date, the Contractor shall complete the move in twelve (12) calendar days. The anticipated schedule for the initial move is from April 22 to May 3, 2024. This schedule is subject to change; these dates will be updated after the award of this contract.
- C. Upon completion of the flooring project, the Contractor shall complete the return move in fourteen (14) calendar days. The anticipated schedule for the return move is from June 4 to June 18, 2024. This schedule is subject to change; these dates will be updated after the award of this contract.

PART 4 - MEASUREMENT AND PAYMENT

4.01 MEASUREMENT

- A. This work shall not be measured separately for payment.

4.02 PAYMENT

- A. This work shall not be paid for separately, but shall be included as part of the contract lump sum price of "Furniture, Fixture, and Document Moving Project for Lebanon Town Hall", which shall all materials, temporary storage containers, equipment, tools, and labor incidental thereto.

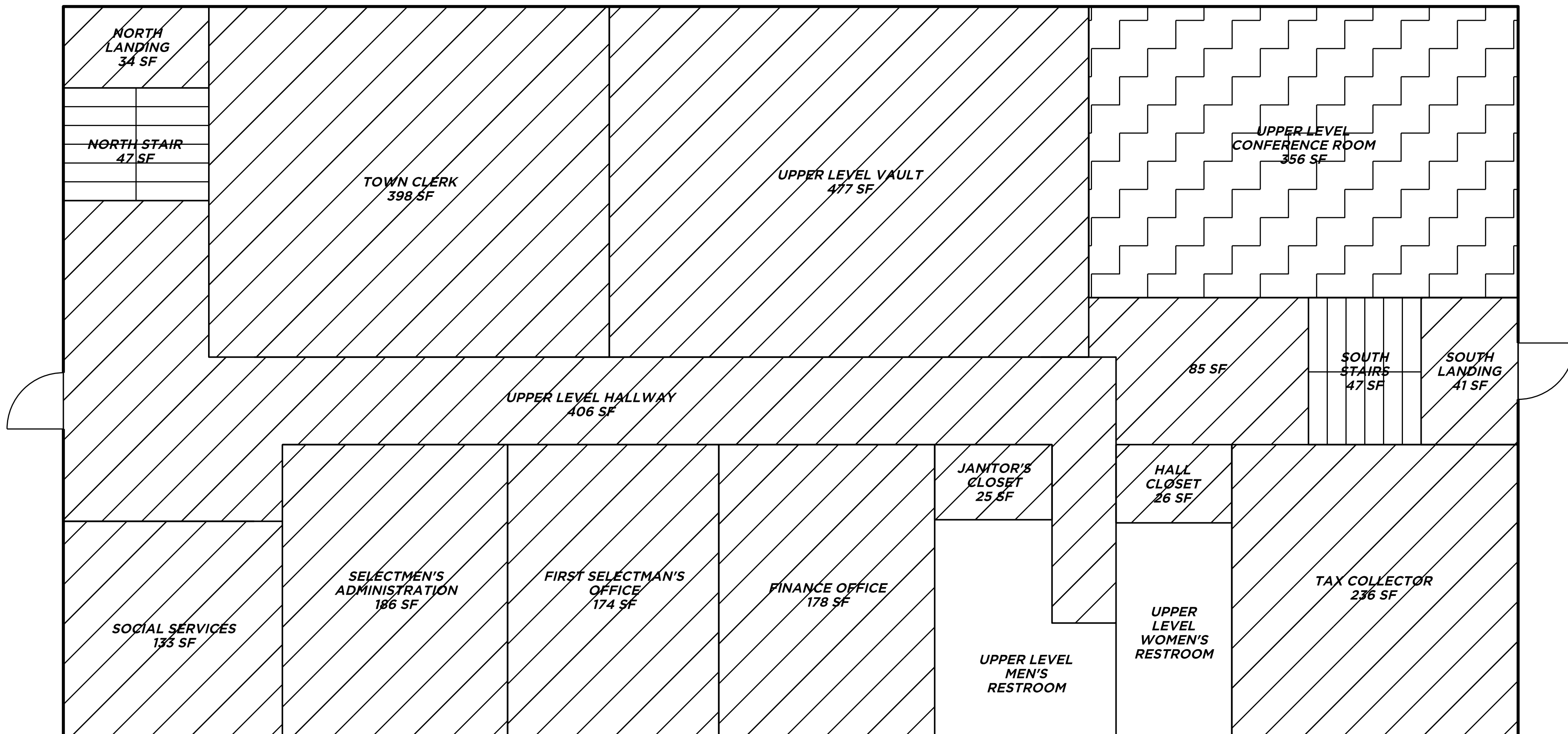
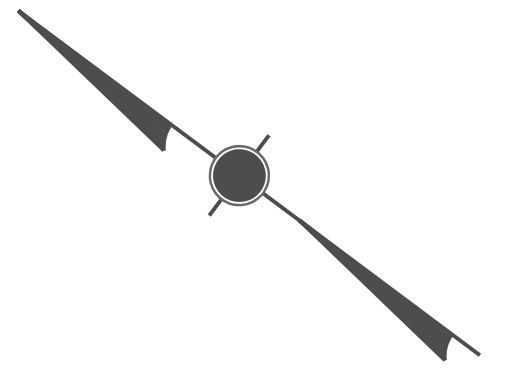
END OF SECTION

Barton and Loguidice, LLC.

Lebanon Town Hall
Furniture, Fixtures, and Document Moving Project
Lebanon, CT

TAB H

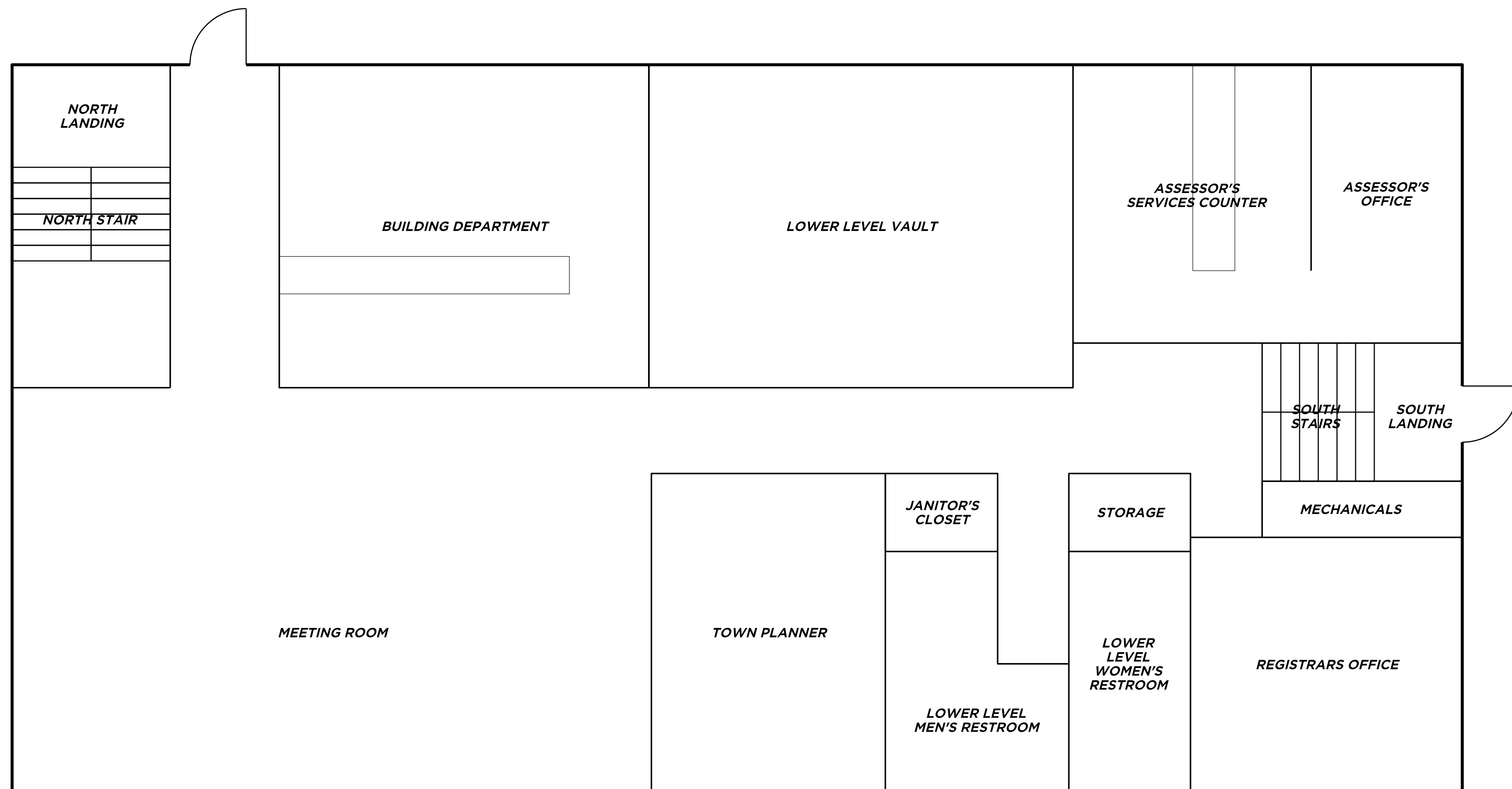
Plans



UPPER LEVEL

GENERAL NOTES - ASBESTOS REMOVAL

- A. CONTRACTOR SHALL BE RESPONSIBLE FOR THE COMPLETION OF ASBESTOS CONTAINING MATERIAL REMOVAL, CLEANING, AND REPAIR AS DEFINED IN THE CONTRACT DOCUMENTS. CONTRACTOR SHALL MAKE ALL EFFORTS TO COOPERATE AND COORDINATE WORK WITH OWNER, OTHER CONTRACTORS, AND THEIR REPRESENTATIVES.
- B. THE CONTRACTOR SHALL BE LICENSED BY THE CONNECTICUT DEPARTMENT OF PUBLIC HEALTH AS AN ASBESTOS CONTRACTOR AND SHALL EMPLOY CONNECTICUT DEPARTMENT OF PUBLIC HEALTH CERTIFIED ASBESTOS ABATEMENT SUPERVISORS AND ASBESTOS ABATEMENT WORKERS.
- C. ALL ASBESTOS MATERIAL REMOVAL AND DISPOSAL SHALL BE IN ACCORDANCE WITH THE PROCEDURES IDENTIFIED IN THE PROJECT MANUAL AND APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- D. CONTRACT DRAWINGS INDICATE THE EXTENT OF REMOVALS AND IMPACT AND ARE TO BE USED AS A GUIDELINE. AT A MINIMUM, MATERIALS IDENTIFIED ON THESE DRAWINGS ARE TO BE REMOVED AND DISPOSED.
- E. ALL PROPOSED DECONTAMINATION CHAMBER LOCATIONS, POWER AND WATER SOURCES, AND STAGING AREAS SHALL BE SUBMITTED BY THE CONTRACTOR AND APPROVED BY THE OWNER AND REPRESENTATIVE.
- F. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACEMENT OR REPAIR OF ANY DAMAGES TO THE BUILDING, BUILDING COMPONENTS, OR SYSTEMS THAT ARE CONSEQUENTLY DAMAGED AS A RESULT OF THE CONTRACTOR'S WORK.
- G. FLOOR TILE ADHERED WITH ACM MASTIC SHALL BE TREATED AS ASBESTOS-CONTAMINATED MATERIAL. ASBESTOS-CONTAMINATED FLOOR TILE SHALL BE REMOVED AND DISPOSED OF AS ASBESTOS IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL REGULATIONS.
- H. FLOORING REMOVALS SHALL INCLUDE ALL CARPETS, COVE TRIM AND ASSOCIATED MASTIC. CARE SHALL BE TAKEN NOT TO DAMAGE WALLS OR OTHER SURFACES.



LOWER LEVEL

ABATEMENT AND FLOORING REPLACEMENT AREAS		
LEGEND	MATERIAL	APPROXIMATE
	ASBESTOS FLOOR TILE AND ASBESTOS MASTIC	2,400 SF
	UPPER LEVEL CONFERENCE ROOM CARPET (ASSUMED ACM FREE)	356 SF

**PRELIMINARY DESIGN SUBMISSION
NOT RELEASED FOR CONSTRUCTION**

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Glastonbury, CT 06033
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PROJ. ENGINEER	AEC	FLOORING REPLACEMENT PROJECT PREPARED FOR LEBANON TOWN HALL 579 EXETER ROAD, LEBANON, CT
PROJ. MANAGER	DSA	
OFFICE REVIEW	KRG	
REVISIONS		PROJECT
		DATE
		SHEET NO. 1 OF 1

SCALE: 1/4"=1'

3096.070 1/13/23