

FINANCE COMMITTEE

MAY 3, 2016

6:00 PM

Aldermanic Chamber

ROLL CALL

PUBLIC COMMENT

COMMUNICATIONS

From: Dan Kooken, Purchasing Manager

Re: Contract Award Legacy Playground at Labine Park (Value: \$233,803)

Department: 177 Parks and Recreation; Funds: Contribution, Prior Year Escrows,
Trust and General; Activity: Labine Park

From: Dan Kooken, Purchasing Manager

Re: LED Street Light Conversion Project (Value: \$1,455,694)

Department: 161 Street; Fund: Bond; Activity: LED Lighting

UNFINISHED BUSINESS – None

NEW BUSINESS – None

DISCUSSION

RECORD OF EXPENDITURES

PUBLIC COMMENT

NON-PUBLIC SESSION

ADJOURNMENT



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

April 28, 2016
Memo #16-135

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: CONTRACT AWARD LEGACY PLAYGROUND AT LABINE PARK (VALUE: \$233,803)
DEPARTMENT: 177 PARKS AND RECREATION; FUNDS: CONTRIBUTION, PRIOR
YEAR ESCROWS, TRUST AND GENERAL; ACTIVITY: LABINE PARK

Please see the attached communication from Nicholas Caggiano, Superintendent Parks and Recreation for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The Superintendent of the Parks and Recreation Department and the Purchasing Department recommend awarding this contract in an amount of **\$233,803** to **D.L. King and Associates of Nashua, NH**. This award is contingent upon BPW approval at their next meeting scheduled for 5/5/16.

Respectfully,

Dan Kooker

Purchasing Manager

Cc: N Caggiano L Fautex

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: May 5, 2016

From: Nicholas Caggiano - Superintendent
Parks and Recreation Department

Re: Contract Award of the Legacy Playground at Labine Park.

A. Motion: To award the Legacy Playground at Labine Park contract to the low bidder who met the qualifications to D.L. King Associates of Nashua, NH in the amount of \$233,803.40. Funding will be through Department 177 Park & Recreation; Funds: Contribution, Prior Year Escrows, Trust and General; Activity: Labine Park.

Attachments: Bid Analysis

Discussion: The project for the playground at Labine Park has been in the making for some time. This project will provide a location for the Legacy Playground. The bid will be for the site work and the installation of certain bid items. There will also be a community assembly of the playground components. The project is scheduled to kick off in mid-June and will be completed by early September.

The project was put out to bid and the city received three bids. The bids were evaluated and a bid analysis was put together. One bid item (playground wood carpet) amounting to \$12,420 was pulled out of the bid. This item will be provided and installed by the City. After a review of the bids, the feedback from other departments who have worked with the vendor on other city projects it is the recommendation of the Park & Recreation Department, and the City Purchasing Manager to award this contract to the low bidder D.L. King and Associates of Nashua, NH. in the amount of \$233,803.40.

Labine Park Bid Analysis

March 31,2016

| Task | Quantity | UM | DL KING | |
|------------------------------------|----------|------|-----------|-----------|
| | | | Unit \$ | Total \$ |
| Fine Grading | 1 | U | 5,750.00 | 5,750.00 |
| Gravel | 1,300 | CY | 26.16 | 34,008.00 |
| Crushed Gravel | 200 | Cy | 26.74 | 5,348.00 |
| Hot Top Hand Method | 100 | Ton | 230.00 | 23,000.00 |
| Temporay Fence | 1,200 | LF | 5.75 | 6,900.00 |
| Mobilization | 1 | U | 50,715.00 | 50,715.00 |
| Stamped Concrete Walkway | 530 | SF | 12.08 | 6,402.40 |
| Stone Dust Pathway | 910 | SF | 1.44 | 1,310.40 |
| Loam and Seed 4 " Depth | 3,420 | SY | 0.58 | 1,983.60 |
| Footings | 52 | Each | 258.75 | 13,455.00 |
| Protective Surfacing | 3,600 | SF | 17.12 | 61,632.00 |
| Engineered Wood Carpet | 240 | CY | 51.75 | 12,420.00 |
| Elements Contractor Build | 1 | LS | 13,340.00 | 13,340.00 |
| 8x8 Landscape Timber Boarder (38) | 440 | LF | 16.10 | 7,084.00 |
| Irrigation Design and Installation | 1 | LS | 2,875.00 | 2,875.00 |

Total Bid

Bid Analysis \$246,223.40

| P&L | |
|-----------|-----------|
| Unit \$ | Total \$ |
| 40,935.00 | 40,935.00 |
| 51.54 | 67,002.00 |
| 49.88 | 9,976.00 |
| 159.65 | 15,965.00 |
| 3.87 | 4,644.00 |
| 1,803.00 | 1,803.00 |
| 29.92 | 15,857.60 |
| 3.60 | 3,276.00 |
| 6.42 | 21,956.40 |
| 630.10 | 32,765.20 |
| 17.20 | 61,920.00 |
| 52.88 | 12,691.20 |
| 0.00 | 0.00 |
| 36.75 | 16,170.00 |
| 7,210.00 | 7,210.00 |

\$312,171.40

| Target | |
|-----------|-----------|
| Unit \$ | Total \$ |
| 72,083.00 | 72,083.00 |
| 30.00 | 39,000.00 |
| 30.00 | 6,000.00 |
| 157.00 | 15,700.00 |
| 0.00 | 10,800.00 |
| 14,900.00 | 14,900.00 |
| 24.00 | 12,720.00 |
| 6.00 | 5,460.00 |
| 5.00 | 17,100.00 |
| 300.00 | 15,600.00 |
| 22.00 | 79,200.00 |
| 90.00 | 21,600.00 |
| 32,600.00 | 32,600.00 |
| 54.00 | 23,760.00 |
| 32,000.00 | 32,000.00 |

\$398,523.00

**City of Nashua, New Hampshire
Division of Public Works**

**Legacy Playground at Labine Park
IFB0651-033116**

Cleveland Street at Fairview Avenue

**Construction Specifications
and
Contract Documents**



Prepared By:

**Division of Public Works
9 Riverside Street
Nashua, NH 03062
(603) 589-3120
Fax: (603) 589-3169**

February 2016

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**DIVISION 1
INVITATION FOR BID**



City of Nashua

Central Purchasing

229 Main Street

Nashua, NH 03060

603-589-3330

Fax: 603-589-3344

February 29, 2016

SUBJECT: INVITATION FOR BID

**IFB0651-090815
LABINE PARK – LEGACY
ADDENDUM #1**

Information included in this document becomes a part of the original Invitation for Bid.

Please sign below to indicate receipt of this additional information and include this page with your submittal.

Addendum #1 includes:

This cover page only

One page only

Revised Bid to note the following date change - Additional Bid documents have been delayed and will not be available on the City of Nashua website until Wednesday, March 2, 2016 at 5:00 PM.

All other aspects of the original document remain the same.

Respectfully,

Dan Kooken
Purchasing Manager
City of Nashua
kookend@nashuanh.gov
Phone: 603-589-3333

Addendum #1 received and incorporated into bid submittal for IFB0651-033116.

(Authorized Signature)

2/29/16
(Date)



THE CITY OF NASHUA

"The Gate City"

Financial Services
Purchasing Department

March 24, 2016

IFB0651-033116
LEGACY PLAYGROUND AT LABINE PARK
Addendum #2

Information included in this document becomes a part of the original RFP.

Please sign below to indicate receipt of this additional information and **include this page with your bid submittal.**

Addendum #2 is being issued to provide additional documents and clarifications. Please see the attached documents for details.

All other aspects of the original document remain the same.

Respectfully,

Danielle Greenberg
City of Nashua - Purchasing Agent II
greenbergd@nashuanh.gov

Addendum #2 received and incorporated into bid submittal for IFB0651-033116

Please sign and include this addendum in your bid package.

(Authorized Signature)

(Date) **3/24/16**

(Name of Firm) **D.L. King & ASSOCIATES, INC**

CITY OF NASHUA, NEW HAMPSHIRE
Legacy Playground at Labine Park
IFB 0651-033116

ADDENDUM NO. 2 – March 24, 2016

1. Please also note the following items that were discussed at the pre-bid meeting conducted on March 16, 2016. These items shall be taken into consideration in the preparation of the bid, and shall be considered to be included in the Contract:

Nick Caggiano discussed the following:

- The history of this 4 year project.
- Explanation of the role of the Chamber Leadership group.
- The history of the location selection.
- Neighborhood make up.
- Importance of schedule due to the location of the schools.
- Description of the Flood Shack and the water service available the contractor is responsible to bring the irrigation to the building.
- City will make connection to the water service in the building and the installation of the backflow and clock.
- The aspect of the community build regarding the playground equipment required by the grant this will be scheduled by City.
- The City will purchase the playground equipment.

Todd Welch discussed the following:

- Questions about subbase material requirements for the poured in-place surface: The manufacturer's requirements for subbase material were unclear. Clarification is provided below under Construction Specifications.
- Critical dates for bidding. Key dates were read aloud. Dates are:
 - Addendum Date: Thursday, March 24, 2016.
 - Bid Due Date: Thursday, March 31, 2016
 - Notice to Proceed Date: Wednesday, June 1, 2016
 - Substantial Completion Date: August 26, 2016
 - Final Completion Date: September 12, 2016
- Substantial completion was defined as all work being completed except minor punch list items.

3. Under **DIVISION 9 – CONSTRUCTION SPECIFICATIONS**, please note the following:
- A. Under **ITEM E – PROTECTIVE SURFACING (POURED IN-PLACE RUBBER)**, add language to address base materials. The specification shall read as follows:

ITEM ‘E’ – PROTECTIVE SURFACING (POURED-IN PLACE RUBBER)

A. SCOPE

This work shall consist of installation of a protective surface material at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The depth of material may vary based on the fall height of the adjacent playground equipment and shall consist of a poured-in-place rubber system.

Subgrade shall be crushed stone 6” thick and comply with the manufacturers specifications for gradation and density. Manufacturer’s specifications are included with this document.

The Contractor shall hire a materials testing contractor to test the crushed stone. The testing contractor shall be approved by the City. Tests will be for density (Proctor Test and Nuclear Gauge Test) and Gradation (Sieve Analysis). The Sieve Analysis and Proctor Tests shall be completed and acceptable to the City prior to placement of crushed stone. On site density testing (Nuclear Gauge) will be required after the crushed stone has been placed and before the poured in place surface has been installed. A minimum of 2 nuclear gauge density readings shall be taken for every piece of playground equipment with a rubberized surface. Total readings shall be no less than 20. Failing test results will be subject to material replacement or other corrective actions deemed acceptable to the City.

Poured-in-place Rubber System Specifications or approved equal

PART 1 – General

1.01 POURED IN PLACE RUBBER PLAYGROUND SURFACING

A. Poured In Place Rubber Playground Surfacing is a 2-layer, seamless system comprised of a base layer of 100% post-consumer recycled SBR rubber & polyurethane binder and a top layer of EPDM rubber and polyurethane binder. The porous system is field-applied in any configuration and dimension to achieve required fall heights.

1.02 SAFETY AND TESTING

- A. ASTM D412 Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers-Tension.
- B. ASTM D624 Standard Test Method for Tear Strength of Conventional Vulcanized Rubber and Thermoplastic Elastomers.
- C. ASTM D2047 Standard Test Method for Static Coefficient of Friction of Polish-Coated Floor Surfaces as Measured by the James Machine.
- D. ASTM D2859 Standard Test Method for Flammability of Finished Textile Floor Covering Materials.
- E. ASTM E303 Standard Test Method for Measuring Surface Frictional Properties Using the British Pendulum Tester.
- F. ASTM F1951 Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment.

1.03 PERFORMANCE REQUIREMENTS

- A. Flammability (ASTM D2859): Pass.
- B. Tensile Strength (ASTM D412): 60 psi (413 kPa).
- C. Tear Resistance (ASTM D624): 140%.
- D. Water Permeability: 0.4 gal/yd²/second.
- E. Accessibility: Comply with requirements of ASTM F1951.
- F. Dry Static Coefficient of Friction (ASTM D2047): 1.0.
- G. Wet Static Coefficient of Friction (ASTM D2047): 0.9.
- H. Dry Skid Resistance (ASTM E303): 89.
- I. Wet Skid Resistance (ASTM E303): 57.

1.04 SUBMITTALS

- A. General: Submit listed submittals in accordance with Conditions of the Contract and Division 1 Submittal Procedures Section.
- B. Product Data: Submit manufacturer's product data and installation instructions.
- C. Verification Samples: Submit manufacturer's standard verification samples of 9" x 9" minimum.
- D. Quality Assurance/Control Submittals: Submit the following:

1. Certificate of qualifications of the surfacing installer.

E. Closeout Submittals: Submit the following:

1. Warranty documents specified herein.

1.05 QUALITY ASSURANCE

A. Utilize an installer trained and approved by the manufacturer, having experience with other projects of the scope and scale of the work described in this section.

1.06 DELIVERY & STORAGE

A. Deliver materials in manufacturer's original, unopened, undamaged containers with identification labels intact.

B. Store materials protected from exposure to harmful environmental conditions and at a minimum temperature of 40 degrees F and a maximum temperature of 90 degrees F.

1.07 PROJECT SITE CONDITIONS

A. Install surfacing on a dry sub-surface with no prospect of rain within initial drying period, and within 40 degrees F and 90 degrees F.

1.08 WARRANTY

A. Playground surface shall maintain required impact attenuation characteristics and be guaranteed against defects in workmanship and materials for a period of no less than five years from date of completion of work. Maintenance requirements must be maintained for duration of warranty period.

PART 2 – Products

A. Playground surface shall consist of synthetic materials meeting the requirements of this specification. Poured In Place Rubber Playground Surfacing components shall be installed by a certified installer of the chosen manufacturer.

2.01 BASE LAYER

A. Primer: Polyurethane.

B. Poured In Place Base: Blend (86% rubber & 14% polyurethane) of strand and granular 100% recycled SBR (styrene butadiene rubber) and polyurethane. Depending on ASTM F1292 requirements for critical fall height (4', 5', 6', 7', 8', 9' or 10'), select base layer thickness of 1.25", 1.5", 2.0", 2.5", 3", 3.5", 4.0" or 5.0".

C. Color: Black

2.02 TOP LAYER

A. Primer: Polyurethane.

B. Poured In Place Top: Blend (82% rubber & 18% polyurethane) of recycled EPDM (ethylene propylene diene monomer) and polyurethane. Nominal thickness of 0.5", with a minimum 0.325" and a maximum 0.625".

C. Colors: Terra Cotta Red, Primary Red, Orange (indoor only), Pink, Gold, Beige, Yellow, Bright Green, Army Green, Hunter Green, Teal, Sky Blue, Royal Blue, Purple, Pearl, Eggshell, Brown, Light Gray, Dark Gray, Black. Custom colors and combinations available (specify).

PART 3 – Execution

A. Comply with the instructions and recommendations of the surfacing manufacturer.

3.01 EXAMINATION

A. Verification of Site Conditions: Verify that substrate conditions are suitable for installation of the poured in place surfacing. Do not proceed with installation until unsuitable conditions are corrected.

B. Drainage: Proper drainage is critical to the longevity of the surfacing system. Inadequate drainage will cause premature breakdown of the poured system in affected areas; and void the warranty.

3.02 PREPARATION

A. Existing Substrate Preparation: Remove any loose or delaminated material that would be deleterious to application of the new surface. Fill cracks in existing concrete with cementitious patching compound.

B. Surface Preparation: Using a brush or short nap roller, apply primer to the substrate perimeter and any adjacent vertical barriers (such as playground equipment) at the rate of 300 ft²/gal.

3.03 INSTALLATION

A. Do not proceed with playground surfacing installation until all applicable site work, including substrate preparation, fencing, playground equipment installation and other relevant work, has been completed.

B. Base Layer Installation:

1. Using screeds and hand trowels, install the base layer at a consistent density of 29 pounds, 1 ounce per cubic foot to the specified thickness.
2. Allow base layer to cure for sufficient time so that indentations are not left in the base layer from applicator foot traffic or equipment.
3. Do not allow foot traffic or use of the base layer surface until it is sufficiently cured.

C. Primer Application: Using a brush or short nap roller, apply primer to the base layer perimeter and any adjacent vertical barriers that will contact the surfacing system at the rate of 300 ft²/gal.

D. Top Layer Installation:

1. Using a hand trowel, install top layer at a consistent density of 58 pounds, 9 ounces per cubic foot to a nominal thickness of 0.5".
2. Allow top layer to cure for a minimum of 48 hours.
3. At the end of the minimum curing period, verify that the surface is sufficiently dry and firm to allow foot traffic and use without damage to the surface.
4. Do not allow foot traffic or use of the surface until it is sufficiently cured.

3.04 PROTECTION

A. Protect the installed surface from damage resulting from subsequent construction activity on the site.

C. MEASUREMENT AND PAYMENT

Protective Surfacing will be measured by the number of square feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, base materials, materials, labor, tools, equipment, material testing, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

Cost to remove and replace failed subgrade material will be paid by the Contractor.

- B. Under ITEM E (ALT) – PROTECTIVE SURFACING (RUBBER TILES), remove specification. This material will not be used.

ITEM 'E(ALT)' – PROTECTIVE SURFACING (RUBBER TILES)

A. SCOPE

This work shall consist of installation of a protective surface material at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The depth of material may vary based on the fall height of the adjacent playground equipment and shall consist of either a poured-in-place rubber system or an interlocking rubber tile system.

Interlocking Rubber Tile System Specifications or approved equal

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Resilient, interlocking, playground safety surfacing tiles.

1.2 RELATED SECTIONS

- A. Section 02 (32) – : Granular aggregate subsurface.
- B. Section 02 (32) – : Asphalt subsurface.
- C. Section 02792 (32 18 16.13) – Poured-in-Place Playground Surfacing.
- D. Section 02880 (11 68 13) – Playground Equipment.
- E. Section 03300 (03 30 00) – Cast-in-Place Concrete: Concrete subsurface.

1.3 REFERENCES

- A. ASTM C 67 – Standard Test Methods for Sampling and Testing Brick and Structural Clay Tile.
- B. ASTM C 501 – Standard Test Method for Relative Resistance to Wear of Unglazed Ceramic Tile by the Taber Abraser.
- C. ASTM D 412 – Standard Test Methods for Vulcanized Rubber and Thermoplastic Elastomers--Tension.
- D. ASTM D 573 – Standard Test Method for Rubber-Deterioration in an Air Oven.
- E. ASTM D 624 – Standard Test Method for Tear Strength of Conventional Vulcanized Rubber and Thermoplastic Elastomers.
- F. ASTM D 2047 – Standard Test Method for Static Coefficient of Friction of Polish-Coated Floor Surfaces as Measured by the James Machine.
- G. ASTM D 2859 – Standard Test Method for Ignition Characteristics of Finished Textile Floor Covering Materials.
- H. ASTM D 3676 – Standard Specification for Rubber Cellular Cushion Used for Carpet or Rug Underlay.
- I. ASTM E 303 – Standard Test Method for Measuring Surface Frictional Properties Using the British Pendulum Tester.
- J. ASTM F 1292 – Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment.
- K. US Consumer Product Safety Commission (CPSC) Handbook for Playground Safety.

1.4 SUBMITTALS

- A. Comply with Section 01330 (01 33 00) – Submittal Procedures.

B. Product Data: Submit manufacturer's product data, including installation and subsurface instructions.

C. Samples: Submit manufacturer's sample of 1 full tile.

D. Test Reports: Submit certified test reports from qualified independent testing agency indicating results of the following tests:

1. Impact Attenuation: ASTM F 1292.
2. Freeze Thaw: ASTM C 67.
3. Rubber Deterioration/Air Oven: ASTM D 573.
4. Slip Resistance: ASTM D 2047 and E 303.
5. Tensile Strength: ASTM D 412.
6. Elongation at Break: ASTM D 412.
7. Tear Strength: ASTM D 624.
8. Peak Load: ASTM D 624.
9. Density :ASTM D 3676.
10. Taber Abrasion: ASTM C 501.
11. Flammability: ASTM D 2859

E. Certificate of Compliance: Submit manufacturer's certificate of compliance indicating materials comply with specified requirements.

F. Manufacturer's Project References:

1. Submit list of 15 successfully completed projects.
2. Include project name and location, name of architect, and type and quantity of playground safety surfacing tiles furnished.

G. Installer's Project References:

1. Submit copy of manufacturer issued installation certification

H. Maintenance Instructions: Submit manufacturer's maintenance and cleaning instructions.

I. Warranty: Submit manufacturer's standard warranty.

1.5 QUALITY ASSURANCE

- A. *Manufacturer's Qualifications: Manufacturer shall meet a minimum of 1 of the following 2 requirements.*
1. *Continuously engaged in manufacturing of playground safety surfacing tiles of similar type to that specified, with a minimum of 10 years successful experience.*
 2. *Furnished a minimum of 15,000,000 square feet of playground safety surfacing tiles of similar type to that specified.*
- B. *Installer's Qualifications:*
1. *Certified by manufacturer for installation of playground safety surfacing tiles.*
 2. *Approved by manufacturer.*

1.6 DELIVERY, STORAGE, AND HANDLING

- A. *Delivery: Deliver materials to site in manufacturer's original, unopened containers and packaging, with labels clearly identifying product name and manufacturer.*
- B. *Storage:*
1. *Store materials in accordance with manufacturer's instructions.*
 2. *Playground Safety Surfacing Tiles:*
 - a. *Store tiles in a dry area at a minimum temperature of 50 degrees F (10 degrees C) for a minimum of 72 hours before installation.*
 - b. *Protect tiles from direct sunlight before installation.*
 3. *Adhesive: Store adhesive in a dry area at a minimum temperature of 50 degrees F (10 degrees C).*
- C. *Handling: Protect materials during handling and installation to prevent damage.*

1.7 ENVIRONMENTAL REQUIREMENTS

- A. *Tile Temperature: Ensure surface temperature of playground safety surfacing tiles is a minimum of 50 degrees F (10 degrees C) at time of installation.*
- B. *Air Temperature: Ensure air temperature is a minimum of 40 degrees F (4 degrees C) for a minimum of 24 hours before and during installation.*
- C. *Tile or Air Temperatures: Consult manufacturer's installation instructions for modified installation procedure when tile or air temperatures are above 85 degrees F (29 degrees C).*

1.8 WARRANTY

- A. Materials and Workmanship: Playground safety surfacing tiles shall be warranted for defects in materials and workmanship for 10 years from date of completed installation.
- B. Performance: Playground safety surfacing tiles shall be warranted to meet drop height performance requirements of ASTM F 1292 for 10 years from date of completed installation.

PART 2 PRODUCTS

2.1 MANUFACTURER

- A. SofSURFACES, Inc., 4393 Discovery Line, PO Box 239, Petrolia, Ontario N0N 1R0, Canada. Toll Free (800) 263-2363. Phone (519) 882-8799. Fax (519) 882-2697. Website www.sofsurfaces.com. E-mail alltinfo@sofsurfaces.com.

2.2 PLAYGROUND SURFACING TILES

- A. Tiles: "SofTILE KrosLOCK". DuraSAFE Series
1. Series: ~~[Plus] [Premium]~~.
 2. Description: Resilient, interlocking, playground safety surfacing tiles.
 3. Compliance: Meet and exceed CPSC guidelines for impact attenuation.
 4. Material: Compression-molded, recycled rubber and binding agents.
 5. Tile Locking: U-shaped male and female configuration on all 4 sides to lock tiles to adjacent tiles.
 6. Top Edges: Chamfered.
 7. Tile Bottom: Hollow core stanchion pattern.
 8. Wear Layer:
 - a. Plus Series: Combination of elongated SBR rubber and granulated crumb rubber. Pigmentation used to achieve color. Minimum 0.375 inch thick.
 - b. Premium Series: Virgin TPV rubber granules. Minimum 0.250 inch thick.
 9. Size: 24 1/8" X 24 1/8" Nominal.
Installed size: 24" X 24"
 10. Thickness:
 - a. Critical Fall Height 3 Feet: 2.00 inches.
 - b. Critical Fall Height 4 Feet: 2.25 inches.
 - c. Critical Fall Height 5 Feet: 2.75 inches.

- d. Critical Fall Height 6 Feet: 3.25 inches.
- e. Critical Fall Height 7 Feet: 3.75 inches.
- f. Critical Fall Height 8 Feet: 4.25 inches.
- g. Critical Fall Height 9 Feet: 4.75 inches
- h. Critical Fall Height 10 Feet: 5.25 inches.

- l. Critical Fall Height 11 Feet 5.25 inches.
- j. Critical Fall Height 12 Feet 5.25 inches.

11. Minimum Weight Each Tile:

- a. Plus Series:
 - 1) 2.00-Inch Thickness: 25.46 pounds.
 - 2) 2.25-Inch Thickness: 26.32 pounds.
 - 3) 2.75-inch Thickness: 27.84 pounds.
 - 4) 3.25-Inch Thickness: 30.02 pounds.
 - 5) 3.75-Inch Thickness: 32.12 pounds.
 - 6) 4.25-Inch Thickness: 33.98 pounds.
 - 7) 4.75-Inch Thickness: 36.86 pounds
 - 8) 5.00-Inch Thickness: 38.64 pounds
 - 9) 5.25-Inch Thickness: 39.91 pounds

- b. Premium Series: _____
 - 1) ~~2.00 Inch Thickness: 25.46 pounds.~~
 - 2) ~~2.25 Inch Thickness: 26.32 pounds.~~
 - 3) ~~2.75 inch Thickness: 27.84 pounds.~~
 - 4) ~~3.25 Inch Thickness: 30.02 pounds.~~
 - 5) ~~3.75 Inch Thickness: 32.12 pounds.~~
 - 6) ~~4.25 Inch Thickness: 33.98 pounds.~~
 - 7) ~~4.75 Inch Thickness: 36.86 pounds~~
 - 8) ~~5.00 Inch Thickness: 38.64 pounds~~
 - 9) ~~5.25 Inch Thickness: 39.91 pounds~~

12. Colors:

- a. Plus Series: ~~[Terra Cotta] [Turf Green] [Black] [Ocean Blue] [Harvest Tan]~~ ~~[Saddle Brown] [Slate Grey] [_____]~~ [As indicated on the Drawings].
- b. Premium Series: ~~[Black] [Green] [Blue] [Grey] [Terra Cotta] [Cream]~~ ~~[Beige] [Brown] [_____]~~ [As indicated on the Drawings].

- 1) Percent Color: [25 percent color, 75 percent black] [50 percent color, 50 percent black] [75 percent color, 25 percent black] [90 percent color, 10 percent black].

B. Test Results:

1. Impact Attenuation, ASTM F 1292:
 - a. q-max Score: Less than 125.
 - b. Head Injury Criteria (HIC) Score: Less than 700.
2. Freeze Thaw, ASTM C 67: No deterioration.
3. Rubber Deterioration/Air Oven, ASTM D 573: No deterioration.
4. Slip Resistance:
 - a. ASTM E 303:
 - 1) Dry: 51 minimum.
 - 2) Wet: 44 minimum.
 - b. ASTM D 2047:
 - 1) Plus: 0.533.
 - 2) Premium: 0.601.
5. Tensile Strength, ASTM D 412:
 - a. Plus Series: .661 Mpa.
 - b. Premium Series: .636 Mpa.
6. Elongation at Break, ASTM D 412:
 - a. Plus Series 68.5 percent.
 - b. Premium Series 35.3%
7. Tear Strength, ASTM D 624:
 - a. Plus Series: 2.2 kNm
 - b. Premium Series: 2.4 kNm.
8. Flammability:
 - a. Burning Pill, ASTM D 2859: Pass.
9. Density, ASTM D 3676:
 - a. Plus Series: 817 kg/m³.
 - b. Premium Series: 859 kg/m³
10. Taber Abrasion, Wear index, ASTM C 501:
 - a. Plus Series: 205
 - b. Premium Series: 77

2.3 ACCESSORIES

A. Corners:

1. Prefabricated outside and inside corners.
2. Material: Same as playground safety surfacing tiles.

B. Ramps:

1. Prefabricated Ramps: "SofRAMP Jr."
2. Prefabricated ADA-Compliant Ramps: "SofRAMP ADA"
3. Material: Same as playground safety surfacing tiles.

C. Adhesive: Furnished by manufacturer.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Examine areas to receive playground safety surfacing tiles. Notify Architect if areas are not acceptable. Do not begin installation until unacceptable conditions have been corrected.

3.2 PREPARATION

- A. Prepare subsurface in accordance with manufacturer's instructions to ensure proper slope, support and drainage for playground safety surfacing tiles.
- B. Granular Aggregate Subsurface: Compacted, granular aggregate subsurface shall be as specified in Section 02 (32).
- C. Concrete Subsurface:
1. Concrete subsurface shall be as specified in Section 03300 (03 30 00).
 2. Apply light broom finish.
 3. Ensure concrete is sound with no loose material or cracks over 1/8 inch wide.
 4. Ensure concrete is a minimum of 10 days old.
 5. Test concrete for moisture in accordance with manufacturer's instructions to ensure it has sufficiently cured and is dry.
 6. Power wash existing concrete in accordance with manufacturer's instructions.
- D. Asphalt Subsurface:
1. Asphalt subsurface shall be as specified in Section 02 (32).
 2. Ensure asphalt is sound with no loose material or cracks over 1/8 inch wide.
 3. Ensure asphalt is a minimum of 14 days old.
 4. Test asphalt for moisture in accordance with manufacturer's instructions to ensure it has sufficiently cured and is dry.

- 5. Scarify existing asphalt in accordance with manufacturer's instructions.
- 6. Variations in Elevation: Repair variations in elevation of completed subsurface greater than plus or minus 1/4 inch over 10 feet in any direction.

3.3 INSTALLATION

- A. Install playground safety surfacing tiles in accordance with manufacturer's instructions at locations indicated on the Drawings.
- B. Ensure prepared subsurface and tiles are dry and clean.
- C. Layout tile surface in accordance with manufacturer's instructions.
- D. Apply adhesive in accordance with manufacturer's instructions for tile-to-tile as well as tile-to-base for all keystone and strategic tile rows.
- E. Installation to be completed by a factory trained and certified installer.

3.4 FIELD QUALITY CONTROL

- A. Installed Surface Performance Test: ASTM F1292
 - 1. Perform impact attenuation testing according to ASTM F1292 in presence of Owner's representative within 30 days of installation.
 - a. Confirm Impact Attenuation Performance of Surfacing Tiles:
 - 1) q-max Score: Less than 125
 - 2) Head Injury Criteria (HIC) Score: Less than 700
 - 2. Test Equipment Operator Qualifications:
 - a. National Recreation and Parks Association/National Playground Safety Institute (NRPA/NPSI) Certified Playground Safety Inspector (CPSI).
 - b. Trained in the proper operation of Triax test equipment by competent agency.
 - 3. Determine compliance with ASTM F 1292, unless otherwise specified in this section.

3.5 CLEANING

A. Remove adhesive spills from playground safety surfacing tiles in accordance with manufacturer's instructions.

B. Clean tiles in accordance with manufacturer's instructions.

3.6 PROTECTION

A. Protect playground safety surfacing tiles from foot traffic for a minimum of 12 hours after installation.

B. Protect completed tiles from damage during construction.

C. MEASUREMENT AND PAYMENT

Protective Surfacing will be measured by the number of square feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, base materials, materials, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

Poured in Place Product Specification

PART 1 - GENERAL

Work Details:

This work includes furnishing and installing GT Impax recycled poured rubber surfacing.

GT Impax recycled poured rubber surfacing shall be poured in place and trowelled to provide for a resilient, seamless rubber surface installed over the specified base. The surfacing provider shall be responsible for all labor, materials, tools, equipment, and applicable taxes to perform all work and services for the installation of the surface. The surface shall be stable and slip resistant to comply with all requirements set forth in the Americans with Disabilities Act.

Quality Assurance & Compliance Details:

Impact Attenuation - ASTM F1292-04: Impact attenuation test results will be provided to the owner or owner's representative. These test results shall be certified and submitted on the letterhead of an independent testing lab. Impact attenuation test results shall meet or exceed Consumer Product Safety Commission Guidelines for impact attenuation (G-max and Head Injury Criteria (HIC).

Accessibility of Surface Systems - ASTM F1951-08: All Playground surfacing products must pass testing to ensure wheelchair access under and around playground equipment as required by the American Disabilities Act.

Coefficient of Friction - ASTM D2047-82: All products must meet a minimum standard on coefficient of friction of .9-wet, 1.0 dry.

Permeability: Product shall meet or exceed a coefficient of permeability of 0.4 gallons per square yard per second.

Flammability of Finished Floor cover - ASTM D2859: Product shall meet requirements of ASTM D2859.

Tensile Strength - ASTM D412-87: This test indicates a product's ability to stretch, and how far it will stretch before it breaks. Test results for wear course must be a minimum tensile strength of 60.

PSI and minimum % elongation @ break of 140%.

IPEMA Certification: Manufacturer must provide proof of certification. "In the interest of public playground safety, IPEMA provides an independent laboratory which validates a manufacturer's certification of conformance to ASTM F1292-04. A list of current validated products, their thickness and critical heights may be viewed at www.ipema.org."

Submittal Details:

Submittal packages shall include but not be limited to: (1) product samples, (2) supplier's written warranty, and (3) independent laboratory results.

PART 2 - MATERIAL DATA:

Polyurethane Primer and Binder - 100% Single Component Polyurethane Binding Agent - Methylene Diphenyl Isocyanate (MDI) based binder.

Aromatic Binder - All projects will include aromatic binder unless project specifies the use of aliphatic binder. The natural properties of the aromatic binder is to present a yellow tint which may cause some EPDM/TPV colors to amber. The yellowing affect is more common on lighter EPDM colors and will wear off with foot traffic and weathering.

Aliphatic Binder - This binder is available upon request but at an added cost to the over all project. Aliphatic binder is all clear providing full EPDM/TPV color from day one. This binder has a higher resistance to ultra violet light and provides a greater resistance to wear.

Impact Course - The impact layer is to be a precise combination of 100% recycled black Styrene Budadine Rubber (SBR) and polyurethane binder. SBR is manufactured as a liquid, poured into molds and generally used by the automobile industry. This recycled rubber is shredded, mixed with binder and hand-trowelled to create a seamless application. The impact course thickness, as specified by owner or architect, must be composed of recycled rubber and free of foreign matter.

Wear Course - The wear course is made of Ethyl Propolyne Dione Monomer (EPDM) or Thermal Plastic Vulcanized (TPV) pigmented rubber granules with polyurethane binder. Thickness of the wear course shall be a minimum 1/2".

EPDM- The granule size will be 1-3 mm in diameter.

TPV- The granule size will be 1-4 mm in diameter.

PART 2 - MATERIAL DATA (Continued)

Colors - The color of GT Impax recycled poured rubber surfacing will be indicated on plans. Owner or owner's representative will be responsible for selecting standard blends. Selection of either standard color blends or custom color blends must be made at time quotation is being requested. EPDM/TPV colors are available in 100% black and a variety of colors. Ask your GameTime representative for available color combinations.

Note: If graphic designs and color transitions are used, they shall be full wear course depth. Color(s) to be determined by architect. Graphic Templates are the responsibility of the Architect or owner.

Physical Properties:

| | |
|-------------------------------------|---------------------------------|
| Tensile Strength (ASTM D412) | 60 PSI, minimum |
| Elongation at Break (ASTM D412) | 140%, minimum |
| Flammability (ASTM D2859) | Pass |
| Coefficient of Friction (ASTM D204) | |
| Wet | 0.9, minimum |
| Dry | 1.0, minimum |
| Water Permeability | 0.4 gal. /sq. yd./sec., minimum |

PART 3 - SUB-BASE TYPES & DETAILS:

Sub-base Requirements - The base shall have the specific maximum slope (2%) and shall vary no more than 1/8" when measured in any direction with a 10' straight edge.

Stone - The density requirement is 90% to 95% compaction with final condition of stone as level and stable so as not to shift when traveled on or during surface installation process. A compaction test is required and must be submitted to GameTime prior to installation of poured rubber surfacing. Failure to provide proof of compaction test will void 5-year warranty of PIP surfacing should signs of sub-base failure occurs.

| | |
|-------------------------|---|
| <u>Depth:</u> | 4 inch minimum thickness. |
| <u>Slope:</u> | Stone elevation shall maintain 1/4" per foot toward low end. |
| <u>Porosity:</u> | Base course shall maintain porosity for direct drainage. |
| <u>Enclosure:</u> | Stone base course must be surrounded by a retaining curb. |
| <u>Drainage:</u> | Subsurface drainage is recommended under and around a stone base. Perforated pipe or similar system is acceptable. |
| <u>Tolerances:</u> | 1/4" in any 10-foot direction and 1/8" in any 3-foot direction. |
| <u>Stone Selection:</u> | It is critical that different size stones are used so that the base shall be uniformly mixed. The material shall be wetted during mixing operations if necessary for proper blending. |

PART 3 - SUB-BASE TYPES & DETAILS (Continued)

| Stone Graduation | U.S. Sieve Percent Passing |
|------------------|----------------------------|
| 1" | 100 |
| 3/4" | 90 - 100 |
| No. 4 | 35 - 60 |
| No. 30 | 10 - 30 |
| No. 200 | 2 - 9 |

Concrete or Asphalt - Concrete should be finished with a medium broom finish. All new concrete slabs must cure for a minimum of seven (7) days prior to installation. Asphalt cure time requires fourteen (14) days. Once the new asphalt has cured, it must be pressure washed prior to the surfacing being installed. The concrete contractor shall be responsible for flooding the pad to insure proper slope and tolerance. Any areas holding enough water to cover a flat nickel shall be patched prior to arrival of poured rubber installation crews.

Depth: 4 inch minimum thickness.

Slope: Concrete or asphalt shall maintain 1/4" per foot.

Tolerance: Concrete must maintain a tolerance of 1/8" in 10 ft. to avoid low areas that will hold water under the poured rubber surfacing.

PART 4 - SITE PREPARATION AND REQUIREMENTS:

Drainage - Having proper drainage at the low end of the concrete slab is of utmost importance. Any brick walls or curbs at the low end of the slab shall have drainage access through weep holes. Concrete curbing weep holes should be level with finish grade of sub-base or a minimum of 1/8" below top of concrete slab, as GT IMPAX recycled poured rubber surfacing is porous and water drains immediately through it. Weep holes shall be 2" high and 3" wide and shall be installed every three (3) feet. If weep holes are smaller than the recommended size, they shall be installed every 18". Floor drains shall be located outside the high impact areas, as the drains may not be covered with GT IMPAX poured rubber surfacing. Recommended locations for drains are against low-end wall or curb.

Security & Waste Disposal - Surface installation crew shall be responsible for the protection of surface during the installation process while on site only. Owner or general contractor shall be responsible for the protection of the surface during the curing period upon completion of the installation and overnight during the installation. Owner or general contractor shall be responsible for having a dumpster on site for all waste and debris. Failure to provide security and a dumpster will result in additional cost.

Utilities & Access - Power and water must be available within 300 feet of installation. Site will require tractor-trailer access. In a case where tractor-trailer access is not possible, owner or general contractor shall be responsible for transporting materials from delivering carrier to the installation site.

PART 5 - INSTALLATION:

Weather Conditions - Because the polyurethane agents are moisture or heat sensitive, the nighttime temperatures must be above 40 degrees with daytime temperatures around 50 degrees. These temperatures must be consistent for several days before and after the poured rubber installation period. Complying with these weather conditions will prevent poured rubber from freezing which prevents proper curing.

Thickness - Overall depth of the poured rubber will vary based on critical fall heights and installers test results. Depth of EPDM/TPV will be no less than 0.5". Installation is performed by technically trained GameTime approved specialists. Your GameTime dealer will schedule installation of playground surfacing to meet your requirements.

THICKNESS CHART - (Below depths include 0.5" EPDM/TPV Topcoat)

| | |
|---------------------------------|------------------------|
| 1' to 4' Critical Fall Height | 1.5" to 2" Total Depth |
| 5' Critical Fall Height | 2" to 2.5" Total Depth |
| 6' Critical Fall Height | 2.5" to 3" Total Depth |
| 7' to 8' Critical Fall Height | 3" to 3.5" Total Depth |
| 9' to 10' Critical Fall Height | 4" to 4.5" Total Depth |
| 11' to 12' Critical Fall Height | 5.5" Total Depth |

Cold Joints - Areas in excess of 2,000 square feet or areas that require adjacent color pours will have a cold joint or seam. Although seldom visible, seams are necessary when large pads require more than one day pours.

Edges - Surface edges shall be flush, beveled or rolled. It is important to advise what type of edge will be required so that the appropriate amount of materials are ordered.

Flush - When curbing is provided around the outside perimeters of the pad, the poured rubber will be adhered to the edge of the curbing so that the rubber surfacing is flush. This allows for a smooth transition into the play area. However, the sub-base should be installed to allow the proper depth of poured rubber so that the flush edge can be installed without having to fill voids by increasing the depth SBR materials. If the sub-base is not installed properly, using too much of the SBR materials can cause the installer to run short on the cushion course which is require a change order to add additional materials for the project.

Beveled - When curbing is not provided for concrete or asphalt sub-bases, the installers will bevel the edge down along the edge of the pad. This type of edge can be sloped to provide a smoother transition but will require additional materials. If beveled at the edge of the use zones, the edge can be more round due to the depth of the poured rubber. In this case, you may want to have a rolled edge added to allow a smooth transition for wheelchair users.



PART 5 - INSTALLATION (Continued)

ADA Rolled - This is the type of edge to meet the requirements of ASTM 1951, Specifications for Determination of Accessibility of Surface Systems Under and Around Playground Equipment. The rolled edge will require additional materials in order to provide adequate ADA Wheelchair access. The total linear feet of the pad will need to be provided if the whole site is to be ADA compliant.

Keyway Cut - This type of an edge requires a trenched saw cut of ½" wide x ½" deep along the edge of the concrete or asphalt pad. The contractor or customer will be responsible for providing the keyway cut. There will be a up charge if the poured rubber installer is asked to provide this cut. The poured rubber will be beveled down into the saw cut where it will adhere preventing the exposure of a raw edge.

Cure Time - The poured rubber will require 72 hours (3 days) to properly cure. Security is required by the owner during this time so to avoid unnecessary damages.

PART 6 - WARRANTY:

When used under playground equipment, GameTime's GT Impax recycled poured rubber is warranted against defects in materials and workmanship for five years.

When used with water play equipment, GameTime's GT Impax recycled poured rubber is warranted against defects in materials and workmanship for three years provided aliphatic binder is added. Without the aliphatic binder, the GT Impax recycled poured rubber will carry only one year warranty.

Ask you GameTime representative for a copy of our full GT Impax recycled poured rubber warranty details.

PART 7 - MAINTENANCE:

Ask your GameTime representative for a copy of our full GT Impax recycled poured rubber maintenance details.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

February 23, 2016

INVITATION TO BID

Legacy Playground at Labine Park

IFB0651-033116

The City of Nashua Division of Public Works invites qualified contractors to submit bids for the **Legacy Playground** project. The purpose of the project is to provide an accessible playground at Labine Field located along Cleveland Street and the intersection of Fairview Avenue. The Work includes filling and grading, construction of a variety of walkway surface treatments, wood chips and rubber protective surfacing. It will also include installation of equipment footings and loam and seed/restoration of the lawn area and all associated work. Selected playground equipment supplied by the City will require assembly and installation by contractor. Other selected playground equipment will be assembled and installed by City employees and community volunteers on two specified weekend community build days. In addition, work includes Contractor providing design of proposed irrigation system. Contractor to install irrigation system using supplies provided by City Park Department. Irrigation system connection to water source to be provided by City.

INSTRUCTIONS FOR BIDDERS

Bids must be submitted on the Bid Form in its entirety with **(1) original and two (2) copies**, in a sealed envelope plainly marked "**Legacy Playground**" and must be received at Central Purchasing Office, 229 Main Street, Lower Level, Nashua, NH 03060 prior to **3:00 pm on Thursday, March 31, 2016**. Postmarks or other timestamps will not be accepted in lieu of actual delivery. The contractor can use whatever delivery mechanism it chooses as long as it remains clear that the contractor is responsible for submissions prior to the date and time. Further details are available on the City's web site, www.nashuanh.gov, under Services; Bid Opportunities; Bid Results, (Refer to Document **IFB0651-033116**), within twenty-four (24) hours after the opening.

Substantial Completion for the project shall be August 26, 2016
Final Completion for the project shall be September 12, 2016.

There will be a **MANDATORY pre-bid meeting at 9 Riverside Street, Nashua, NH 03062 at 9:00 AM on Wednesday, March 16, 2016**. The meeting is an opportunity for the City to overview the project and objectives and participants to request additional information directly from City staff managing or

IFB0651-033116 Legacy Playground @ Labine Park

participating in the project. **You or your representatives are required to attend this meeting.**

Beginning Monday, February 29, 2016, bid documents will be available electronically from the City website: www.nashuanh.gov, under Services, Bid Opportunities; Current Bids; (Refer to Document **IFB0651-033116**).

Please note paper copies will not be available. No bid documents are available at the Central Purchasing.

The timeline for this project is:

| Subject | Date | Time/Location |
|--------------------------------|---------------------------|---------------------------------|
| Documents available | Monday, February 29, 2016 | 5:00 p.m. on the City Web Site |
| Mandatory Pre-Bid Meeting | Wednesday March 16, 2016 | 9:00 a.m. at 9 Riverside Street |
| Addendum, if needed, posted | Thursday, March 24, 2016 | 5:00 p.m. |
| Bid Due | Thursday, March 31, 2016 | 3:00 p.m. Purchasing Department |
| Notice to Proceed, approximate | Wednesday, June 1, 2016 | |

Vendors are encouraged to submit questions via e-mail; however, the City assumes no liability for assuring accurate and complete email transmission/receipt and is not responsible to acknowledge receipt. **Inquiries must be submitted in writing, no later than Monday, March 21**, citing the IFB title, IFB number, Page, Section to:

Nick Caggiano
City of Nashua
Superintendent, Parks & Recreation
Email: CaggianoN@NashuaNH.gov

The City will consider all timely-received questions and requests for change and, if reasonable and appropriate, will issue an addendum to clarify or modify this IFB. Answers to Vendor submitted questions and other addenda will be posted under document **IFB0651-033116** on the City of Nashua website; www.nashuanh.gov under Services; Bid Opportunities; Current Bids, (Refer to Document **IFB0651-033116**), **no later than Thursday, March 24, 2016 at 5:00 pm.**

Each General Bid shall be accompanied by a Bid Security in the amount of 5% of the Total Bid Price.

All bids are binding for sixty (60) days following the deadline for bids, or until the effective date of any resulting contract, whichever is later.

No bidder may withdraw a bid within sixty (60) days after the actual date of bid opening.

Certificates of Liability and Workmen's Compensation Insurance must be filed by the successful bidder prior to commencement of work. Liability limits are as follows:

General Liability: \$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability: \$1,000,000 combined single limit

Coverage must include all owned, non-owned and hired vehicles.

City of Nashua must be named as an additional insured on all liability certificates.

Workers' Compensation: Per NH State Statute
(\$100,000/\$500,000/\$100,000)

The City of Nashua may reject any or all of the bids on any basis and without disclosure of a reason. The failure to make such a disclosure shall not result in accrual of any right, claim or cause of action by any unsuccessful bidder against the City of Nashua. A bid that is abnormally high or low for any bid item, or as a whole, may be rejected as unbalanced.

To be eligible for an award, a bidder must be deemed "responsible". A responsible bidder 1) has the ability, capacity and skill to provide the goods or services required; 2) can provide the goods or services within the time frame specified; 3) has a satisfactory record of integrity, reputation, judgment and experience; 4) has sufficient financial resources to provide the goods or services; 5) has an ability to provide future maintenance and support as required; and 6) has developed a positive track record with the City of Nashua to the extent the bidder has previously provided goods or services.

The submission of a bid constitutes the bidder's acceptance of and agreement to the terms and conditions of this Invitation to Bid.

The City is exempt of all taxes. All bids must be FOB Nashua, NH. All bidders must comply with all applicable Equal Employment Opportunity laws and regulations.

Pursuant to NRO 5-78 (F), the purchasing manager shall not solicit a bid from a contractor who is in default on the payment of taxes, licenses or other monies due the city. Therefore, this bid request is void as to anyone who is in default on said payments.

Respectfully,



Danielle Greenberg
Purchasing Agent II
greenbergd@nashuanh.gov

DIVISION 2
INFORMATION FOR BIDDERS

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INSTRUCTIONS TO BIDDERS

Article 1 – Defined Terms

- 1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:
- A. *Bidder* – The individual or entity who submits a Bid directly to OWNER.
 - B. *Issuing Office* – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
 - C. *Successful Bidder* – The lowest responsible Bidder submitting a responsive Bid to whom OWNER (on the basis of OWNER’s evaluation as hereinafter provided) makes an award.

Article 2 – Copies of Bidding Documents

2.01 Bidding Documents are available electronically City’s web site, www.nashuanh.gov, under Citizens Favorites, Current Bid Opportunities. Hard copies **are not** available.

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither OWNER nor ENGINEER assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

Article 3 – Qualifications of Bidders.

3.01 To demonstrate Bidder’s qualifications to perform the Work, each Bidder must submit a completed Construction Contractor’s Qualification for Engineered Projects..

Article 4 – Examination of Bidding Documents, Other Related Data, and Site.

4.01 *Subsurface and Physical Conditions*

- A. 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 Bidding Documents.
 - 2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified. Bidder is responsible for any interpretation or conclusion Bidder draws from

and “technical data” or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.02 *Underground Facilities*

- A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to OWNER and ENGINEER by owners of such Underground Facilities including OWNER, or others. OWNER and ENGINEER do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.03 *Hazardous Environmental Condition*

- A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.
- B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified. Bidder is responsible for any interpretation or conclusion Bidder draws from and “technical data” or any other data, interpretations, opinions or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in Paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Conditions at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.

4.05 On request, OWNER will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies, as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.

4.06 Reference is made to Article 7 of the General Conditions for the identification of the general nature of work that is to be performed at the site by OWNER or others (such as utilities and other prime contractors) that relates to the work for which a Bid is to be submitted. On request, OWNER will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

4.07. It is the responsibility of each Bidder before submitting a Bid to:

- A. Examine and carefully study the Bidding Documents, including any Addenda and other related data identified in the Bidding Documents;

- B. Visit the Site to become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
 - C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance of the Work;
 - D. Carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a Hazardous Environmental Condition, if any, at the Site which have been identified in the supplementary Conditions as provided in paragraph 4.06 of the General Conditions;
 - E. Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
 - F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;
 - G. Become aware of the general nature of the work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents;
 - H. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
 - I. Promptly give ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by ENGINEER is acceptable to Bidder; and
 - J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying the specific means, methods, techniques, sequences or procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by ENGINEER is acceptable to

Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

Article 5 – Mandatory Pre-bid Conference

- 5.01 A **mandatory** pre-bid conference will be held on the date and time prescribed and at the place indicated in the Advertisement or Invitation to Bid. Representatives of OWNER and ENGINEER will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. OWNER will transmit to all prospective Bidders of record such Addenda, as OWNER considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

Article 6 – Site and Other Areas

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

Article 7 – Interpretations and Addenda

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be directed to ENGINEER. Interpretations or clarifications considered necessary by ENGINEER in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by ENGINEER as having received the Bidding Documents. Questions received less than ten (10) days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may also be issued to clarify, correct, or change the Bidding Documents as deemed advisable by OWNER or ENGINEER.

Article 8 – Bid Security

- 8.01 A Bid must be accompanied by Bid security made payable to OWNER in an amount of five percent (5%) of Bidder's maximum Bid price and in the form of a Bid Bond (on form attached) issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.
- 8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited. 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 seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

- 8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

Article 9 – Contract Times

- 9.01 The number of **calendar** days within which, or the dates by which, the Work is to be (a) substantially completed and (b) also completed and ready for final payment are set forth in the Agreement.

Article 10 – Liquidated Damages

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

Article 11 – Substitute and “Or-Equal” Items

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or “or-equal” items. Whenever it is specified or described in the Bidding Documents that a substitute or “or-equal” item of material or equipment may be furnished or used by CONTRACTOR if acceptable to ENGINEER, application for such acceptance will not be considered by ENGINEER until after the Effective Date of the Agreement. The procedure for submission of any such application by CONTRACTOR and consideration by ENGINEER is set forth in the General Conditions and may be supplemented in the General Requirements.

Article 12 – Subcontractors, Suppliers and Others

- 12.01 Each Bidder must submit a completed List of Subcontractors on the Form furnished with the completed Bid Form. The apparent Successful Bidder, and any other Bidder so requested, shall within seven days after the Bid opening submit to OWNER supplemental information in the form of an experience statement with the pertinent information regarding similar projects and other evidence of qualification of each Subcontractor, Supplier, person or organization if requested by OWNER or ENGINEER. IF OWNER or ENGINEER, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, OWNER may, before the Notice of Award is given request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder shall submit an acceptable substitute, Bidder’s Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution and OWNER may consider such price adjustment in evaluating Bids and making the contract award.
- 12.02 If apparent Successful Bidder declines to make any such substitution, OWNER may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which OWNER or ENGINEER makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Article 6.06 of the General Conditions.
- 12.03 CONTRACTOR shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom CONTRACTOR has reasonable objection.

Article 13 – Preparation of Bid

- 13.01 The Bid Form is included with the Bidding Documents.
- 13.02 All blanks on the Bid Form and Bid Schedule(s) must be completed by printing in ink or typed and the Bid signed. A bid price shall be indicated for each Bid item listed therein.
- 13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown below the signature.
- 13.05 A bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown below the signature.
- 13.06 A Bid by an individual shall show the Bidder's name and official address.
- 13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture must be shown below the signature.
- 13.08 All names must be typed or printed in black ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 13.10 The address and telephone number for communications regarding the Bid must be shown.
- 13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located. Bidder's state contractor license number for the state of the Project, if any, must also be shown on the Bid Form.

Article 14 – Basis of Bid; Evaluation of Bids

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

- 14.02 The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowance, if any, named in the Contract Documents as provided in paragraph 11.02 of the General Conditions.

Article 15 – Submittal of Bid

- 15.01 Each prospective Bidder is furnished one copy of the Bidding Documents with one separate unbound copy each of the Bid Form, and if required, the Bid Bond. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the following data:
- A. List of Subcontractors
 - B. Construction Contractor’s Qualification Statement for Engineering Construction
- 15.02 A bid shall be submitted no later than the date and time prescribed and at the place indicated in the advertisement or invitation to Bid and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation “**BID ENCLOSED.**” A mailed Bid shall be addressed to City of Nashua Purchasing Department, P.O. Box 2019, 229 Main Street, Nashua, NH, 03061-2019.

Article 16 – Modification and Withdrawal of Bid

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.
- 16.02 If, within twenty-four hours after Bids are opened any Bidder files a duly signed written notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of its Bid, **OWNER may, in its sole discretion, choose to not accept the Bid and return the same to Bidder.** Thereafter, that Bidder will be disqualified from further bidding on the Work.

Article 17 – Opening of Bids

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

Article 18 – Bids to Remain Subject to Acceptance

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

Article 19 – Award of Contract

- 19.01 OWNER reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced or conditional Bids. OWNER further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. OWNER may also reject the Bid of any Bidder if OWNER believes that it would not be in the best interest of the Project to make an award to that Bidder. OWNER also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 19.03 In evaluating Bids, OWNER will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 19.04 In evaluating Bidders, OWNER will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions..
- 19.05 OWNER may conduct such investigations as OWNER deems necessary to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers individuals, or entities to perform the Work in accordance with the Contract Documents.
- 19.06 If the Contract is to be awarded, OWNER will award the Contract to lowest Bidder whose evaluation by OWNER indicates to OWNER that the award will be in the best interests of the Project.

Article 20 - Contract Security

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth OWNER's requirements as to Performance and Payment Bonds and insurance. When the Successful Bidder delivers the executed Agreement to OWNER, it must be accompanied by such Bonds.

Article 21 – Signing of Agreement

21.01 When OWNER gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents, which are identified in the Agreement attached thereto. The Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER, including the Performance and Payment Bonds and the Certificate of Insurance. Within 10 days thereafter, OWNER shall deliver one fully signed counterpart to Successful Bidder with a complete set of drawings with appropriate identification.

21.02 A fully executed City of Nashua Purchase Order will accompany the fully signed counterpart to successful Bidder.

Article 22 – Retainage

22.01 Provisions concerning retainage and Contractors' rights to deposit securities in lieu of retainage are set forth in the Agreement.

Article 23 – Appeal by Bidders

23.01 Any bidder may appeal a pending bid award prior to award by Owner. The appellant must:

- A. Submit a written protest to the Owner's contract administrator within five (5) workdays after the bid opening.
- B. Describe, in the written protest, the issues to be addresses on appeal.
- C. Post, with the written protest, a bond with a surety meeting the requirements of General Condition 5.02 authorized to do business in this state or submit other security in a form approved by Owner who will hold the bond or security until a determination is made on the appeal.
- D. Post the bond or other security in the amount of 25% of the total dollar value of the appellant's bid, up to a maximum bond or other security amount of 250,000.00.
- E. Not seek any type of judicial intervention until Owner has rendered its final decision on the protest.

23.02 Owner will stay award actions until after the Owner's contract administrator has responded in writing to the protest. If the appellant is not satisfied with the response, the appellant may then protest to the Board of Public Works, who will render a final decision for the Owner. No bid protests will be heard by the Board of Public Works unless bidder has followed the appeal process.

23.03 If an appeal is granted, the full amount of the posted bond or security will be returned to the appellant. If the appeal is denied or not upheld, a claim may be made against the bond for expenses suffered by the Owner because of the unsuccessful appeal.

23.04 Owner is not liable for any costs, expenses, attorney's fees, loss of income, or other damages sustained by the appellant in a bid process.

DIVISION 3

BID FORM

BID BOND

BID SCHEDULE

CONTRACTOR'S QUALIFICATIONS

- E. BIDDER does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- F. BIDDER is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
- G. BIDDER has correlated the information known to BIDDER, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- H. BIDDER has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that BIDDER has discovered in the Bidding Documents, and the written resolution thereof by ENGINEER is acceptable to BIDDER.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work for which this Bid is submitted.

4.01 BIDDER further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any 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 individual or entity to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

5.01 The requirements of the New Hampshire Revised Statutes Annotated shall apply to this project. The BIDDER is responsible for compliance with all applicable statutes. The entire set of the Revised Statutes Annotated is available online at:

<http://gencourt.state.nh.us/rsa/html/indexes/default.html>

6.01 BIDDER will complete the Work in accordance with the Contract Documents for the following prices:

SEE ATTACHED BID SCHEDULE

- A. Unit Prices have been computed in accordance with paragraph 11.03.B of the General Conditions.
- B. BIDDER acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

7.01 BIDDER agrees that the Work will be substantially completed and completed and ready for final payment in accordance with paragraph 14.07.B of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

7.02 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.

8.01 The following documents are attached to and made a condition of this Bid:

- A. Bid Form;
- B. Bid Bond;
- C. A tabulation of Subcontractors, Suppliers and other individuals and entities required to be identified in this Bid; and
- D. Construction Contractor's Qualification Statement.

9.01 Communications concerning this Bid shall be addressed to:
(Contractor's mailing address to be filled in by Bidder)

D.L. King & Associates, Inc.
27 Tanglewood Drive
Nashua, NH 03062

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

Submitted by:

Name of Organization D.L. King & Associates, Inc.
Name of Individual Donna L. King
Title President
Address 27 Tanglewood Drive
Nashua, NH 03062

Telephone 603-883-5880

Submitted to:

Name City of Nashua, NH - Purchasing
Address 229 Main Street
Nashua, NH 03061-2019

Telephone 603-589-3340

SUBMITTED on March 31, _____, 20 16

If BIDDER is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)
(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ Fax No.: _____

A Partnership

Partnership Name: _____ (SEAL)

Date and State of Organization

Names of Current General Partners

| | Name | Title |
|-------|------|-------|
| _____ | | |
| _____ | | |
| _____ | | |

Type of Partnership

General Publicly Traded
 Limited Other (describe): _____

By: _____
(Signature of General Partner – attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone No.: _____ Fax No.: _____

A Corporation

Corporation Name: D.L.King & Associates, Inc. (SEAL)

Date and State of Incorporation: 1983 - Illinois

List of Executive Officers

| Name | Title |
|--------------------------|----------------|
| Donna L. King | President |
| A. Dean King | Vice President |
| Arthur E. King, Jr. P.E. | CFO |

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

By: Donna L. King - President
(Signature -- attach evidence of authority to sign)

Name (typed or printed): Donna L. King

Title: President (Corporate Seal)

Attest: [Signature]
(Signature of Corporate Secretary)

Business Address: 27 Tanglewood Drive
Nashua, NH 03062

Phone No.: 603-883-5880 Fax No.: 603-883-5061

Date of Qualification to do business is New Hampshire-1999

A Joint Venture

Joint Venture Name: _____ (SEAL)

Date and State of Organization: _____

Name, Address and Form of Organization of Joint Venture Partners: (Indicate managing partner by an asterisk *)

D.L. King & Associates, Inc.

Certificate of Vote

I, Arthur E. King, Jr., hereby certify that I am duly elected Secretary of D.L. King & Associates, Inc.

I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors of the Corporation, duly called and held on March 31, 2016 at which a quorum of the Board was present and voting.

VOTED:

That Donna L. King, President, is duly authorized to enter into a specific Agreement for the Corporation with the City of Nashua, New Hampshire and further authorized to execute any documents, which may in his judgment be desirable or necessary to affect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of March 31, 2016 and that Donna L. King is the duly elected President, respectively, of this Corporation.

Date: _____

3/31/16

Attest:



Secretary

Arthur E. King, Jr.

Corporate Seal:

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

Name (typed or printed): _____

Title: _____

Business Address: _____

Phone No.: _____ Fax No.: _____

Address for receipt of official communications:

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

BID BOND PENAL SUM FORM

BIDDER (Name and Address):

DL King and Associates, Inc. 27 Tanglewood Dr. Nashua, NH

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

The Ohio Casualty Insurance Company

OWNER (Name and Address):

City of Nashua 9 Riverside Street Nashua, NH 03062

BID

BID DUE DATE: 3/31/2016

PROJECT (Brief Description Including Location):

Construct accessible playground at Labine Field located Cleveland Street and intersection of Fairview Avenue

BOND

BOND NUMBER: 6972429

DATE: (Not later than Bid Due Date): 3/31/2016

PENAL SUM: Five Percent of Contract Price

(Words)

5%

(Figures)

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

BIDDER

DL King and Associates, Inc.

(Seal)

Bidder's Name and Corporate Seal

By:

Donna J. King - President
Signature and Title

Attest:

Jacqueline R. Baker - ADMIN. ASST.
Signature and Title

SURETY

The Ohio Casualty Insurance Company

(Seal)

Surety's Name and Corporate Seal

By:

[Signature]
Signature and Title
(Attach Power of Attorney)

Attest:

[Signature]
Signature and Title

- Note: (1) Above addresses are to be used for giving required notice.
(2) Any singular reference to Bidder, Surety, OWNER or other party shall be considered plural where applicable.

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 6972429

American Fire and Casualty Company
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Ann Lafond; Harriet Hoffmann; John Bernardin; Michael J. Regan; William J. Cleary

all of the city of Boston, state of MA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 1st day of May, 2015.

American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary



STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 1st day of May, 2015, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2017
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Gregory W. Davenport, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 31st day of March, 2016.



By: Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**City of Nashua, New Hampshire
Division of Public Works
Legacy Playground at Labine Park
Bid Schedule**

DL King and Associates Inc
Firm Name

| <u>Item No.</u> | <u>Estimated Quantity</u> | <u>Units</u> | <u>Item Description & Unit Price</u> (In both words and numerical) | <u>Unit Price</u> <u>In numerals</u> | <u>Total Price</u> <u>In numerals</u> |
|-----------------|---------------------------|--------------|---|---|--|
| 214. | 1 | U | FINE GRADING Five thousand seven hundred fifty (5750) Dollars and no(0) Cents | \$5,750.00 | \$5,750.00 |
| 304.2 | 1300 | CY | GRAVEL (F) Twenty Six (26) Dollars and Sixteen (16) Cents | \$26.16 | \$34,008.00 \$34,011.25 |
| 304.3 | 200 | CY | CRUSHED GRAVEL (F) Twenty Six (26) Dollars and Seventy four (74) Cents | \$26.74 | \$5,348.00 \$5,347.50 |
| 403.12 | 100 | TON | HOT BITUMINOUS PAVEMENT, HAND METHOD Two Hundred Thirty (230) Dollars and No (0) Cents | \$230.00 | \$23,000.00 |
| 870.95 | 1200 | LF | TEMPORARY SAFETY FENCE Five (5) Dollars and Seventy Five (75) Cents | \$5.75 | \$6,900.00 |
| 692. | 1 | U | MOBILIZATION Fifty Thousand Seven Hundred fifteen (50,715) Dollars and TO BE PAID ON PERCENT COMPLETE BASIS Cents | \$50,715.00 | \$50,715.00 |
| A | 630 | SF | STAMPED CONCRETE WALKWAY (6" DEPTH) (COBBLESTONE PATTERN) Twelve (12) Dollars and Eight (8) Cents | \$12.08 | \$6,402.40 \$6,399.75 |
| B | 910 | SF | STONE DUST PATHWAY (4" DEPTH) One (1) Dollars and Fourty Four (44) Cents | \$1.44 | \$1,310.40 \$1,308.13 |
| C | 3240 | SY | LOAM AND SEED (4" DEPTH) No (0) Dollars and Fifty Eight (58) Cents | \$0.58 | \$1,983.60 \$1,862.00 |
| D | 52 | EA | ELEMENT FOOTING (SIZE VARIES) Two Hundred Fifty Eight (258) Dollars and Seventy Five (75) Cents | \$258.75 | \$13,445.00 |
| E | 3600 | SF | PROTECTIVE SURFACING Seventeen (17) Dollars and Twelve (12) Cents | \$17.12 | \$61,632.00 \$61,640.00 |
| | | | | SUBTOTAL BS-1 | \$210,504.40 \$210,389.63 |

City of Nashua, New Hampshire
Division of Public Works
Legacy Playground at Labine Park
Bid Schedule

DL King and Associates Inc
Firm Name

| <u>Item No.</u> | <u>Estimated Quantity</u> | <u>Units</u> | <u>Item Description & Unit Price</u> (in both words and numerical) | <u>Unit Price</u> <u>in numerals</u> | <u>Total Price</u> <u>in numerals</u> |
|-----------------|---------------------------|---------------|--|---|--|
| * F | 240 | GY | ENGINEERED WOOD CHIPS (12" DEPTH) Fifty One (51) Dollars and Seventy Five (75) Cents | \$51.75 | \$12,430.00 \$0 |
| H | 1 | LS | PLAYGROUND ELEMENTS (CONTRACTOR BUILD) Thirteen Thousand Three Hundred Forty (13,340) Dollars and No (0) Cents | \$13,340.00 | \$13,340.00 |
| G | 440 | LF | 8"X8" LANDSCAPE TIMBER BORDER Sixteen (16) Dollars and Ten (10) Cents | \$16.10 | \$7084.00 |
| L | 1 | LS | IRRIGATION DESIGN AND INSTALLATION Two Thousand Eight Hundred Seventy Five (2,875) Dollars and No (0) Cents | \$2,875.00 | \$2,875.00 |
| SUBTOTAL BS-2 | | | | | \$35,719.00 |

78
4/21/16

4/14/16
RE

4/14/16
RD

* City will supply per Nick Caggiano

D L King & Associates, Inc

Firm Name

City of Nashua, New Hampshire
Division of Public Works
Legacy Playground at Labine Park
Bid Schedule

SUMMARY of Each Bid Sheet

SUBTOTAL of Page BS-1

SUBTOTAL of Page BS-2

DP
4/14/16
\$210,504.40
\$210,289.63
\$35,075.00 **\$233,299.00**
4/21/16
JB

TOTAL BID PRICE FIGURES

~~\$215,161.63~~ **\$233,803.40**

TOTAL BID PRICE WORDS
~~Two Hundred Forty Five Thousand~~
~~Four Hundred Sixty Two~~
Thirty-Three
Eight Hundred Three Dollars and
~~Sixty Three~~ **Forty** Cents

4/21/16
JB

Contractor:

D L King and Associates Inc
Name of Firm

Authorized Signature:

Don King - President

3-31-2016
Date

CONSTRUCTION CONTRACTOR'S QUALIFICATION STATEMENT

1. On Schedule A, attached, list major engineered construction projects completed by this organization in the past five (5) years. (If joint venture, list each participant's projects separately).
2. On Schedule B, attached, list current projects under construction by this organization, (If joint venture, list each participant's projects separately).
3. Name of surety company and name, address, and phone number of agent.

The Ohio Casualty Insurance Company

Regan Cleary Insurance & Bonds

226 Causeway St. Boston, MA 617-305-0346

4. Is your organization a member of a controlled group of corporations as defined in I.R.C. Sec. 1563?
 Yes No
If yes, show names and addresses of affiliated companies.

5. Furnish on Schedule C, attached, details of the construction experience of the principal individuals of your organization directly involved in construction operations.
6. Has your organization ever failed to complete any construction contract awarded to it?
 Yes No
If yes, describe circumstances and provide details on attachment.
7. Has any Corporate officer, partner, joint venture participant or proprietor ever failed to complete a construction contract awarded to him or her in their own name or when acting as a principal of another organization?
 Yes No
If yes, describe circumstances and provide details on attachment.
8. In the last five years, has your organization ever failed to substantially complete a project in a timely manner?
 Yes No
If yes, describe circumstances and provide details on attachment.
9. Does your organization now have any legal suits or arbitration claims pending or outstanding against it or any officers?
 Yes No
If yes, describe circumstances and provide details on attachment.

10. Has your organization had a contract partially or completely terminated for default (cause) within the past five years?

Yes No

If yes, describe circumstances and provide details on attachment.

11. List the licensed categories of work that your company normally performs with its own workforce. N/A

12. If required, can your organization provide a bid bond for this project?

Yes No

13. What is your approximate total bonding capacity?

\$500,000 to \$2,000,000

\$2,000,000 to \$5,000,000

\$5,000,000 to \$10,000,000

\$10,000,000 or more

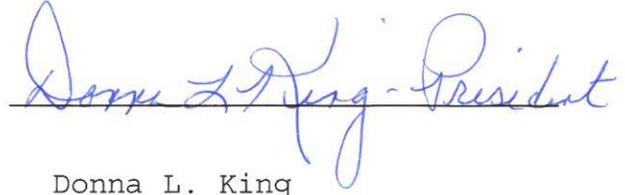
14. Describe the permanent safety program you maintain within your organization. Use attachment if necessary.

Registered with State of NH - Slip and falls, electrical
safety, Hazardous waste/material handling, carpenter
safety issues.

15. Furnish the following information with respect to an accredited banking institution familiar with your organization.

| | |
|-----------------|--|
| Name of Bank | <u>Citizens Bank</u> |
| Address | <u>122 Northeastern Blvd.</u> <u>Nashua, NH 03062</u> |
| Account Manager | <u>Jeanine Briggs</u> |
| Telephone | <u>603-305-6688</u> |

I hereby certify that the information submitted herewith, including any attachment is true to the best of my knowledge and belief.

 Donna L. King - President

By: Donna L. King

Title: President

Dated: March 31, 2016

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Schedule A – List of Major Engineered Construction Projects Completed in the Past Five (5) Years

| <u>Name, Location and Description of Project</u> | <u>Owner</u> | <u>Design Engineer</u> | <u>Date Completed</u> | <u>Contract Price</u> | <u>Reference/Contact & Address & Phone</u> |
|--|----------------------------|--|------------------------------|------------------------------|--|
| Legislative Office Building Elevator Upgrades, Contract 80749B. Replace 2 elevators and electrical service and FA | State of NH | NHBPW PM David Goulet | Feb-15 | \$345,786 | NHBPW PM David Goulet (603) 271-1639 David Goulet Dgoulet@dot.state.nh.us McFarland & Johnson ppathomopoulos@mjinc.com |
| Demolition of Storehouse # 2 in the Nashua Millyard, Contract: IFB0281-072314; PO 11546. Abatement and Demolition of two warehouses; Interior renovations including new doors, stairwell drwall, carpet, a new ADA Storefront entrance and site restoration. | City of Nashua | Dennis Mires PA Steve Peach | Jan-15 | \$489,009 | Dennis Mires PA Steve Peach 603.625.4548 Steve@thearchitect.net City of Nashua Tom Galligani 603.589.3260 galliganit@nashuaNH.gov |
| Low-Bid Design Build Fire Fighting Facility 80703R DEMO & D-B Fire Fighting Facility, Bethlehem, NH | NHDS | NHBPW PM Roger Dionne PE | Mar-14 | \$380,000 | NHBPW PM Roger Dionne PE 603.271.3228 603.271.3515 F Rdionne@dot.state.nh.us |
| Manchester Housing Summer St Fire RENOV DEMO/Clean & RENO Arpt | Manchester Hsg & Authority | MHA Construction Manager Mike Jolin | Mar-13 | \$39,000 | MHA Construction Manager Mike Jolin 603.624.2155 mjolin@manchesterhousing.org |

Schedule A – List of Major Engineered Construction Projects Completed in the Past Five (5) Years

| <u>Name, Location and Description of Project</u> | <u>Owner</u> | <u>Design Engineer</u> | <u>Date Completed</u> | <u>Contract Price</u> | <u>Reference/Contact & Address & Phone</u> |
|--|-----------------------|-------------------------------|------------------------------|------------------------------|---|
| NHBPW - NHANG Strafford RENO Contract 80616R B DEMO/Abatement: Historic Classroom Renovation & Re-Roofing | NHANG | CMK Chip Kraus | Jun-13 | \$930,000 | CMK Chip Kraus 603.627.6878 ckrause@cmkarchitects.com NHBPW PM Gary Brown 603.271 gbrown@dot.st.nh.us 603.271.1640 |
| NHBPW - North Hampton Beach Bath House Contract 80639 B DEMO BLDG & Remove Septic System; Construct new Bath House at N Hampton Beach State Park | NHDRED | NHDRED Tom Mansfield | Jun-13 | \$590,000 | NHDRED Tom Mansfield 603.271.2606 tmansfield@dred.state.nh.us NHBPW PM Roger Dionne 603.271.3228 603.271.3515 F Rdionne@dot.state.nh.us |
| Nashua City Hall Clerk's Office Renovations D-B Renovations of Elm St Entrance Nashua City Hall | City Of Nashua, NH | D-B DL King/ Amoskeag | Feb-13 | \$170,445 | Building Mangr Nashua City Hall Jay Hunnewell 603.589.3340 hunnewellj@nashuaNH.gov |

Schedule A – List of Major Engineered Construction Projects Completed in the Past Five (5) Years

| <u>Name, Location and Description of Project</u> | <u>Owner</u> | <u>Design Engineer</u> | <u>Date Completed</u> | <u>Contract Price</u> | <u>Reference/Contact & Address & Phone</u> |
|---|----------------------------------|---|------------------------------|------------------------------|---|
| McKenna House Renovations Renovation Savlvation Army McKenna Houase | Salvation Army | HL Turner Group Inc. Paul Becht PE | Jan-13 | \$209,650 | HL Turner Group Inc. Paul Becht PE Sr Structural Engineer 603.228.1122 pbecht@hlturner.com |
| City of Nashua BPW Garage Upgrade D-B CNG Repair Facility at Nashua BPW Garage | City Of Nashua, NH | D-B DL King/ Amoskeag | Jan-13 | \$199,466 | D-B DL King/Amoskeag Superintendent of Streets Roy Sorenson 603.589.4709 SorensonR@nashuaNH.gov |
| Nashua City Hall Window Replacement PH II Renovations | City of Nashua | Jay Hunnewell | Nov-13 | \$68,000 | Jay Hunnewell HunnewellJ@nashuanh.gov 603.966.7674 |
| Manchester Housing Fire Restoration Fire Restoration Project | Manchester Hsg & Authority | MHA Construction Manager Mike Jolin | Mar-12 | \$44,680 | MHA Construction Manager Mike Jolin 603.624.2155 mjolin@manchesterhousing.org |
| NHBPW CTC Door Replacement Replace Store Front Entrance Door @ Bus Terminal | NHBPW | NHBPW Tom Carleton | Dec-11 | \$52,800 | NHBPW Tom Carleton 603.271.4523 tcarleton@dot.state.nh.us |

D.L. KING & ASSOCIATES, INC.

Schedule B - List of Current Projects Under Construction

3/30/2016

| Name, Location and Description of Project | Owner | Design Engineer | Contract Price | Amount Completed | Referances/Contact & Address & Phone |
|---|-------------------------|------------------------|-----------------------|-------------------------|---|
| NH State Dome Repair & Gilding; Concord, NH | State of NH | LBA Arch | \$ 1,400,000 | 279,124 | Ron White NHAS |
| Manchester RC Building Renovations Armory | State of NH | AES | \$ 1,375,505 | 1,375,505 | Jeff Shute |
| Crossroads Assisted Living Homes: Sub Al Terry P&H | Benchmark Ast Living | | \$ 747,800 | 650,000 | Jeff Skeen |
| Nashua Housing Elevator (5) Replacement/Reburshment | NHA | | \$ 1,263,750 | 650,000 | Scott Costa |
| Nashua Transit CNG Upgrade | City of Nashua | D L King | \$ 294,140 | 275,000 | Greg |
| D&M Station - Renovations Pennechuck Water | Pennichuck Water | H L Turner | \$ 464,200 | 385,000 | Chris |

Schedule C - Construction Experience of Principal Individuals Involved in Construction Operations

| <u>Name</u> | <u>Position</u> | <u>Date started with this organization</u> | <u>Date started working in construction</u> | <u>Prior positions and experience in construction</u> |
|-------------------------|------------------------|---|--|---|
| A. Dean King | Vice President | 1999 | 1990 | Civil Engineer/Corps of Engineers |
| William Pritchard | Project Manager | 2010 | 1980 | Construction Management |
| Arthue E. King, Jr.P.E. | CFO | 1999 | 1965 | Civil Engineer/Project Manager Sverdrup Corp, Jacobs Engineering |
| Curt Spencer | Civil Engineer | 2013 | 2013 | Project Manager/State of NH City of Nashua/Manchester |

**DIVISION 4
PERFORMANCE
AND
PAYMENT BONDS**

CONSTRUCTION PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

_____ (Name of Contractor)

_____ (Address of Contractor)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

_____ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto

_____ (Name of Owner)

_____ (Address of Owner)

hereinafter called **OWNER**, in the total aggregate penal sum of

_____ Dollars, \$ _____)

in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the **OWNER**, dated _____ day of _____ 20 ____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extension thereof which may be granted by the **OWNER**, with or without notice to the Surety and during the one year guaranty period, and if the **PRINCIPAL** shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the **OWNER** from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the **OWNER** all outlay and expense which the **OWNER** may incur in making good any default, then this obligation shall be void: otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to **WORK** to be performed thereunder or the specifications accompanying same shall in any way affect its obligation on this **BOND**, and it does hereby waive notice of any such change, extension of time alteration or addition to the terms of the contract or to the **WORK** or to the specifications.

PROVIDED, FURTHER, that it is expressly agreed that this **BOND** shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the **PRINCIPAL** and the **SURETY** to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this **BOND** and whether referring to this **BOND**, the contract or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the **OWNER** and the **CONTRACTOR** shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed _____ counterparts, each one of
(number)

which shall be deemed an original,
this _____ day of _____, 20 ____ .

ATTEST:

By: _____
(Principal) Secretary

(SEAL)

BY

Principal

(Address)

By: _____
Witness as to Principal

(Address)

ATTEST:

By _____
Witness as to Surety

(Address)

BY

(Surety)

Attorney - in - Fact

(Address)

NOTE: Date of **BOND** must not be prior to date of Contract.

If **CONTRACTOR** is Partnership, all partners should execute BOND

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of New Hampshire

CONSTRUCTION PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

_____ (Name of Contractor)

_____ (Address of Contractor)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

_____ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto

_____ (Name of Owner)

_____ (Address of Owner)

hereinafter called **OWNER** and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors and assigns, in the total aggregate penal sum of _____ Dollars, (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the **OWNER**, dated the _____ day of _____ 20____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the **WORK** provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such **WORK**, and for all labor cost incurred in such **WORK** including that be a subcontractor, and to any mechanic or material man lienholder whether it acquires its lien by operation of State or Federal Law; then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the subcontractors, and persons, firms, and corporations having a direct contract with the PRINCIPAL or its SUBCONTRACTORS.

PROVIDED FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the **WORK** to be performed thereunder or the **SPECIFICATIONS** accompanying the same shall in any way affect its obligation on this **BOND**, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the **WORK** or to the **SPECIFICATIONS**.

PROVIDED, FURTHER that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct contract with the PRINCIPAL shall have given written notice to any two of the following: The PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date on which PRINCIPAL ceased work on said CONTRACT, it being understood, however, that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this BOND and whether referring to this BOND, the contract or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED FURTHER, that no final settlement between the **OWNER** and the **CONTRACTOR** shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

**DIVISION 5
AGREEMENT**

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the _____ day of _____ in the year **2016** by and between the City of Nashua, New Hampshire (hereinafter called OWNER) and **DL King and Associates, Inc of 27 Tanglewood Drive** located in **Nashua, New Hampshire** and (its successors, transferees and assignees together hereinafter called CONTRACTOR).

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

ARTICLE 1 - WORK

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

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by: *Division of Public Works
Engineering Department
9 Riverside St
Nashua, NH 03062*

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Dates for Substantial Completion and Final Payment*

A. The Work shall be substantially completed by **August 26, 2016**. Work is substantially complete when all work is complete except punch list items. Final completion is **September 12, 2016**. Final completion is when all work, including punch list items, are completed and accepted by the City. The Contract Times commence to run as provided in paragraph 2.03 of the General Conditions, and ready for final payment, in accordance with paragraph 14.07 of the General Conditions.

ARTICLE 5 - CONTRACT PRICE

5.01 Subject to additions and deductions by Change Order, the OWNER shall pay CONTRACTOR, in accordance with the Contract Documents, the Contract Sum of:

Two Hundred Thirty-Three Thousand Eight Hundred Three and 40/100 Dollars **(\$233,803.40)**

The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work determined below:

A. for all Unit Price Work, an amount equal to the sum of the established Unit Price for each separately identified item of Unit Price Work times the estimated quantity of that item, as indicated in the attached Bid Schedule;

B. as provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

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

B. CONTRACTOR shall submit Applications for Payment under this agreement directly to:

**City of Nashua
Attn: Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn: Nick Caggiano**

To facilitate the proper and timely payment of applications, the City of Nashua requires that all invoices contain a valid **PURCHASE ORDER NUMBER**.

6.02 Progress Payments; Retainage

A. *Progress Payments.* The OWNER will once each month make a progress payment to the CONTRACTOR on the basis of an estimate of the total amount of work done to the time of the estimate and its value as prepared by the CONTRACTOR and approved by the ENGINEER. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

B. *Retainage.* The OWNER will retain a portion of the progress payment, each month, in accordance with the following procedures:

1. The OWNER will establish an escrow account in the bank of the OWNER'S choosing. The account will be established such that interest on the principal will be paid to the CONTRACTOR. The principal will be the accumulated retainage paid into the account by the OWNER. The principal will be held by the bank, available only to the OWNER, until termination of the contract.
2. Until the work is 50% complete, as determined by the ENGINEER, retainage shall be 10% of the monthly payments claimed. The computed amount of retainage will be deposited in the escrow account established above.
3. After the work is 50% complete, and provided the CONTRACTOR has satisfied the ENGINEER in quality and timeliness of the work, and provided further that there is no

specific cause for withholding additional retainage no further amount will be withheld. The escrow account will remain at the same balance throughout the remainder of the project.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall hold 2% retainage during the 1 (one) year warranty period and release it only after the project has been accepted.

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

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

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

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

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

D. CONTRACTOR has carefully studied all (if any): (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.

CONTRACTOR is entitled to rely upon the general accuracy of the "technical data" as provided in paragraph 4.2 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

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

H. CONTRACTOR has 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.

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

J. 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

8.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement;
2. General Conditions;
3. Supplementary Conditions;
4. Bid Bond;
5. Bid Form;
6. Performance Bond;
7. Payment Bond;
8. Certificate of Insurance
9. Technical Specifications as listed in Table of Contents
10. Addenda (numbers _____ to _____, inclusive);
11. Exhibits, as listed in the Table of Contents, to this Agreement
12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments
 - b. Change Order(s)
14. New Hampshire Department of Transportation “Standard Specifications for Road and Bridge Construction”, **latest** edition, incorporated by reference or unless otherwise indicated.
15. “Manual of Uniform Traffic Control Devices”, **latest** edition, incorporated by reference.
16. City of Nashua, Standard Specifications for Sewers and Drains, Revised, Approved and Adopted June 15, 1992, incorporated by reference.

- 17 City of Nashua, Standard Specifications for Road Construction, Approved and Adopted June 11, 1986, incorporated by reference.
 - 18 City of Nashua, Standard Specifications for Sidewalk Construction, Approved and Adopted August 28, 1995, incorporated by reference.
 - 19 City of Nashua Ordinance O-03-219 (Amended), Approved November 14, 2003.
 - 20 Fully Executed City of Nashua Purchase Order
- B. The documents listed in paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).
 - C. There are no Contract Documents other than those listed above in this Article 8.
 - D. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 9 - MISCELLANEOUS

9.01 *Terms*

- A. Terms used in this will have the meanings indicated in the General Conditions.

9.02. *Assignment of Contract*

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

9.03 *Successors and Assigns*

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

9.04 *Severability*

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

9.05 *Choice of Law and Venue*

A. This agreement shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere

Address for giving notices to Owner:

Division of Public Works

9 Riverside Street

Nashua, NH 03062

Address for giving notices to Contractor:

Agent for service of process:

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 ENGINEER on their behalf.

CITY OF NASHUA – OWNER

James Donchess, Mayor City of Nashua

Date: _____

CONTRACTOR:

By: _____
(Authorized Representative)

Print Name: _____

Date: _____

DIVISION 6
GENERAL CONDITIONS

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the Bidding Requirements or the 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. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).
7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.
8. *Bonds*--Performance and payment bonds and other instruments of security.
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*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications, the Drawings and the Purchases Order as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date Of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in

electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR 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 Substantial Completion; and (ii) 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. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *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.

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

23. *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.

24. *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.

25. *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.

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

27. *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.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *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.
30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.
31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.
32. *PCB's*--Polychlorinated biphenyls.
33. *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.
34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the contract Documents.
35. *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.
36. *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.
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. *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.
40. *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.
41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
42. *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.
43. *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.
44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, material man, 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.

46. *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.

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

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided in 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.

49. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 Terminology

A. Intent of Certain Terms or Adjectives

1. Whenever in the Contract Documents the terms "as allows," "as approved," or terms of like effect or import are used, or 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 action or determination will be solely to evaluate, in general, the completed 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 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 9.10 or any other provision of the Contract Documents.

B. Day

1. The work "day" shall constitute a calendar day of regular working hours except Saturdays, Sundays and any legal holiday.

C. Defective

1. The word "defective," when modifying the work "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or 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).

D. 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 furnish and install 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.

E. 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

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 Copies of Documents

A. OWNER shall furnish to CONTRACTOR up to 5 copies of the Contract Documents as are reasonably necessary for execution of the Work. 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 on the day indicated in the Notice to Proceed

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. *CONTRACTOR's Review of Contract Documents:* 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; however, 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. *Preliminary Schedules:* Within ten days after the effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for its 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 Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; 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.

C. *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.

2.06 Preconstruction Conference

A. Within 20 days after the Contract times start to run, but before any Work at the Site is started, a conference attended by 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.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 Initial Acceptance of Schedules

A. Unless otherwise provided in the Contract Documents, at least ten 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.B. CONTRACTOR shall have an additional ten 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 any specified Milestones and 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 therefore.

2. CONTRACTOR's schedule of Shop Drawing and Sample 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 called for by one is as binding as if called for 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, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees 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 Document.

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

1. 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 report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

2. In case of discrepancy, calculated dimensions will govern over scaled dimensions, Drawings will govern over Standard Specifications, and Construction Specifications will govern over both Drawings and Standard Specifications. The CONTRACTOR shall take no advantage of any apparent error or omission in the Drawings or Construction Specifications, and the ENGINEER will be permitted to make such corrections and interpretations as may be deemed necessary to fulfill the intent of the Contract Documents.

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 in one or more of the following ways: (i) a Written Amendment, or (ii) a Change Order; order B. The requirements of the Contract Documents may be supplemented and minor variations and deviations in the Work may be authorized, by one of more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) 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 any of the Work under a direct or indirect contract with OWNER: (i) shall not 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 Consultant, including electronic media editions. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL 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, CONTRACTOR may make a Claim therefore 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.

D. If corporate or private property interferes with the Work, CONTRACTOR shall notify, in writing, the OWNER's of such property, advising them of the nature of the interference and shall arrange to cooperate with them for the protection or disposition of such property. CONTRACTOR shall furnish the ENGINEER with copies of such notifications and with copies of any agreements between the CONTRACTOR and the property OWNER's concerning such protection or disposition.

E. CONTRACTOR shall take all necessary precautions for the protection of corporate or private property, such as walls and foundations of buildings, vaults, underground structures of public utilities, underground drainage facilities, overhead structures of public utilities, trees, shrubbery, crops, and fences contiguous to the Work, of which the Contract does not provide for removal. CONTRACTOR shall protect and carefully preserve all official survey monuments, property marks, section markers, and Geological Survey Monuments, or other similar monuments, until OWNER, or authorized Surveyor or agent has witnessed or otherwise referenced their location or relocation. CONTRACTOR shall notify the ENGINEER of the presence of any such survey or property monuments as soon as they are discovered.

F. CONTRACTOR shall be responsible for the damage or destruction of property of any character resulting from neglect, misconduct, or omission in its manner or method of execution or the non-execution of the work, or caused by defective work or the use of unsatisfactory materials, and such responsibility shall not be released until the work shall have been completed and accepted and the requirements of the Construction Specifications complied with.

G. Whenever public or private property is so damaged or destroyed, the CONTRACTOR shall at its own expense, restore such property to a condition equal to that existing before such damage or injury was done by repairing, rebuilding, or replacing it as may be directed, or the CONTRACTOR shall otherwise make good such damage or destruction in an acceptable manner. If the CONTRACTOR fails to do so, the ENGINEER may, after giving the CONTRACTOR notice in writing, proceed to repair, rebuild, or otherwise restore such property as may be deemed necessary, and the cost thereof shall be deducted from any compensation due, or which may become due, the CONTRACTOR under its Contract.

4.02 Subsurface and Physical Conditions

A. Reports and Drawings:

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, ENGINEER, or any of ENGINEER's Consultants 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. Potential for Hazardous Materials:

Work may include excavation through, and removal of, soils potentially containing undocumented asbestos-containing or other hazardous materials. Should the CONTRACTOR, while performing work under this Contract, uncover hazardous materials, as defined in federal, state and local regulations, he/she shall immediately notify the Engineer. No further disturbance of the area shall occur until the Engineer has collected and analyzed a representative sample of the suspected material. The area shall be cordoned off and covered with 6-mil polyethylene sheeting and await further directions from the Engineer.

4.03 Differing Subsurface or Physical Conditions

A. Notice: If CONTRACTOR believes that any subsurface or physical conditions 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 9.08 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 in respect of 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 within the time and 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 therefore as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants 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 OWNER's 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 OWNER's 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.

If ENGINEER concludes that a change in the Contract Documents is required, 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 therefore as provided in paragraph 10.05.

CONTRACTOR shall notify the following underground utility locating service at least three full working days prior to beginning work: Dig Safe System, Inc. 1-800-344-7233.

A list of the major public utilities servicing the work area follows. The list indicates the name and telephone number of the responsible authority of the various utilities which should be notified if conflicts or emergencies arise during the progress of the work.

| | |
|--|----------------|
| <u>Electricity</u> – Eversource | 1-800-662-7764 |
| <u>Natural Gas</u> – Liberty Energy | 1-603-222-3705 |
| <u>Water</u> – Pennichuck Water Works | 1-603-882-5191 |
| <u>Telephone</u> –Fairpoint Communications | 1-603-645-3500 |
| <u>Cable TV</u> – Comcast | 1-888-633-4266 |
| <u>Fire Alarm Cable</u> – Nashua Fire Department | 1-603-594-3641 |

2. At points where the CONTRACTOR's operations are adjacent to public and private utilities, CONTRACTOR shall not commence work until CONTRACTOR has made all arrangements necessary for the protection of utilities.

3. CONTRACTOR shall coordinate and cooperate with the OWNER's of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication of rearrangement work may be reduced to a minimum, and that services rendered by those parties will not be unnecessarily interrupted.

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, ENGINEER or any of ENGINEER's Consultants 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); 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 therefore as provided in paragraph 10.05.

F. If after receipt of such written a 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 therefore 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, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, 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.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to 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 CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, 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 such 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 within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 Licenses Sureties and Insurers

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by 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 coverage's so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

B. All Sureties and Insurance Companies shall be authorized to do business in the State of New Hampshire and shall have an A.M. Best rating of "A(FSC-VIII)" or better. In the event that the Insurer fails to maintain an A.M. Best rating "A(FSC-VIII)" or better, the CONTRACTOR shall immediately retain a Surety which does meet the above requirements.

5.03 Certificates of Insurance

A. CONTRACTOR shall deliver to OWNER 10 days prior to Work, 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.

5.04 CONTRACTOR's Liability Insurance

A. CONTRACTOR shall purchase and maintain such liability and other insurance as is required by OWNER which will provide protection from claims 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.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall:

1. Include as additional insured (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER.

2. The CONTRACTOR must maintain the following lines of coverage and policy limits for the duration of the contract. Any subcontractors used by the CONTRACTOR are subject to the same coverage and limits and is a subcontractor of the CONTRACTOR and not the OWNER. It is the responsibility of the CONTRACTOR to update Certificates of Insurance during the term of the contract. Provide coverage for not less than the following amounts or greater:

General Liability

\$1,000,000 per Occurrence

\$2,000,000 Aggregate

City of Nashua Additional Insured

Motor Vehicle Liability ***coverage must include all owned, non-owned and hired vehicles.**

\$1,000,000 Combined Single Limit

Automobile Liability

City of Nashua Additional Insured

Workers' Compensation Coverage according to Statute of the State of New Hampshire:

\$100,000 / \$500,000 / \$100,000

All bidders and subcontractors at every tier under the bidder will fully comply with NH RSA Chapter 281-A, "Workers' Compensation".

It is the responsibility of the contractor to submit to the City of Nashua certificates of insurance for all subcontractors prior to the start of the project. It is the responsibility of the contractor to provide the City with updated certificates of insurance for the contractor and all subcontractors 10 days prior to the expiration of coverage. The City may, at any time, order the contractor to stop work, suspend the contract or terminate the contract for non-compliance. All subcontractors are subject to the same insurance requirements as the contractor.

3. Include completed operations insurance;

4. Include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 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 thirty 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 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 (and 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).

C. CONTRACTOR agrees to maintain all required insurance coverage throughout the entire term of the contract. If CONTRACTOR does not maintain coverage throughout the entire term of the contract, CONTRACTOR agrees that OWNER may, at any time the coverage is not maintained by CONTRACTOR, order the CONTRACTOR to stop work,

suspend the contract, or terminate the contract. CONTRACTOR further agrees, if applicable, as a precondition to the performance of any work under this contract and as a precondition to any obligation of the OWNER to make any payment under this contract to provide the OWNER with a certificate of a qualified insurer.

5.05 Property Insurance

A. CONTRACTOR must purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost of the Work. This insurance shall:

1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
2. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
3. 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 the materials and equipment have been included in an application for payment recommended by ENGINEER; and
4. allow for partial utilization of the Work by OWNER;
5. include testing and startup; and
6. 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. CONTRACTOR shall be responsible for any deductible or self-insured retention. The risk of loss within the 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. 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.

C. All the policies of insurance (and the certificates or other evidence of the policy) 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 after 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.

5.06 Waiver of Rights

A. CONTRACTOR intends that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured (and the officers, directors, partners, employees, agents, and other 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 by the policy. All CONTRACTOR policies must 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 insured or additional insured there under. CONTRACTOR waive all rights against OWNER each other and their respective officers, directors, partners, employees, agents, and other 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, ENGINEER, ENGINEER's Consultants, 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, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused.

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, but 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. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto 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, lay out, and construct the Work 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, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

C. The following list of streets may not be opened or worked in between the hours of 7:00 AM and 9:00 AM and 3:00 PM and 6:00 PM, Monday through Friday of each week:

***Broad Street
East Hollis Street
Concord Street
Amherst Street
D. W. Highway
Kinsley Street
East Dunstable Road
Main Street***

6.03 Services, Materials, and Equipment

A. Unless otherwise specified in the General Requirements, 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 warranties and guarantees specifically called for 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. 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 (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

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: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, 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 therefore. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure 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 first 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 shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, 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 work on the Project) to adapt the design to the proposed substitute item and 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. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also 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, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures*:: If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and 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 procedure for review by ENGINEER will be similar to that provided in subparagraph 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 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 time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such 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 or Written Amendment signed. 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 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 shall it 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, ENGINEER, ENGINEER's Consultants, 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, and other 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. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants 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. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility Owner's for capital costs related thereto, such as plant investment fees.

6.09 Laws and Regulations

A. CONTRACTOR shall give all notices and 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 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 may 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 therefore as provided in paragraph 10.05.

D. CONTRACTOR shall comply with all local laws, ordinances, and statutes, all provisions of the Revised Statutes Annotated, all provisions of the federal Davis-Bacon Act for projects with federal funding, and all regulations promulgated under either statute. Copies of the "City of Nashua Prevailing Wage Rates for Public Works", as determined by U.S. Department of Labor and "General Wage Determinations," as determined by the U.S. Department of Labor, are available for inspection at the City of Nashua Division of Public Works, 9 Riverside Street, Nashua, New Hampshire. If the provisions of the Davis-Bacon Act apply, all employees of the CONTRACTOR must be paid not less than the wage which is the greater of the Federal wage determinations. The hourly and daily rate of wages to be paid each class of mechanics and workers must be posted on the project site in a place generally visible to the employees.

E. If the Davis-Bacon Act applies, CONTRACTOR shall furnish to the OWNER within seven days after payment date of the weekly payroll period, a statement of wages paid for each of the CONTRACTOR's employees or a payroll report. If the Davis-Bacon Act applies, CONTRACTOR shall furnish to the OWNER within seven days after payment date of the weekly payroll period, a statement of wages paid for each of any subcontractor's employees or a payroll report for each subcontractor. The statement or report must include the CONTRACTOR's certification of compliance with the requirements of the supplementary condition. CONTRACTOR agrees that failure to comply with the portion of this supplementary condition requiring CONTRACTOR to furnish a certified statement of wages or payroll report will, in addition to any other retention allowed under this contract or under state or federal law, allow the OWNER to unilaterally, without notice to CONTRACTOR, retain an amount of up to 10% from each progress payment until the OWNER determines CONTRACTOR has complied with the provisions of this supplementary condition.

F. If the Davis-Bacon Act applies to work to be performed under this contract, CONTRACTOR shall furnish to the OWNER within seven days after payment date of the weekly payroll period, a statement of wages paid for each of CONTRACTOR's employees and for each of any subcontractor's employees or a payroll report from CONTRACTOR and from each subcontractor. Each statement or report must include the certification by CONTRACTOR of compliance with the provisions of the Davis-Bacon Act.

G. Workers' Compensation Coverage.

1. CONTRACTOR agrees as a precondition to the performance of any work under this contract and as a precondition to any obligation of the OWNER to make any payment under this contract to provide the OWNER with a certificate of a qualified insurer. CONTRACTOR agrees that notice of any lapse in coverage or nonpayment of coverage that the CONTRACTOR is required to maintain should be mailed to:

Risk Management
City of Nashua
229 Main Street
Nashua, NH 03060

2. CONTRACTOR agrees to maintain required workers' compensation coverage throughout the entire term of the contract. If CONTRACTOR does not maintain coverage throughout the entire term of the contract, CONTRACTOR agrees that OWNER may, at any time the coverage is not maintained by CONTRACTOR, order the CONTRACTOR to stop work, suspend the contract, or terminate the contract. For each six-month period this contract is in effect, CONTRACTOR agrees, prior to the expiration of the six-month period, to provide another written request to its insurer for the provision of a certificate and notice of lapse in or nonpayment of coverage. If CONTRACTOR does not make the request or does not provide the certificate before the expiration of the six-month period, CONTRACTOR agrees that OWNER may order the CONTRACTOR to stop work, suspend the contract, or terminate the contract.

H. To be deemed a responsive bid, the list of subcontractor form must be submitted even if no subcontractors are required to be listed. Submittal is as follows:

1. Each bid submitted to any officer, department, board or commission for the construction of any public work or improvement must include:

a. The name of each subcontractor who will provide labor or a portion of the work or improvement to the CONTRACTOR for which he will be paid an amount exceeding 5 percent of the prime CONTRACTOR's total bid. Within 2 hours after the completion of the opening of the bids, the general contractors who submitted the three lowest bids must submit a list of the name of each subcontractor who will provide labor or a portion of the work or improvement to the CONTRACTOR for which he will be paid an amount exceeding 1 percent of the prime CONTRACTOR's total bid or \$50,000, whichever is greater, and the number of the license issued to the subcontractor. If a general CONTRACTOR fails to submit such a list within the required time, his bid shall be deemed not responsive.

b. A description of the portion of the work or improvement which each subcontractor named in the bid will complete.

2. The CONTRACTOR shall list in his bid the name of a subcontractor for each portion of the project that will be completed by a subcontractor.

3. A CONTRACTOR whose bid is accepted shall not substitute any person for a subcontractor who is named in the bid, unless:

a. The awarding authority objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

b. The substitution is approved by the awarding authority and:

(i) The subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the CONTRACTOR which was offered to the subcontractor with the same terms that all other subcontractors on the project were offered;

(ii) The named subcontractor files for bankruptcy or becomes insolvent; or

(iii) The named subcontractor fails or refuses to perform his subcontract within a reasonable time or is unable to furnish a performance bond and payment bond.

I. If blasting or use of explosives is necessary for prosecution of Work, the CONTRACTOR shall provide the ENGINEER with a blasting plan in compliance with OSHA, State, and local regulations, laws, ordinances, and requirements. CONTRACTOR shall exercise the utmost care not to endanger life or property. CONTRACTOR shall be responsible for all damage resulting from the use of explosives. CONTRACTOR shall notify each property OWNER and utility company having structures or facilities in proximity to the site of the work of its intentions to use explosives. Such notice shall be given sufficiently in advance to enable the utility companies to take such steps as they may deem necessary to protect their property from injury.

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.

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 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.

E. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants 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.

6.12 Record Documents

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, 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.

B CONTRACTOR shall mark up one set of paper prints to show the As-built conditions. They shall include all the information shown on the Contract Drawings and a record of all deviations, modifications, or changes from those Drawings, however minor, which were incorporated in the Work, all additional work not appearing on the Contract Drawings and all changes which are made after final inspection of the Contract Work. These As-built marked prints shall be kept current and available on the job site at all times. All changes from the Contract Drawings which are made in the Work or additional information which might be uncovered in the course of construction shall be accurately and neatly recorded as they occur by means of details and notes. No construction work shall be concealed until it has been inspected, approved, and recorded. The As-built marked prints will be jointly inspected for accuracy and completeness by the ENGINEER'S representative and a responsible representative of the CONTRACTOR prior to submission of the monthly pay estimate. Failure to keep the As-built marked prints on a current basis shall be sufficient justification to suspend pay estimates. The drawings shall show the following information, but not be limited to:

1. The location of any utility lines or other installations of any kind or description known to exist within the construction area. The location includes dimensions of permanent features.
2. The location and identification of all surface installations within 100 feet of the construction work.
3. The location and dimensions of any changes within the building or structure.
4. Correct grade or alignment of roads, structures, or utilities if any changes were made from Contract Drawings.
5. Correct elevations if changes were made in site grading.
6. Changes in details or design or additional information obtained from working drawings specified to be prepared or furnished by the CONTRACTOR including but not limited to fabrication, erection, installation plans and placing details, pipe sizes, insulation material, dimensions or equipment foundations, etc.
7. The topography and grades of all drainage installed or affected as a part of the Work.
8. All changes or modifications which result from the final inspection.

The As-built marked prints shall be delivered to the ENGINEER at the time of final inspection for ENGINEER's review and approval. All approval and acceptance of As-built drawings shall be accomplished before final payment is made to the CONTRACTOR.

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 Owner's of adjacent property and of Underground Facilities and other utility Owner's when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER'S Consultant, 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). 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).

C. Occupational Safety and Health Standards: CONTRACTOR's methods of construction and safety requirements, including but not limited to trench excavation and shoring where applicable, shall conform to the requirements of the Occupational Safety and Health Standards for the Construction Industry. The document entitled "Occupational Safety and Health Standards for the Construction Industry" (29 CFR PART 1926) with Amendments as of February 1, 1998, including 29 CFR part 1910 General Industry Safety and Health Standards Applicable to Construction, is not attached to the Contract Documents. Said requirements as identified and established above are incorporated herein by reference.

D. Power Lines: No equipment of any kind shall be used or permitted within such proximity to the conductors of the Public Services of New Hampshire power lines as to be in violation of the safe working clearance prescribed by the National Electrical Safety Code.

E. Protection of Utilities: The CONTRACTOR shall verify all utility locations prior to the start of construction. This shall include, but not necessarily limited to: irrigation and drainage ditches, culverts, water lines, sewer lines, telephone cables, cable television, gas lines and electric lines. Prior to the start of construction the CONTRACTOR shall call Dig Safe System, Inc. 1-800-344-7233 (two full working days' notice required). The failure of any utility to subscribe to DIGS shall not relieve the CONTRACTOR from the responsibility of protection of that utility on the site. Any physical structure (i.e. curbs, sidewalks, paving, buildings, landscape improvements, utilities, etc., damaged by the CONTRACTOR shall be repaired or replaced in a condition equal to or better than the condition prior to the damage. Such repair or replacement shall be accomplished at the CONTRACTOR's expense without additional compensation from the OWNER.

F. CONTRACTOR shall ensure that its activities and activities of its employees, agents and subcontractors, and their employees and agents (including all sub-subcontractors), are in strict compliance with all Environmental Protection Agency, New Hampshire Department of Environmental Services, and Department of Transportation regulations and all other applicable federal, state and local statutes, ordinances, regulations and rules, including without limitation, the Federal Occupational Safety and Health Act of 1970 (OSHA) as amended and the standards and regulations issued thereunder, and all other statutes, ordinances, regulations, rules, standards and requirements of common law in relation to industrial hygiene and safety, and the protection of health and the environment.

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. Work Site is subject to safety inspection by the City Safety Representative at any and all times.

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, Change Order will be issued.

6.17 Shop drawings and Samples

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The 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.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, 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.

D. Submittal Procedures

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

- a. All field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
- b. 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 means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and
- d. CONTRACTOR 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 indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. *ENGINEER's Review*

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample 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 in 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 of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.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 approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. *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, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. 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.

B. 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 thereof by OWNER;
4. Use or occupancy of the Work or any part thereof by OWNER;
5. Any acceptance by OWNER or any failure to do so;
6. Any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;
7. Any inspection, test, or approval by others; or
8. Any correction of defective Work by OWNER.

6.20 Indemnification

A. Regardless of the coverage provided by any insurance, Contractor agrees to indemnify and shall defend and hold harmless the City, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorneys' fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Contractor's indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

B. In any and all claims against OWNER or ENGINEER, 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.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:
The preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications.

ARTICLE 7 - OTHER WORK

7.01 Related Work at Site

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefore, or have other work performed by utility Owner's. 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 therefore as provided in paragraph 10.05.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility OWNER (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and 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. Unless otherwise provided in the Contract Documents, 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.

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 and 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 Promptly When Due

A. OWNER shall make payments to CONTRACTOR promptly 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

See 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, of 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 9.10, and 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 responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. 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 thereof of such other individual or entity will be as provided in the supplementary Conditions.

9.04 Clarifications and Interpretations

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. 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, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefore as provided in paragraph 10.05.

9.05 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 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, as a result of a Field Order, a Claim may be made therefore as provided in paragraph 10.05.

9.06 Rejecting Defective Work

A. ENGINEER will have authority to disapprove or 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.

9.07 Shop Drawings, Change Orders and Payments

- A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.
- B. In connection with ENGINEER's authority as to change orders, see Articles 10, 11, and 12.
- C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 Determinations for Unit Price Work

A ENGINEER will have authority to determine the actual quantities and classifications of items of Unit Price Work performed by CONTRACTOR, and the written decisions of ENGINEER on such matters will be final, binding on OWNER and CONTRACTOR and not subject to appeal (except as modified by ENGINEER to reflect changed factual conditions).

9.09 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 there under. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not be liable in connection with any interpretation or decision rendered in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 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 or 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 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 Authorized Changes in the Work

A. Without invalidating the Agreement 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 Written Amendment or a Change Order. 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 Change Order, a Claim may be made therefore 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 (or Written Amendments) 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 Change Order ; and
3. Changes in the Contract Price and 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 Disputes – Not Insurance Related

A. Notice: Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 10 days) after the start of the event giving rise thereto. Notice of the amount or extent of the dispute, or other matter with supporting data shall be delivered to the ENGINEER, Risk Management Department and the other party to the Contract within 60 days after the start of such event a dispute for an adjustment in Contract Price shall be prepared in accordance with the provisions in paragraph 12.01.B. A dispute for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each dispute shall be accompanied by claimant's written statement that the adjustment disputed

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).

B. ENGINEER'S Decision: ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such dispute, or other matter will be final and binding upon CONTRACTOR unless:

1. An appeal from ENGINEER'S decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. If no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have the respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the dispute in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the submittal of the opposing party, if any.

D. No dispute for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH 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 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 the 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 of 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.

6. Rental rates shall be determined as follows:

a. The base rates shall be those established in publications and revisions thereto entitled "Rental Rate Blue Book for Construction Equipment" or the "Rental Rate Blue Book for Older Construction Equipment" as published by K-III, 1735 Technology Drive, Suite 401, San Jose, CA 95110-1313, Phone (408) 467-6700.

b. Attachments (e.g. tractor with ripper and dozer or tractor with loader and backhoe) will be included in the hourly rental rate only when deemed essential to the work as determined the Engineer. When multiple attachments are approved for use and are being used interchangeably, the attachment having the higher rental rate shall be the only one included for payment.

c. No direct payment will be made for necessary accessories (including replenishing blades, augers, teeth, hoses, bits, etc.) if not listed in the Rental Rate Blue Book.

d. No compensation will be allowed for shop tools having a daily rental rate of less than \$10 as set forth in Section 18 of the Rental Rate Blue Book.

i. If ordered to use equipment not listed in the aforementioned publications, the Engineer will establish a rental rate for such equipment. CONTRACTOR shall furnish cost data that might assist in the establishment of such rental rate.

ii. Payment will be made for the actual time that such equipment is in operation on the work.

iii. Authorized standby time for idle equipment shall be paid at 50% of the specified rate, less the estimated operating cost per hour. No markup will be added for overhead and profit.

iv. Rental rate paid as above provided shall include the cost of fuel, oil, lubrication, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance and all incidentals. CONTRACTOR shall provide the Engineer with a complete Force Account Equipment Listing for each piece of equipment utilized.

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

f. 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.

g. 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, provided such losses and damages have resulted from 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. 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.

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

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

j. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim

k. When all the Work is performed on the basis of cost-plus, 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, 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 expense, 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 as itemized cost breakdown together with supporting data.

11.02 Cash 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 as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. The allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the 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.

B. 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. The estimated quantities of items of the 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 subjects to the provisions of paragraph 9.08

B. 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.

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 or by a Written Amendment. 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 an 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 addition 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 (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) 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 (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 Delays beyond CONTRACTOR's Control

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore 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.

12.04 Delays within CONTRACTOR's Control

A. The Contract Times (or Milestones) will not be extended due to 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.

12.05 Delays beyond OWNER's and CONTRACTOR's Control

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 Delay Damages

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. Delays caused by or within the control of CONTRACTOR; or
2. Delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, flood, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone from whom OWNER is responsible.

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, ENGINEER'S Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interest 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.B; and
3. As otherwise specifically provided in the Contract Documents.
4. That costs incurred by OWNER due to retesting, reinspection, or standby time due to unacceptable materials, or workmanship provided by the CONTRACTOR, or due to poor scheduling by the CONTRACTOR of tests of

inspections, will be deducted from the payments to the CONTRACTOR. CONTRACTOR shall stop work as necessary to allow for inspections and tests by OWNER and ENGINEER.

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.

G. The OWNER intends to provide inspection for the project. The inspector will be available during a forty (40) hour period during the week from Monday through Friday. In the event the CONTRACTOR receives permission from the OWNER and elects to work more than forty hours during the week or more than 10 hours in one day, or on a Saturday, Sunday, or legal holiday, the CONTRACTOR shall be responsible for all inspection, engineering and testing costs incurred during that period. For all inspection and testing work performed on Saturday, Sunday, or legal holidays the minimum chargeable time shall be four (4) hours. The OWNER reserves the right to deduct these inspection, engineering, and testing costs directly from the CONTRACTOR'S payments.

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. If it is found that such 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 therefore as provided in paragraph 10.05. If, however, such 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 Milestones), 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 therefore 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 of 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. 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, 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).

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 Laws or Regulations or 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: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting there from. If CONTRACTOR does not promptly comply with the terms of such 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, and 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 work of others) will be paid by CONTRACTOR.

B. 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 or by Written Amendment.

C. Where defective Work (and damage to other Work resulting there from) 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.

D. 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 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 therefore 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 and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and 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 therefore 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 (or Milestones) 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 2.01.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 Payment

A. Applications for Payments

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to OWNER 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. Any request for partial or final payment shall specifically list the work completed. **To facilitate the proper and timely payment of applications, the OWNER requires that all applications must reference a valid PURCHASE ORDER NUMBER, as submitted to CONTRACTOR under the Notice to Proceed, be in original format; OWNER will not authorize payments from carbon or Xerox copies, and mailed directly to the following address:**

**City of Nashua
Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn: Nick Caggiano**

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 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 date 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 9.08 and to any other qualifications stated in the recommendation); and

c. The conditions precedent to CONTRACTOR's being entitled to such payment appears 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: (i) 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 (ii) 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 to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or 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 referred to 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 Written Amendment or 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. Not more than 30 days after presentation of the application for payment to OWNER with ENGINEER's recommendation, the amount recommended will 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 must 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. Promptly thereafter, 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 therefore. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and 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 therefore. 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. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation 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.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 Partial Utilization

A. Use by OWNER at OWNER's option of 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, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If 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. 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, 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.

2. No 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: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) 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. 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 of 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 will become due and, when due, 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 and recommendation of ENGINEER, and without terminating the Agreement, 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 CONTRACTOR against OWNER other than those previously made in writing which are 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 allowed 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 therefore as provided in paragraph 10.05.

B. If the performance of all or any part of the work is suspended, delayed or interrupted for an unreasonable period of time by an act of the OWNER in administration of the Contract, or by the OWNER's failure to act within the time specified in the Contract (or if no time is specified, within a reasonable time), the OWNER will make an adjustment for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and modify the Contract in writing. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR, or (2) for which an equitable adjustment is provided for or excluded under any other provision of the Contract.

C. No claim under paragraphs 15.01.A or 15.01.B shall be allowed unless the amount claimed is asserted in writing as soon as practicable after the termination of such suspension, delay or interruption, but no later than the date of application for final payment under the contract.

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 the surety, if any) seven days written notice, terminate the services of CONTRACTOR, 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 that could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER had paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. 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, 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.

C. Where CONTRACTOR's service 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.

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, elect to terminate the Contract. In such cases, CONTRACTOR shall be paid (without duplication of any items):

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

C. This Contract may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the CONTRACTOR is given written notice (delivered by certified mail, return receipt requested) of intent to terminate, and an opportunity for consultation with the terminating party prior to termination.

D. If termination for default is effected by the OWNER, and equitable adjustment in the price provided for in this Contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the CONTRACTOR at the time of termination may be adjusted to cover any additional costs to the OWNER because of the CONTRACTOR's default. If termination for default is effected by the CONTRACTOR, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the CONTRACTOR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the CONTRACTOR relating to commitments which had become firm prior to the termination.

E. Upon receipt of a termination action under paragraphs 15.03.C or 15.03.D above, the CONTRACTOR shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER all data, Drawings, Specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONTRACTOR in performing this Contract, whether completed or in process.

F. Upon termination under paragraphs 15.03.C or 15.03.D above, the OWNER may take over the work and may award another party a contract to complete the work under this Contract.

G. If, after termination for failure of the CONTRACTOR to fulfill contractual obligations, it is determined that the CONTRACTOR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Contract Price shall be made as provided in paragraph 15.03.D of this clause.

15.04 CONTRACTOR May Stop Work or Terminate

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or 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. 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.

B. This Contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under the Contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 Methods and Procedures

A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

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 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 if 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 or, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws and Regulations, by special warranty or guarantee, or by other provisions of the contract Documents, and 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, will survive final payment, completion, and an acceptance of the Work or termination or completion of the Agreement.

17.05 Controlling Law

A. The Contract is to be governed by the law of the state in which the Project is located, and any litigation arising out of this Contract shall be brought in a court located in the State of New Hampshire.

17.06 Access to Records

A. At all times during regular business hours, CONTRACTOR shall provide full and free access to the OWNER, ENGINEER, and State of New Hampshire to any books, documents, papers, and records related to the work for the purpose of examination, audit, and duplication. The CONTRACTOR shall maintain all required accounts, records, and books for three years after final completion of the work.

17.07 Road Closures and Traffic Delays

A. Partial or full closure of streets in order to facilitate construction will be permitted, or required by the Engineer in accordance with the following:

- 1. If the CONTRACTOR proposes a closure, the CONTRACTOR notifies the OWNER in writing at least 5 days prior to the proposed closure of his intent to close the road.
- 2. At least 5 days prior to the proposed closure, the CONTRACTOR shall submit a detour traffic plan for each location being detoured.
- 3. The CONTRACTOR shall install standard traffic control devices in accordance with the Detour Signage plan provided in the bid documents and the Manual on Uniform Traffic Control Devices (MUTCD.)
- 4. The detour signage shall be covered when the road closure is not in effect.

B. CONTRACTOR shall notify the following agencies of any traffic delays or road closures three days in advance of the work:

| | |
|--------------------------------------|-----------------------|
| Nashua Police Department: | (603) 594-3500 |
| Nashua Fire Department: | (603) 594-3652 |
| School Bus Garage: | (603) 594-4300 |
| Nashua Solid Waste Department | (603) 589-3410 |
| Nashua Building Department | (603) 589-3080 |

17.08 Prohibited Interests

CONTRACTOR shall not allow any officer or employee of the OWNER to have any indirect or direct interest in this contract or the proceeds of this contract CONTRACTOR warrants that no officer or employee of the OWNER has any direct or indirect interest, whether contractual, noncontractual, financial or otherwise, in this contract or in the business of CONTRACTOR. If any such interest comes to the attention of CONTRACTOR at any time, a full and complete disclosure of the interest shall be immediately made in writing to the OWNER. CONTRACTOR also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. CONTRACTOR further warrants that no person having such an interest shall be employed in the performance of this contract. If OWNER determines that a conflict exists and was not disclosed to the OWNER, it may terminate the contract at will or for cause in accordance with Article 15.02.

In the event Contractor (or any of its officers, partners, principals, or employees acting with its authority) is convicted of a crime involving a public official arising out or in connection with the procurement of work to be done or payments to be made under this contract, City may terminate the contract at will or for cause in accordance with paragraph 9. Upon termination, Contractor shall refund to the City any profits realized under this contract, and Contractor shall be liable to the City for any costs incurred by the City in completing the work described in this contract. At the discretion of the City, these sanctions shall also be applicable to any such conviction obtained after the expiration or completion of the contract.

Contractor warrants that no gratuities (including, but not limited to, entertainment or gifts) were offered or given by Contractor to any officer or employee of the City with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this contract. If City determines that such gratuities were or offered or given, it may terminate the contract at will or for cause in accordance with Article 15.02.

The rights and remedies of this section shall in no way be considered for be construed as a waiver of any other rights or remedies available to the City under this contract or at law.

DIVISION 7
SUPPLEMENTARY CONDITION

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract 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 2 – PRELIMINARY MATTERS

SC-2.06B Subcontractor's Pre-Construction Meetings

Each Individual Subcontractor will be required to attend a Pre-Construction Meeting to discuss technical, safety, schedule and other issues. Each meeting shall be attended by the Subcontractor's responsible person in charge for the work and by the contractor's superintendent.

LIST OF EXHIBITS

- A. Notice of Award
- B. Notice to Proceed
- C. Change Order
- D. Certificate of Substantial Completion
- E. Certificate of Final Completion
- F. Consent of Surety for Final Payment

**DIVISION 8
EXHIBITS**

NOTICE OF AWARD

DATED: _____

TO: _____

(Bidder)

ADDRESS: _____

OWNER'S CONTRACT NO. : _____

PROJECT: _____

(Insert name of Contract as it appears in the Bidding Document)

You are notified that your Bid dated _____ for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a contract for

as advertised plus

addendums.

(Indicate total Work, alternatives or sections or Work awarded)

The Contract Price of your contract is

(\$ _____)

The proposed Agreement that the OWNER expects to execute, accompanies this Notice of Award.

1. You must deliver to the OWNER 3 fully executed counterparts of the proposed Agreement that the OWNER expects to execute
2. You must deliver to the OWNER the Contract Security (Bonds), as specified in the General Conditions (paragraph 5.01), and Certificate of Liability Insurance, as specified in General Conditions (paragraph 5.04).
3. (List other conditions precedents).

Failure to comply with these conditions within the time specified will entitle **OWNER** to consider your bid in default, to annul this Notice of Award and to declare your Bid Security forfeited.

By _____
(FOR THE CITY OF NASHUA)

(TITLE)

NOTICE TO PROCEED

DATED: _____

TO: _____
(Contractor)

ADDRESS: _____

OWNER'S CONTRACT NO. _____

PROJECT: _____
(Insert name of Contract as it appears in the Bidding Document)

You are notified that the Contract Times under the above contract will commence to run on _____, 20____. By that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the dates of Substantial Completion and Final Completion are _____ and _____, respectively.

Also before you may start any Work at the site you must:

(Add other requirements)

By _____
(For the City of Nashua)

(Title)

CHANGE ORDER

No.

PROJECT: _____

OWNER'S CONTRACT NO: _____

EXECUTED CONTRACT DATE: _____

DATE OF ISSUANCE: _____ EFFECTIVE DATE: **Upon City Approval**

OWNER: _____ **City of Nashua, NH**

OWNER's Purchase Order NO.: _____

CONTRACTOR: _____

ENGINEER: _____ **DPW Engineering**

You are directed to make the following changes in the Contract Documents:

Description:

Justification:

Summary

| <u>CHANGE IN CONTRACT PRICE:</u> | | <u>CHANGE IN CONTRACT TIMES:</u> | |
|--|---|--|---|
| Original Contract Price | \$ | Original Contract Times | Substantial completion: Ready for final payment: |
| Net changes from previous Change Orders | \$ | Net change from previous Change Orders | |
| Contract Price prior to this Change Order | \$ | Contract Times prior to this Change Order | |
| | | Substantial completion: Ready for final payment: | |
| Net Increase (decrease) of this Change Order | \$ | Net Increase (decrease) of this Change Order | |
| Contract Price with all approved Change Orders | \$ | Contract Times with all approved Change Orders | |
| | | Substantial completion: Ready for final payment: | |
| <u>RECOMMENDED:</u> | <u>ACCEPTED:</u> | <u>APPROVED:</u> | |
| By: _____ DPW Engineering Engineer (Authorized Signature) | By: _____ Name Contractor (Authorized Signature) | By: _____ Mayor Jim Donchess Owner (Authorized Signature) | |
| Date: _____ | Date: _____ | Date: _____ | |

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT: _____

OWNER'S CONTRACT NO: _____

DATE OF ISSUANCE: _____

OWNER: _____ City of Nashua, NH _____

OWNER's Purchase Order NO.: _____

CONTRACTOR: _____

ENGINEER: _____ DPW Engineering _____

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

TO _____ City of Nashua _____
(OWNER)

And To _____ _____
(CONTRACTOR)

The Work to which this Certificate applies has been inspected by authorized representative of OWNER, CONTRACTOR, and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

(DATE OF SUBSTANTIAL COMPLETION)

A Tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within _____ days of the above date of Substantial Completion.

From the date of Substantial Completion the responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

RESPONSIBILITIES

OWNER: _____ City of Nashua _____

CONTRACTOR: _____

The following documents are attached to and made a part of this Certificate:

[For items to be attached see definition of Substantial Completion as supplemented and other specifically noted conditions precedent to achieving Substantial Completion as required by Contract Documents.]

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

Executed by ENGINEER on _____, 20__

(ENGINEER)

By: _____
(Authorized Signature)

CONTRACTOR accepts this Certificate of Substantial Completion on _____, 20__

(CONTRACTOR)

By: _____
(Authorized Signature)

OWNER accepts this Certificate of Substantial Completion on _____, 20__

(For the City of Nashua)

By: _____
(Authorized Signature)

CERTIFICATE OF FINAL COMPLETION

PROJECT: _____

OWNER'S CONTRACT NO: _____

DATE OF ISSUANCE: _____

OWNER: _____ City of Nashua, NH _____

OWNER's Purchase Order NO.: _____

CONTRACTOR: _____

ENGINEER: _____ DPW Engineering _____

This Certificate of Final Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

TO _____ City of Nashua _____
(OWNER)

And To _____
(CONTRACTOR)

The Work to which this Certificate applies has been inspected by authorized representative of OWNER, CONTRACTOR, and ENGINEER, and that Work is hereby declared to be finally complete in accordance with the Contract Documents on

(DATE OF FINAL COMPLETION)

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents. The Warranty for all Work completed expires one year from the date of this Final Acceptance

Executed by ENGINEER on _____, 20__

(ENGINEER)

By: _____
(Authorized Signature)

CONTRACTOR accepts this Certificate of Final Completion on _____, 20__

(CONTRACTOR)

By: _____
(Authorized Signature)

OWNER accepts this Certificate of Final Completion on _____, 20__

(For the City of Nashua)

By: _____
(Authorized Signature)

CONSENT OF SURETY FOR FINAL PAYMENT

OWNER's Project No.: _____

Project: _____

Type of Contract: _____ Amount of Contract (including
Change Orders): _____

CONTRACTOR: _____

Contract For: _____ Contract Date: _____

In accordance with the provisions of the above named contract between the OWNER and the CONTRACTOR, the following named Surety Company:

On the Payment Bond of the following named CONTRACTOR:

Hereby approves of final payment to the CONTRACTOR, and further agrees that said final payment to the CONTRACTOR shall not relieve the Surety Company named herein of any of its obligations to the following named OWNER; as set forth in said Surety Company's bond:

IN WITNESS WHEREOF, the Surety Company has hereunto set its hand and seal

this _____ day of _____, of 20_____.

(Name of Surety Company)

(Signature of Authorized Representative)

(Title)

(Affix corporate seal here)

**DIVISION 9
CONSTRUCTION
SPECIFICATIONS**

As Amended per Addendum # 2 issued March 24, 2016

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

All Items that are not included in the special provision shall comply with the latest approved NHDOT Standard Specifications for Road and Bridge Construction, the latest approved City of Nashua Standard Specifications for Road Construction Sewer and Drains, the latest approved NHDOT Standard Plans for Construction and the latest approved edition of Manual of Uniform Traffic Control Devices. The most stringent specification shall apply.

Unless otherwise noted all work will be paid for by the quantity actually installed.

Additional Technical Specifications

ITEM '670.95' – TEMPORARY SAFETY FENCE

A. SCOPE

This work shall consist of installation of a temporary safety fence around the project site or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The fencing shall consist of a temporary 6' tall chain link fence as per the detail of the plan set provided.

C. MEASUREMENT AND PAYMENT

Temporary Safety Fence will be measured by the number of linear feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'A' – STAMPED CONCRETE WALKWAY (6") (COBBLESTONE PATTERN)

A. SCOPE

This work shall consist of installation of a stamped concrete walkway at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The concrete shall be installed at a 6" depth and be stamped with a random cobblestone pattern.

C. MEASUREMENT AND PAYMENT

Stamped Concrete Walkway will be measured by the number of square feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, concrete, forms, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'A (ALT)' – COBBLESTONE PAVER (OPTION TO REPLACE STAMPED CONCRETE)

A. SCOPE

This work shall consist of installation of a cobblestone paver walkway at the location(s) shown on the layout plan or as ordered by the Engineer. The contractor shall submit a sample of the proposed paver to be used and installation specifications for approval prior to construction.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The pavers shall use a random cobblestone pattern.

C. MEASUREMENT AND PAYMENT

Cobblestone Paver will be measured by the number of square feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, pavers, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'B' – STONE DUST PATHWAY (4"DEPTH)

A. SCOPE

This work shall consist of installation of a stone dust walkway at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The pathway shall be a minimum of 5' wide and 4" in depth.

C. MEASUREMENT AND PAYMENT

Stone Dust Pathway will be measured by the number of square feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'C' – LOAM AND SEED (4" DEPTH)

A. SCOPE

This work shall consist of installation of loam and seed at the location(s) shown on the layout plan or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The loam shall be a minimum of 4" in depth.

C. MEASUREMENT AND PAYMENT

Loam and Seed will be measured by the number of square yards installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, material, seed, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'D' – ELEMENT FOOTING (SIZE VARIES)

A. SCOPE

This work shall consist of installing and providing footings following the detail sheet of the plan set provided or as ordered by the Engineer. This work may require coordination with a community build day. See Item H for element type and specifications.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. Footings shall be installed per the manufacturer's specifications for each individual playground element.

C. MEASUREMENT AND PAYMENT

Element Footing will be measured by each installed equipment footing base. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, forms, concrete, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'E' – PROTECTIVE SURFACING (POURED-IN PLACE RUBBER)

A. SCOPE

This work shall consist of installation of a protective surface material at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The depth of material may vary based on the fall height of the adjacent playground equipment and shall consist of a poured-in-place rubber system.

Subgrade shall be crushed stone 6" thick and comply with the manufacturers specifications for gradation and density. Manufacturer's specifications are included with this document.

The Contractor shall hire a materials testing contractor to test the crushed stone subgrade. The testing contractor shall be approved by the City. Testing will be for density (Proctor Test and Nuclear Gauge Test) and Gradation (Sieve Analysis). The Sieve Analysis and Proctor Tests shall be completed and acceptable to the City prior to placement of crushed stone. On site density testing (Nuclear Gauge) will be required after the crushed stone has been placed and before the poured in place surface has been installed. A minimum of 2 nuclear gauge density readings shall be taken for every piece of playground equipment with a rubberized surface. Total readings shall be no less than 20. Failing test results will be subject to material replacement or other corrective actions deemed acceptable to the City.

Poured-in-place Rubber System Specifications or approved equal

PART 1 – General

1.01 POURED IN PLACE RUBBER PLAYGROUND SURFACING

A. Poured In Place Rubber Playground Surfacing is a 2-layer, seamless system comprised of a base layer of 100% post-consumer recycled SBR rubber & polyurethane binder and a top layer of EPDM rubber and polyurethane binder. The porous system is field-applied in any configuration and dimension to achieve required fall heights.

1.02 SAFETY AND TESTING

- A. ASTM D412 Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers-Tension.
- B. ASTM D624 Standard Test Method for Tear Strength of Conventional Vulcanized Rubber and Thermoplastic Elastomers.

Division 9 – Construction Specifications Legacy Playground at Labine Park

As Amended per Addendum # 2 issued March 24, 2016

- C. ASTM D2047 Standard Test Method for Static Coefficient of Friction of Polish-Coated Floor Surfaces as Measured by the James Machine.
- D. ASTM D2859 Standard Test Method for Flammability of Finished Textile Floor Covering Materials.
- E. ASTM E303 Standard Test Method for Measuring Surface Frictional Properties Using the British Pendulum Tester.
- F. ASTM F1951 Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment.

1.03 PERFORMANCE REQUIREMENTS

- A. Flammability (ASTM D2859): Pass.
- B. Tensile Strength (ASTM D412): 60 psi (413 kPa).
- C. Tear Resistance (ASTM D624): 140%.
- D. Water Permeability: 0.4 gal/yd²/second.
- E. Accessibility: Comply with requirements of ASTM F1951.
- F. Dry Static Coefficient of Friction (ASTM D2047): 1.0.
- G. Wet Static Coefficient of Friction (ASTM D2047): 0.9.
- H. Dry Skid Resistance (ASTM E303): 89.
- I. Wet Skid Resistance (ASTM E303): 57.

1.04 SUBMITTALS

- A. General: Submit listed submittals in accordance with Conditions of the Contract and Division 1 Submittal Procedures Section.
- B. Product Data: Submit manufacturer's product data and installation instructions.
- C. Verification Samples: Submit manufacturer's standard verification samples of 9" x 9" minimum.
- D. Quality Assurance/Control Submittals: Submit the following:
 - 1. Certificate of qualifications of the surfacing installer.
- E. Closeout Submittals: Submit the following:
 - 1. Warranty documents specified herein.

1.05 QUALITY ASSURANCE

- A. Utilize an installer trained and approved by the manufacturer, having experience with other projects of the scope and scale of the work described in this section.

1.06 DELIVERY & STORAGE

- A. Deliver materials in manufacturer's original, unopened, undamaged containers with identification labels intact.
- B. Store materials protected from exposure to harmful environmental conditions and at a minimum temperature of 40 degrees F and a maximum temperature of 90 degrees F.

1.07 PROJECT SITE CONDITIONS

- A. Install surfacing on a dry sub-surface with no prospect of rain within initial drying period, and within 40 degrees F and 90 degrees F.

Division 9 – Construction Specifications Legacy Playground at Labine Park

As Amended per Addendum # 2 issued March 24, 2016

1.08 WARRANTY

- A. Playground surface shall maintain required impact attenuation characteristics and be guaranteed against defects in workmanship and materials for a period of no less than five years from date of completion of work. Maintenance requirements must be maintained for duration of warranty period.

PART 2 – Products

- A. Playground surface shall consist of synthetic materials meeting the requirements of this specification. Poured In Place Rubber Playground Surfacing components shall be installed by a certified installer of the chosen manufacturer.

2.01 BASE LAYER

- A. Primer: Polyurethane.
- B. Poured In Place Base: Blend (86% rubber & 14% polyurethane) of strand and granular 100% recycled SBR (styrene butadiene rubber) and polyurethane. Depending on ASTM F1292 requirements for critical fall height (4', 5', 6', 7', 8', 9' or 10'), select base layer thickness of 1.25", 1.5", 2.0", 2.5", 3", 3.5", 4.0" or 5.0".
- C. Color: Black

2.02 TOP LAYER

- A. Primer: Polyurethane.
- B. Poured In Place Top: Blend (82% rubber & 18% polyurethane) of recycled EPDM (ethylene propylene diene monomer) and polyurethane. Nominal thickness of 0.5", with a minimum 0.325" and a maximum 0.625".
- C. Colors: Terra Cotta Red, Primary Red, Orange (indoor only), Pink, Gold, Beige, Yellow, Bright Green, Army Green, Hunter Green, Teal, Sky Blue, Royal Blue, Purple, Pearl, Eggshell, Brown, Light Gray, Dark Gray, Black. Custom colors and combinations available (specify).

PART 3 – Execution

- A. Comply with the instructions and recommendations of the surfacing manufacturer.

3.01 EXAMINATION

- A. Verification of Site Conditions: Verify that substrate conditions are suitable for installation of the poured in place surfacing. Do not proceed with installation until unsuitable conditions are corrected.
- B. Drainage: Proper drainage is critical to the longevity of the surfacing system. Inadequate drainage will cause premature breakdown of the poured system in affected areas; and void the warranty.

3.02 PREPARATION

- A. Existing Substrate Preparation: Remove any loose or delaminated material that would be deleterious to application of the new surface. Fill cracks in existing concrete with cementitious patching compound.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

- B. Surface Preparation: Using a brush or short nap roller, apply primer to the substrate perimeter and any adjacent vertical barriers (such as playground equipment) at the rate of 300 ft²/gal.

3.03 INSTALLATION

- A. Do not proceed with playground surfacing installation until all applicable site work, including substrate preparation, fencing, playground equipment installation and other relevant work, has been completed.
- B. Base Layer Installation:
 - 1. Using screeds and hand trowels, install the base layer at a consistent density of 29 pounds, 1 ounce per cubic foot to the specified thickness.
 - 2. Allow base layer to cure for sufficient time so that indentations are not left in the base layer from applicator foot traffic or equipment.
 - 3. Do not allow foot traffic or use of the base layer surface until it is sufficiently cured.
- C. Primer Application: Using a brush or short nap roller, apply primer to the base layer perimeter and any adjacent vertical barriers that will contact the surfacing system at the rate of 300 ft²/gal.
- D. Top Layer Installation:
 - 1. Using a hand trowel, install top layer at a consistent density of 58 pounds, 9 ounces per cubic foot to a nominal thickness of 0.5".
 - 2. Allow top layer to cure for a minimum of 48 hours.
 - 3. At the end of the minimum curing period, verify that the surface is sufficiently dry and firm to allow foot traffic and use without damage to the surface.
 - 4. Do not allow foot traffic or use of the surface until it is sufficiently cured.

3.04 PROTECTION

- A. Protect the installed surface from damage resulting from subsequent construction activity on the site.

C. MEASUREMENT AND PAYMENT

Protective Surfacing will be measured by the number of square feet installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, base materials, materials, labor, tools, equipment, material testing, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

Cost to remove and replace failed subgrade material will be paid by the Contractor.

Poured in Place Product Specification

PART 1 - GENERAL

Work Details:

This work includes furnishing and installing GT Impax recycled poured rubber surfacing.

GT Impax recycled poured rubber surfacing shall be poured in place and trowelled to provide for a resilient, seamless rubber surface installed over the specified base. The surfacing provider shall be responsible for all labor, materials, tools, equipment, and applicable taxes to perform all work and services for the installation of the surface. The surface shall be stable and slip resistant to comply with all requirements set forth in the Americans with Disabilities Act.

Quality Assurance & Compliance Details:

Impact Attenuation - ASTM F1292-04: Impact attenuation test results will be provided to the owner or owner's representative. These test results shall be certified and submitted on the letterhead of an independent testing lab. Impact attenuation test results shall meet or exceed Consumer Product Safety Commission Guidelines for impact attenuation (G-max and Head Injury Criteria (HIC).

Accessibility of Surface Systems - ASTM F1951-08: All Playground surfacing products must pass testing to ensure wheelchair access under and around playground equipment as required by the American Disabilities Act.

Coefficient of Friction - ASTM D2047-82: All products must meet a minimum standard on coefficient of friction of .9-wet, 1.0 dry.

Permeability: Product shall meet or exceed a coefficient of permeability of 0.4 gallons per square yard per second.

Flammability of Finished Floor cover - ASTM D2859: Product shall meet requirements of ASTM D2859.

Tensile Strength - ASTM D412-87: This test indicates a product's ability to stretch, and how far it will stretch before it breaks. Test results for wear course must be a minimum tensile strength of 60.

PSI and minimum % elongation @ break of 140%.

IPEMA Certification: Manufacturer must provide proof of certification. "In the interest of public playground safety, IPEMA provides an independent laboratory which validates a manufacturer's certification of conformance to ASTM F1292-04. A list of current validated products, their thickness and critical heights may be viewed at www.ipema.org."

Submittal Details:

Submittal packages shall include but not be limited to: (1) product samples, (2) supplier's written warranty, and (3) independent laboratory results.

PART 2 - MATERIAL DATA:

Polyurethane Primer and Binder - 100% Single Component Polyurethane Binding Agent - Methylene Diphenyl Isocyanate (MDI) based binder.

Aromatic Binder - All projects will include aromatic binder unless project specifies the use of aliphatic binder. The natural properties of the aromatic binder is to present a yellow tint which may cause some EPDM/TPV colors to amber. The yellowing affect is more common on lighter EPDM colors and will wear off with foot traffic and weathering.

Aliphatic Binder - This binder is available upon request but at an added cost to the over all project. Aliphatic binder is all clear providing full EPDM/TPV color from day one. This binder has a higher resistance to ultra violet light and provides a greater resistance to wear.

Impact Course - The impact layer is to be a precise combination of 100% recycled black Styrene Budadine Rubber (SBR) and polyurethane binder. SBR is manufactured as a liquid, poured into molds and generally used by the automobile industry. This recycled rubber is shredded, mixed with binder and hand-trowelled to create a seamless application. The impact course thickness, as specified by owner or architect, must be composed of recycled rubber and free of foreign matter.

Wear Course - The wear course is made of Ethyl Propolyne Dione Monomer (EPDM) or Thermal Plastic Vulcanized (TPV) pigmented rubber granules with polyurethane binder. Thickness of the wear course shall be a minimum 1/2".

EPDM- The granule size will be 1-3 mm in diameter.

TPV- The granule size will be 1-4 mm in diameter.

PART 2 - MATERIAL DATA (Continued)

Colors - The color of GT Impax recycled poured rubber surfacing will be indicated on plans. Owner or owner's representative will be responsible for selecting standard blends. Selection of either standard color blends or custom color blends must be made at time quotation is being requested. EPDM/TPV colors are available in 100% black and a variety of colors. Ask your GameTime representative for available color combinations.

Note: If graphic designs and color transitions are used, they shall be full wear course depth. Color(s) to be determined by architect. Graphic Templates are the responsibility of the Architect or owner.

Physical Properties:

| | |
|-------------------------------------|---------------------------------|
| Tensile Strength (ASTM D412) | 60 PSI, minimum |
| Elongation at Break (ASTM D412) | 140%, minimum |
| Flammability (ASTM D2859) | Pass |
| Coefficient of Friction (ASTM D204) | |
| Wet | 0.9, minimum |
| Dry | 1.0, minimum |
| Water Permeability | 0.4 gal. /sq. yd./sec., minimum |

PART 3 - SUB-BASE TYPES & DETAILS:

Sub-base Requirements - The base shall have the specific maximum slope (2%) and shall vary no more than 1/8" when measured in any direction with a 10' straight edge.

Stone - The density requirement is 90% to 95% compaction with final condition of stone as level and stable so as not to shift when traveled on or during surface installation process. A compaction test is required and must be submitted to GameTime prior to installation of poured rubber surfacing. Failure to provide proof of compaction test will void 5-year warranty of PIP surfacing should signs of sub-base failure occurs.

| | |
|-------------------------|---|
| <u>Depth:</u> | 4 inch minimum thickness. |
| <u>Slope:</u> | Stone elevation shall maintain 1/4" per foot toward low end. |
| <u>Porosity:</u> | Base course shall maintain porosity for direct drainage. |
| <u>Enclosure:</u> | Stone base course must be surrounded by a retaining curb. |
| <u>Drainage:</u> | Subsurface drainage is recommended under and around a stone base. Perforated pipe or similar system is acceptable. |
| <u>Tolerances:</u> | 1/4" in any 10-foot direction and 1/8" in any 3-foot direction. |
| <u>Stone Selection:</u> | It is critical that different size stones are used so that the base shall be uniformly mixed. The material shall be wetted during mixing operations if necessary for proper blending. |

PART 3 - SUB-BASE TYPES & DETAILS (Continued)

| Stone Graduation | U.S. Sieve Percent Passing |
|------------------|----------------------------|
| 1" | 100 |
| 3/4" | 90 - 100 |
| No. 4 | 35 - 60 |
| No. 30 | 10 - 30 |
| No. 200 | 2 - 9 |

Concrete or Asphalt - Concrete should be finished with a medium broom finish. All new concrete slabs must cure for a minimum of seven (7) days prior to installation. Asphalt cure time requires fourteen (14) days. Once the new asphalt has cured, it must be pressure washed prior to the surfacing being installed. The concrete contractor shall be responsible for flooding the pad to insure proper slope and tolerance. Any areas holding enough water to cover a flat nickel shall be patched prior to arrival of poured rubber installation crews.

Depth: 4 inch minimum thickness.

Slope: Concrete or asphalt shall maintain 1/4" per foot.

Tolerance: Concrete must maintain a tolerance of 1/8" in 10 ft. to avoid low areas that will hold water under the poured rubber surfacing.

PART 4 - SITE PREPARATION AND REQUIREMENTS:

Drainage - Having proper drainage at the low end of the concrete slab is of utmost importance. Any brick walls or curbs at the low end of the slab shall have drainage access through weep holes. Concrete curbing weep holes should be level with finish grade of sub-base or a minimum of 1/8" below top of concrete slab, as GT IMPAX recycled poured rubber surfacing is porous and water drains immediately through it. Weep holes shall be 2" high and 3" wide and shall be installed every three (3) feet. If weep holes are smaller than the recommended size, they shall be installed every 18". Floor drains shall be located outside the high impact areas, as the drains may not be covered with GT IMPAX poured rubber surfacing. Recommended locations for drains are against low-end wall or curb.

Security & Waste Disposal - Surface installation crew shall be responsible for the protection of surface during the installation process while on site only. Owner or general contractor shall be responsible for the protection of the surface during the curing period upon completion of the installation and overnight during the installation. Owner or general contractor shall be responsible for having a dumpster on site for all waste and debris. Failure to provide security and a dumpster will result in additional cost.

Utilities & Access - Power and water must be available within 300 feet of installation. Site will require tractor-trailer access. In a case where tractor-trailer access is not possible, owner or general contractor shall be responsible for transporting materials from delivering carrier to the installation site.

PART 5 - INSTALLATION:

Weather Conditions - Because the polyurethane agents are moisture or heat sensitive, the nighttime temperatures must be above 40 degrees with daytime temperatures around 50 degrees. These temperatures must be consistent for several days before and after the poured rubber installation period. Complying with these weather conditions will prevent poured rubber from freezing which prevents proper curing.

Thickness - Overall depth of the poured rubber will vary based on critical fall heights and installers test results. Depth of EPDM/TPV will be no less than 0.5". Installation is performed by technically trained GameTime approved specialists. Your GameTime dealer will schedule installation of playground surfacing to meet your requirements.

THICKNESS CHART - (Below depths include 0.5" EPDM/TPV Topcoat)

| | |
|---------------------------------|------------------------|
| 1' to 4' Critical Fall Height | 1.5" to 2" Total Depth |
| 5' Critical Fall Height | 2" to 2.5" Total Depth |
| 6' Critical Fall Height | 2.5" to 3" Total Depth |
| 7' to 8' Critical Fall Height | 3" to 3.5" Total Depth |
| 9' to 10' Critical Fall Height | 4" to 4.5" Total Depth |
| 11' to 12' Critical Fall Height | 5.5" Total Depth |

Cold Joints - Areas in excess of 2,000 square feet or areas that require adjacent color pours will have a cold joint or seam. Although seldom visible, seams are necessary when large pads require more than one day pours.

Edges - Surface edges shall be flush, beveled or rolled. It is important to advise what type of edge will be required so that the appropriate amount of materials are ordered.

Flush - When curbing is provided around the outside perimeters of the pad, the poured rubber will be adhered to the edge of the curbing so that the rubber surfacing is flush. This allows for a smooth transition into the play area. However, the sub-base should be installed to allow the proper depth of poured rubber so that the flush edge can be installed without having to fill voids by increasing the depth SBR materials. If the sub-base is not installed properly, using too much of the SBR materials can cause the installer to run short on the cushion course which is require a change order to add additional materials for the project.

Beveled - When curbing is not provided for concrete or asphalt sub-bases, the installers will bevel the edge down along the edge of the pad. This type of edge can be sloped to provide a smoother transition but will require additional materials. If beveled at the edge of the use zones, the edge can be more round due to the depth of the poured rubber. In this case, you may want to have a rolled edge added to allow a smooth transition for wheelchair users.



PART 5 - INSTALLATION (Continued)

ADA Rolled - This is the type of edge to meet the requirements of ASTM 1951, Specifications for Determination of Accessibility of Surface Systems Under and Around Playground Equipment. The rolled edge will require additional materials in order to provide adequate ADA Wheelchair access. The total linear feet of the pad will need to be provided if the whole site is to be ADA compliant.

Keyway Cut - This type of an edge requires a trenched saw cut of ½" wide x ½" deep along the edge of the concrete or asphalt pad. The contractor or customer will be responsible for providing the keyway cut. There will be a up charge if the poured rubber installer is asked to provide this cut. The poured rubber will be beveled down into the saw cut where it will adhere preventing the exposure of a raw edge.

Cure Time - The poured rubber will require 72 hours (3 days) to properly cure. Security is required by the owner during this time so to avoid unnecessary damages.

PART 6 - WARRANTY:

When used under playground equipment, GameTime's GT Impax recycled poured rubber is warranted against defects in materials and workmanship for five years.

When used with water play equipment, GameTime's GT Impax recycled poured rubber is warranted against defects in materials and workmanship for three years provided aliphatic binder is added. Without the aliphatic binder, the GT Impax recycled poured rubber will carry only one year warranty.

Ask you GameTime representative for a copy of our full GT Impax recycled poured rubber warranty details.

PART 7 - MAINTENANCE:

Ask your GameTime representative for a copy of our full GT Impax recycled poured rubber maintenance details.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'F' – ENGINEERED WOOD CHIPS

A. SCOPE

This work shall consist of installation of engineered wood chips at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The material shall be placed at a minimum depth of 12”.

C. MEASUREMENT AND PAYMENT

Engineered Wood Chips will be measured by the number of cubic yards installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, material, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'G' – 8"X8" LANDSCAPE TIMBER BORDER

A. SCOPE

This work shall consist of installation of a landscape timber border using 8x8 treated wood timbers at the location(s) shown on the layout plan per the detail of the plan set provided or as ordered by the Engineer.

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. The timbers shall be stacked two high to provide a vertical edge border.

C. MEASUREMENT AND PAYMENT

Landscape Timber Border will be measured by the lineal foot installed. Payment for work under these items shall be at the contract unit price per unit and shall include full compensation for excavation, grading, material, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'H' – PLAYGROUND ELEMENTS

A. SCOPE

This work shall consist of assembling and installing the following playground equipment elements listed under contractor build as indicated below or an approved equal. This work may require coordination with a community build day.

Contractor Build:

Log Crawler
Omni-Spinner
Slidewinder Hill Slide
Custom Double SS Hill Slide
Integration Carousel
Customer Hill Net Climber

Community Build:

Oodle Swing
Topsy Turny
Boogie Board
Double Bobble Rider
Swing-set (3-Bay, 6 Swings)
We-Saw

Community Build:

Kaleidoscope Bench (x4)
Expression Swing

B. MATERIALS AND CONSTRUCTION

The Contractor shall supply all labor, materials, equipment and transportation necessary for the required work. Playground elements will be provided by the City.

C. MEASUREMENT AND PAYMENT

Playground Elements will be a lump sum item. Payment for work under these shall include satisfactory installation of all contractor build items, and shall include full compensation for excavation, labor, tools, equipment, disposal of construction debris (existing sidewalk, concrete, asphalt, etc.), and any other incidentals necessary for the satisfactory completion of this work as specified.

**Division 9 – Construction Specifications
Legacy Playground at Labine Park**

As Amended per Addendum # 2 issued March 24, 2016

ITEM 'L' – IRRIGATION DESIGN AND INSTALLATION

A. SCOPE

The contractor will design an efficient, cost efficient and sustainable irrigation system and install the piping, wires, zone valves, fittings, clamps and sprinkler heads. Design must be approved in writing by ENGINEER before installation can begin. The contractor will supply all labor for this work. The contractors scope of work will start at the flood shack located in the Labine Park Parking lot. The water service is in the south east corner of the building.

B. MATERIALS AND CONSTRUCTION

The parts for the above work will be provided by the city. The city will be responsible for making the connection in the building, the backflow, and the installation of the clock.

C. MEASUREMENT AND PAYMENT

Payment will be by lump sum. 75 percent of the total will be paid upon completion of the installation of the equipment, and 25 percent upon on acceptance of its performance by the City.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

April 28, 2016
Memo #16-136

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: LED STREET LIGHT CONVERSION PROJECT (VALUE: \$1,455,694)
DEPARTMENT: 161 STREET; FUND: BOND
ACTIVITY: LED LIGHTING

Please see the attached communication from Stephen Dookran, P.E., City Engineer for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The City Engineer and the Purchasing Department recommend the award of this contract in an amount of \$1,455,694 to **Siemens Industry, Inc. of Austin, TX**. This award is contingent upon BPW approval at their next meeting scheduled for 5/5/16.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: S Dookran L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: May 5, 2016
From: Stephen Dookran, P.E., City Engineer
Engineering Department
Re: LED Street Lighting Conversion Project

F. Motion: To approve the construction contract for the LED Street Lighting Conversion project with Siemens Industry, Inc. of Austin, TX in an amount of \$1,455,694. Funding will be through Department 161 Street; Fund: Bond; Activity: LED Lighting

Discussion: The LED Street Lighting Conversion project consists of replacing approximately 5,500 existing High Pressure Sodium (HPS) street lights with Light Emitting Diode (LED) street lights. Work includes a street light audit of all existing fixtures to provide the City and Eversource with an updated inventory, a trial period of 300K LED products versus 4000K LED products, and weekly reports to be submitted in order to revise the rate schedule for the newly installed LED lights.

The project was advertised on February 4, 2016. A mandatory prebid meeting was held on February 23, 2016 and twenty firms were represented. Nine firms submitted bids on March 11, 2016. Two of the firms were disqualified as non-responsive. The remaining bids are as follows:

| Firm | Base Proposal | Base Proposal with Control System |
|------------------------------|---------------|-----------------------------------|
| Siemens | \$1,455,694 | \$2,083,936 |
| Tanko Lighting | \$1,582,341 | \$2,308,674 |
| Utility Service & Assistance | \$1,671,288 | \$2,295,840 |
| The Efficiency Network | \$1,842,376 | \$2,467,452 |
| PowerSecure | \$2,035,586 | \$2,732,116 |
| Elecnor Hawkeye | \$2,174,971 | N/A |

The bids were tabulated and reviewed and it is recommended that the contract be awarded to Siemens Industry, Inc. of Austin, TX as the qualified, low bidder. Their references were checked and they received favorable recommendations from the communities of Manchester, NH, Salem, MA and New Bedford, MA where Siemens has recently completed projects of a similar nature.



STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

This agreement is made:

BETWEEN the Owner: City of Nashua, New Hampshire
229 Main Street
Nashua, NH 03060

And the Contractor:

For the following Project:

ARTICLE 1 – THE CONTRACT DOCUMENTS

The Contractor shall complete the work described in the Contract Documents for this project. The documents consist of:

1. This Agreement signed by the Owner and Contractor, including the General Terms and Conditions;
2. Scope of Work;
3. Drawings and Specifications provided in the bid documents;
4. Change Order Form;
5. Insurance Certificate;
6. Written change orders for minor changes in the Work issued after execution of this Agreement; and
7. Fully Executed City of Nashua Purchase Order

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

ARTICLE 2 – PERIOD OF PERFORMANCE

The Contractor shall perform and complete all work within the time periods set forth. The time periods may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the contract. The Contractor shall begin performance upon receipt of an Executed Contract, a valid Purchase Order issued from the Owner, and a Notice to Proceed.

ARTICLE 3 – CONTRACT SUM

Subject to additions and deductions by Change Order, the Owner shall pay Contractor, in accordance with the Contract Documents, the Contract Sum of:

_____ (\$ _____)
The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

ARTICLE 4 – INSURANCE AND INDEMNIFICATION

Contractor shall carry and maintain in effect during the performance of services under this contract:

- General liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- Motor Vehicle Liability: \$1,000,000 Combined Single Limit;
***Coverage must include all owned, non-owned and hired vehicles.**
- Workers' Compensation Coverage in compliance with the State of NH Statutes, \$100,000/\$500,000/\$100,000.

Contractor and subcontractors at every tier will fully comply with NH RSA Chapter 281-A, "Workers' Compensation".

*(Sole Proprietors **not** subject to Workers' Compensation requirements)*

Contractor shall maintain in effect at all times during the performance under this contract all specified insurance coverage with insurers. None of the requirements as to types and limits to be maintained by Contractor are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the contract. The City of Nashua shall not maintain any insurance on behalf of Contractor. Subcontractors are subject to the same insurance requirements as the Contractor and it shall be the Contractor's responsibility to ensure compliance of this requirement.

The parties agree that Contractor shall have the status of and shall perform all work under this contract as an independent contractor, maintaining control over all its consultants, sub consultants, contractors, or subcontractors. The only contractual relationship created by this contract is between the City and Contractor, and nothing in this contract shall create any contractual relationship between the City and Contractor's consultants, sub consultants, contractors, or subcontractors. The parties also agree that Contractor is not a City employee and that there shall be no:

1. Withholding of income taxes by the City;
2. Industrial insurance coverage provided by the City;
3. Participation in group insurance plans which may be available to employees of the City;
4. Participation or contributions by either the independent contractor or the City to the public employee's retirement system;
5. Accumulation of vacation leave or sick leave provided by the City;
6. Unemployment compensation coverage provided by the City.

Contractor will provide the City of Nashua with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the City issues the notice of award. The City of Nashua requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. **General Liability and Auto Liability policies must name the City of Nashua as an additional insured** and reflect on the certificate of insurance. Contractor is responsible for filing updated certificates of insurance with the City of Nashua's Risk Management Department during the life of the contract.

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, Contractor must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.
- The specified insurance requirements do not relieve Contractor of its responsibilities or limit the amount of its liability to the City or other persons, and Contractor is encouraged to purchase such additional insurance, as it deems necessary.
- The insurance provided herein is primary, and no insurance held or owned by the City of Nashua shall be called upon to contribute to a loss.
- Contractor is responsible for and required to remedy all damage or loss to any property, including property of the City, caused in whole or part by Contractor or anyone employed, directed, or supervised by Contractor.

Regardless of any coverage provided by any insurance, Contractor agrees to indemnify and shall defend and hold harmless the City, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Contractor's indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

General Terms and Conditions

ARTICLE 5 – GENERAL PROVISIONS

1. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.
2. The term “Work” means the construction and services required by the Contract Documents, and include all other labor, materials, equipment and services provided by the Contractor to fulfill the Contractor’s obligations.
3. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.
4. In the case of a discrepancy, calculated dimensions will govern over scaled dimensions, Contract Drawings will govern over Standard Specifications, and Technical Specifications will govern over both Contract Drawings and Standard Specifications. In the case of a discrepancy between the Agreement and other Contract Documents, the more specific or stringent obligation or requirement to the benefit of the Owner shall take precedence.
5. The Contractor shall take no advantage of any apparent error or omission in the Contract Drawings or Technical Specifications, and the Engineer will be permitted to make such corrections and interpretations as may be deemed necessary to fulfill the intent of the Contract Documents.

ARTICLE 6 – OWNER

1. Except for permits and fees, which are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.
2. If the Contractor fails to correct Work that is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.
3. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to correct such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, a Change Order shall be issued deducting the cost of correction from payments due the Contractor.
4. The Owner reserves the right to perform construction or operations related to the project with the Owner’s own forces, and to award separate contracts in connection with other portions of the project.
5. The Contractor shall coordinate and cooperate with separate Contractors employed by the Owner.
6. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 7 – CONTRACTOR

1. Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
2. The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Owner.
3. Within ten (10) days of notification of award, and prior to commencement of work, the Contractor shall obtain and forward to Owner a Performance Bond and a Payment Bond representing 100% of the contract work
4. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.
5. The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of subcontractors or suppliers for each portion of the Work. The Owner will promptly reply to the Contractor in writing if, after due investigation, he has reasonable objection to the subcontractors or suppliers listed.
6. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work.
7. The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.
8. The Contractor warrants to the Owner that (1) materials and equipment furnished under the contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.
9. The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.
10. The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.
11. The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances building codes, and rules and regulations without notice to the Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.
12. The Contractor shall promptly review, approve in writing and submit Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.
13. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the Owner.

14. The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
15. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work.
16. Contractor warrants and guarantees to Owner, for 1(one) year, upon completion of work, that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 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
 - Normal wear and tear under normal usage.

ARTICLE 8 – CHANGES IN THE WORK

1. After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
2. A Change Order shall be a written order to the Contractor signed by the Owner to change the Work, Contract Sum or Contract Time.
3. Change Order requests must include material and equipment cost plus labor with a profit margin of no more than 10%. Change Orders may require approval by the City of Nashua Finance Committee vote prior to proceeding.
4. The Owner will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be written orders and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.
5. If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment following authorization of the Owner to the charges.

ARTICLE 9 – TIME

1. Time limits stated in the Contract Documents are of the essence to the Contract.
2. If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such reasonable time as may be determined.

ARTICLE 10 – PAYMENTS AND COMPLETION

1. The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.
2. At least ten days before the date established for each progress payment, the Contractor shall submit an itemized Application for Payment for operations completed in accordance with the values stated in the Agreement. Such application shall be supported by such data substantiating the Contractor's right to payment as the Owner may reasonably require.

3. Application for Payment performed under this agreement shall be submitted directly to:

**City of Nashua
Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn:**

To facilitate the proper and timely payment of applications, the City of Nashua requires that all applications contain a valid **PURCHASE ORDER NUMBER**.

4. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.
5. OWNER shall make payments on the basis of Contractors Application for Payment, approximately **30** days from the time the **final** payment application is received by the Owner, depending upon the timing of submittals and approvals.
6. The Contractor shall promptly pay each Subcontractor and material supplier out of the amount paid to the Contractor on account of such entities' portion of the Work.
7. The Owner shall have no responsibility for the payment of money to a Subcontractor or material supplier.
8. An Application for Payment, a progress payment, or partial or entire use or occupancy of the project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.
9. Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.
10. When the Work or designated portion thereof is substantially complete, the Contractor and Owner shall establish responsibilities for completion and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
11. Upon receipt of a final Application for Payment, the Owner will inspect the Work. When he finds the Work acceptable and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment.
12. Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 11- RETAINAGE

1. The OWNER will retain a portion of the progress payment, each month, in accordance with the following procedures:
 - a. The OWNER will establish an escrow account in the bank of the OWNER'S choosing. The account will be established such that interest on the principal will be paid to the CONTRACTOR. The principal will be the accumulated retainage paid

- into the account by the OWNER. The principal will be held by the bank, available only to the OWNER, until termination of the contract.
- b. Until the work is 50% complete, as determined by the ENGINEER, retainage shall be 10% of the monthly payments claimed. The computed amount of retainage will be deposited in the escrow account established above.
 - c. After the work is 50% complete, and provided the CONTRACTOR has satisfied the ENGINEER in quality and timeliness of the work, and provided further that there is no specific cause for withholding additional retainage no further amount will be withheld. The escrow account will remain at the same balance throughout the remainder of the project.
2. Upon final completion and acceptance of the Work, OWNER shall hold 2% retainage during the 1 (one) year warranty period and release it only after the project has been accepted.

ARTICLE 12- PROTECTION OF PERSONS AND PROPERTY

1. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 13 - CORRECTION OF WORK

1. The Contractor shall promptly correct Work rejected by the Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected work.
2. In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.
3. If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it and the Contractor shall reimburse the Owner for the cost of the correction.

ARTICLE 14 - PROHIBITED INTERESTS

Contractor shall not allow any officer or employee of the City to have any indirect or direct interest in this contract or the proceeds of this contract. Contractor warrants that no officer or employee of the City has any direct or indirect interest, whether contractual, non-contractual, financial or otherwise, in this contract or in the business of the Contractor. Contractor also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. Contractor further warrants that no person having such an interest shall be employed in the performance of this contract. If any such interest comes to the attention of Contractor at any time, a full and complete disclosure of the interest shall be immediately made in writing to the City. If City determines that a conflict exists and was not disclosed to the City, it may terminate the contract at will or for cause.

ARTICLE 15 – TERMINATION OF THE CONTRACT

1. If the Owner fails to make payment when due or substantially breaches any other obligation of this Contract, following fifteen days' written notice to the Owner, the Contractor may terminate the Contract and recover from the Owner payment for work executed.
2. The Owner may terminate the contract for cause if the Contractor:
 - persistently or repeatedly refuses or fails to supply enough properly skilled workers;
 - fails to make payment(s) to Subcontractors for labor or materials in accordance with the respective agreements between the Contractor and Subcontractors;
 - disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; or
 - is otherwise guilty of a substantial breach of a provision of the Contract Documents.
3. If the Owner has decided to terminate the contract for cause, the Owner, without prejudice to any other rights or remedies of the Owner, and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, shall terminate the employment of the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient.
4. If the Contract has been terminated by the Owner for cause, the Contractor shall not be entitled to receive further payment until the work is finished. If the unpaid balance of the Contract Sum exceeds the cost of finishing the Work, such excess shall be paid to the Contractor. If the cost of finishing the Work exceeds the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.
5. The Owner also has the right to terminate this Contract, in whole or in part, without cause, upon fifteen days' written notice. As of the date specified in the notice, Contractor shall stop all performance under this Contract, except as otherwise directed by the Owner, provide the Owner with a list of all unperformed services, and take such action relative thereto as Contractor may be directed by the Owner. The Owner agrees to pay for all work that has been performed and equipment that has been installed or is on order and the order cannot be cancelled.

ARTICLE 16– MISCELLANEOUS PROVISIONS

1. Neither party to the Contract shall assign the Contract as a whole without written consent of the other.
2. Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.
3. If additional testing is required, the Contractor shall perform these tests.
4. The Owner shall pay for tests except for testing Work found to be defective for which the Contractor shall pay.
5. The Contract shall be governed exclusively by the law of the State of New Hampshire, and any litigation shall be brought in a court located in the State of New Hampshire.

City of Nashua (signature)

James Donchess, Mayor
(Printed Name and Title)

Date

Contractor (signature)

(Printed Name and Title)

Date

| CITY OF NASHUA LED STREET LIGHTING CONVERSION PROJECT - "SCHEDULE B" | | | | | | | | | | | | | | | | | | | | | | |
|--|--|------------------|-----------------------|-------------------|------------------|-----------------------|---|---|--------------------------------|--|---------------------|--|---|---------------------------------|-----------------------|--------------------|---------------------|--------------------|----------------------|--------------------------|--|--|
| Slemens Industry, Inc. | | | | | | | | | | | | | | | | | | | | | | |
| Leotek Fixtures, CIMCON Control | | | | | | | | | | | | | | | | | | | | | | |
| Line No. | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | | |
| | Existing HPS Fixture Quantity | Existing Wattage | Existing Fixture Type | Proposed quantity | Proposed Wattage | Proposed Manufacturer | Proposed Fixture Ordering Information (1) | Material Unit Cost Per Fixture (3) | Fixture Material Total (D * H) | Installation Labor Unit Cost Per Fixture (4) | Labor Total (D * J) | Other Project Fees Unit Cost Per Fixture (5) | Other Fees Total (D * L) | Total Unit Cost (6) (H + J + L) | Extended Cost (A * M) | Drive Current (mA) | Driver Manufacturer | Diode Manufacturer | Proposed Kelvin Temp | Typical Delivered Lumens | | |
| 1 | 3906 | 50 | Cobra Head | 3906 | 24 | Leotek | GC11-20G-MV-NW-2-GY-270 | \$ 130.35 | \$ 509,147.10 | \$ 43.97 | \$ 171,746.82 | \$ 53.06 | \$ 207,252.36 | \$ 227.38 | \$ 888,146.28 | 270 | LiteOn | Cree | 3000K or 4000K | 2400 | | |
| 2 | 367 | 70 | Cobra Head | 367 | 38 | Leotek | GC11-20G-MV-NW-2-GY-480 | \$ 130.35 | \$ 47,838.45 | \$ 43.97 | \$ 16,136.99 | \$ 53.06 | \$ 19,473.02 | \$ 227.38 | \$ 83,448.46 | 480 | LiteOn | Cree | 3000K or 4000K | 3700 | | |
| 3 | 508 | 100 | Cobra Head | 508 | 48 | Leotek | GC11-20G-MV-NW-2-GY-570 | \$ 130.35 | \$ 66,217.80 | \$ 43.97 | \$ 22,336.76 | \$ 53.06 | \$ 26,954.48 | \$ 227.38 | \$ 115,509.04 | 620 | LiteOn | Cree | 3000K or 4000K | 4400 | | |
| 4 | 190 | 150 | Cobra Head | 190 | 74 | Leotek | GC12-20G-MV-NW-2-GY-1A | \$ 158.60 | \$ 30,134.00 | \$ 43.97 | \$ 8,354.30 | \$ 53.06 | \$ 10,081.40 | \$ 255.63 | \$ 48,569.70 | 1000 | LiteOn | Cree | 3000K or 4000K | 7000 | | |
| 5 | 229 | 250 | Cobra Head | 229 | 138 | Leotek | GCM2-40F-MV-NW-2-GY-1A | \$ 230.90 | \$ 52,876.10 | \$ 43.97 | \$ 10,069.13 | \$ 53.06 | \$ 12,150.74 | \$ 327.93 | \$ 75,095.97 | 1000 | LiteOn | Lumileds | 3000K or 4000K | 12000 | | |
| 6 | 29 | 400 | Cobra Head | 29 | 200 | Leotek | GC2-120F-MV-NW-2-GY-530-PCRS-WL | \$ 378.50 | \$ 10,976.50 | \$ 43.97 | \$ 1,275.13 | \$ 53.06 | \$ 1,538.74 | \$ 475.53 | \$ 13,790.37 | 530 | LiteOn | Lumileds | 3000K or 4000K | 20800 | | |
| 7 | 38 | 150 | Floodlight | 38 | 62 | Lumecon | LF LG-60 | \$ 441.60 | \$ 16,780.80 | \$ 60.46 | \$ 2,297.48 | \$ 53.06 | \$ 424.48 | \$ 555.12 | \$ 21,094.56 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 7164 | | |
| 8 | 8 | 250 | Floodlight | 8 | 62 | Lumecon | LF LG-60 | \$ 441.60 | \$ 3,532.80 | \$ 60.46 | \$ 483.68 | \$ 53.06 | \$ 636.72 | \$ 684.02 | \$ 8,208.24 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 7164 | | |
| 9 | 12 | 400 | Floodlight | 12 | 124 | Lumecon | LF LG-120 | \$ 570.50 | \$ 6,846.00 | \$ 60.46 | \$ 725.52 | \$ 53.06 | \$ 684.02 | \$ 684.02 | \$ 1,358.04 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 13574 | | |
| 10 | 2 | 1000 | Floodlight | 2 | 124 | Lumecon | LF LG-120 | \$ 570.50 | \$ 1,141.00 | \$ 60.46 | \$ 120.92 | \$ 53.06 | \$ 106.12 | \$ 583.32 | \$ 62,998.56 | 700 | Philips | Nichia | 3000K or 4000K | 2295 | | |
| 11 | 108 | 50 | Acorn | 108 | 18 | Leotek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 50,738.40 | \$ 60.46 | \$ 6,529.68 | \$ 53.06 | \$ 5,730.48 | \$ 583.32 | \$ 45,498.96 | 700 | XITANIUM | Nichia | 3000K or 4000K | 2295 | | |
| 12 | 15 | 70 | Acorn | 15 | 18 | Leotek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 7,047.00 | \$ 60.46 | \$ 906.90 | \$ 53.06 | \$ 795.30 | \$ 583.32 | \$ 8,749.80 | 700 | XITANIUM | Nichia | 3000K or 4000K | 2295 | | |
| 13 | 78 | 50 | Suburban | 78 | 45 | Leotek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 36,644.40 | \$ 60.46 | \$ 4,715.88 | \$ 53.06 | \$ 4,138.68 | \$ 583.32 | \$ 45,498.96 | 700 | XITANIUM | Nichia | 3000K or 4000K | 2295 | | |
| 14 | 18 | 100 | Suburban | 18 | 45 | Leotek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 8,456.40 | \$ 60.46 | \$ 1,088.28 | \$ 53.06 | \$ 955.08 | \$ 583.32 | \$ 10,499.76 | 700 | XITANIUM | Nichia | 3000K or 4000K | 2295 | | |
| 15 | | | | | | | | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | | | | | | | |
| 16 | | | | | | | | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | | | | | | | |
| 17 | TOTALS | 5,508 | | 5,508 | | | | \$ | \$ 848,376.75 | \$ | \$ 246,787.47 | \$ | \$ 292,254.48 | \$ | \$ 1,387,418.70 | | | | | | | |
| 18 | | | | | | | | | | | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | | | | | | | | | | | |
| 21 | ADDITIONAL PROJECT UNIT PRICES | | | | | | | | | | | | | | | | | | | | | |
| 22 | 1) Hourly Labor Rates for Traffic Control | | | | | | | COMMENTS | | | | | GENERAL NOTES: | | | | | | | | | |
| 23 | Police Detail \$ 58.93 Per Officer, Per Hour | | | | | | | Non-supervisor | | | | | (1) Provide only complete New Fixtures for Base Proposal. No Retrofits. | | | | | | | | | |
| 24 | Traffic Flagger \$ 25.00 Per Flagger, Per Hour (not to exceed \$25/hour for straight time work and \$37.50/hour for overtime work) | | | | | | | NETC | | | | | (2) Provide information on any alternate fixtures your firm has proposed. | | | | | | | | | |
| 25 | 2) Miscellaneous Unit Pricing | | | | | | | Material Unit Cost | | | | | (3) Material Unit Cost shall include the base fixture per spec including 20 year Photocell per original spec, and any additional hardware to connect to existing poles, existing brackets and existing mounting arms. Include any material related markup here. | | | | | | | | | |
| 26 | | | | | | | | Installation Unit Cost | | | | | (4) Provide only Labor cost associated with the installation, including related markup (Installer & Equipment Charges Not including Traffic Control). | | | | | | | | | |
| 27 | Bracket - 4' Galvanized Cantilever Wood Pole Bracket & Hardware \$ 64.00 | | | | | | | 142.00 Per Bracket | | | | | (5) Provide All Costs associated with Audit, Shipping, Project Management, required bonds/permits, and any additional overhead profit (excluding Traffic Control). | | | | | | | | | |
| 28 | Bracket - 6' Galvanized Cantilever Wood Pole Bracket & Hardware \$ 80.00 | | | | | | | 174.00 Per Bracket | | | | | (6) Total Unit Cost will be the Unit pricing used for the schedule of values. Total Unit Cost is the sum of (Materials (H), Installation (I), and Project Fees (L)). | | | | | | | | | |
| 29 | Bracket - 8' Galvanized Cantilever Wood Pole Bracket & Hardware \$ 110.00 | | | | | | | 275.00 Per Bracket | | | | | (7) All Fixtures Must BE DLC Certified. | | | | | | | | | |
| 30 | 3) Fixture Recycling | | | | | | | | | | | | (8) A minimum ten year Manufacturer Warranty per RFP is required. | | | | | | | | | |
| 31 | Estimated Value \$ Per Fixture | | | | | | | Assumes delivering complete fixtures to Eversource. | | | | | (9) The City reserves the right to select fixture colors similar to existing fixtures and poles. Colors will be selected from the manufacturer's option color chart (only applies to decorative fixtures). | | | | | | | | | |
| 32 | 4) Proposed Smart Control System | | | | | | | Price per Node | | | | | | | | | | | | | | |
| 33 | Proposed Smart Control System \$ 628,242.28 | | | | | | | \$ 114.06 | | | | | | | | | | | | | | |
| 34 | Unit Price for Additional Nodes \$ 108.00 | | | | | | | | | | | | | | | | | | | | | |
| 35 | Unit Price for Additional Gateways \$ 2,350.00 | | | | | | | | | | | | | | | | | | | | | |
| 36 | | | | | | | | | | | | | | | | | | | | | | |
| 37 | | | | | | | | | | | | | | | | | | | | | | |
| 38 | | | | | | | | | | | | | | | | | | | | | | |
| 39 | | | | | | | | | | | | | | | | | | | | | | |
| 40 | NOTES: | | | | | | | YES/NO | | | | | COMMENTS, IF NO | | | | | | | | | |
| 41 | All proposed fixtures covered by a Manufacturer's 10 yr. warranty? | | | | | | | YES | | | | | | | | | | | | | | |
| 42 | All fixtures mod-hk are DLC approved? | | | | | | | YES | | | | | | | | | | | | | | |
| 43 | All proposed Smart Controls covered by Manufacturer's 10 yr. warranty? | | | | | | | YES | | | | | | | | | | | | | | |
| 44 | ADD OTHER NOTES AS NEEDED | | | | | | | | | | | | | | | | | | | | | |
| 45 | | | | | | | | | | | | | | | | | | | | | | |
| 46 | | | | | | | | | | | | | | | | | | | | | | |
| 47 | SUMMARY - BASE PROPOSAL PRICING WITH SMART CONTROLS: | | | | | | | | | | | | | | | | | | | | | |
| 48 | Proposal Date | | | | | | | March 11, 2016 | | | | | | | | | | | | | | |
| 49 | Base Bid Materials - All new fixtures per given quantities | | | | | | | \$ 848,377 | | | | | | | | | | | | | | |
| 50 | Base Bid Labor | | | | | | | \$ 246,787 | | | | | | | | | | | | | | |
| 51 | Base Bid Smart Control System | | | | | | | \$ 628,242 | | | | | | | | | | | | | | |
| 52 | Base Bid Other Fees | | | | | | | \$ 292,254 | | | | | | | | | | | | | | |
| 53 | Traffic Control & Contingency Allowance | | | | | | | \$ 68,275.00 | | | | | | | | | | | | | | |
| 54 | Total Estimated Project Cost | | | | | | | \$ 2,083,936 | | | | | | | | | | | | | | |
| 55 | | | | | | | | | | | | | | | | | | | | | | |
| 56 | | | | | | | | | | | | | | | | | | | | | | |

| CITY OF NASHUA LED STREET LIGHTING CONVERSION PROJECT - "SCHEDULE B" | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|------------------|-----------------------|-------------------|------------------|-----------------------|---|------------------------------------|--------------------------------|--|---|--|--------------------------|---------------------------------|-----------------------|--------------------|---------------------|--------------------|----------------------|--------------------------|--|--|--|
| Siemens Industry, Inc. | | | | | | | | | | | | | | | | | | | | | | | |
| Leetek Fixtures, no Controls | | | | | | | | | | | | | | | | | | | | | | | |
| Line No. | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | | | |
| | Existing HPS Fixture Quantity | Existing Wattage | Existing Fixture Type | Proposed quantity | Proposed Wattage | Proposed Manufacturer | Proposed Fixture Ordering Information (1) | Material Unit Cost Per Fixture (3) | Fixture Material Total (D * H) | Installation Labor Unit Cost Per Fixture (4) | Labor Total (D * J) | Other Project Fees Unit Cost Per Fixture (5) | Other Fees Total (D * L) | Total Unit Cost (6) (H + J + L) | Extended Cost (A * M) | Drive Current (mA) | Driver Manufacturer | Diode Manufacturer | Proposed Kelvin Temp | Typical Delivered Lumens | | | |
| 1 | 3906 | 50 | Cobra Head | 3906 | 24 | Leetek | GC11-20G-MV-NW-2-GY-270 | \$ 130.35 | \$ 509,147.10 | \$ 43.97 | \$ 171,746.82 | \$ 53.06 | \$ 207,252.36 | \$ 227.38 | \$ 888,146.28 | 270 | LiteOn | Cree | 3000K or 4000K | 2400 | | | |
| 2 | 367 | 70 | Cobra Head | 367 | 38 | Leetek | GC11-20G-MV-NW-2-GY-480 | \$ 130.35 | \$ 47,838.45 | \$ 43.97 | \$ 16,136.99 | \$ 53.06 | \$ 19,473.02 | \$ 227.38 | \$ 83,448.46 | 480 | LiteOn | Cree | 3000K or 4000K | 3700 | | | |
| 3 | 508 | 100 | Cobra Head | 508 | 48 | Leetek | GC11-20G-MV-NW-2-GY-620 | \$ 130.35 | \$ 66,217.80 | \$ 43.97 | \$ 22,336.76 | \$ 53.06 | \$ 26,954.48 | \$ 227.38 | \$ 115,509.04 | 620 | LiteOn | Cree | 3000K or 4000K | 4400 | | | |
| 4 | 190 | 150 | Cobra Head | 190 | 74 | Leetek | GC12-20G-MV-NW-2-GY-1A | \$ 158.60 | \$ 30,134.00 | \$ 43.97 | \$ 8,354.30 | \$ 53.06 | \$ 10,081.40 | \$ 255.63 | \$ 48,569.70 | 1000 | LiteOn | Cree | 3000K or 4000K | 7000 | | | |
| 5 | 229 | 250 | Cobra Head | 229 | 138 | Leetek | GCM2-40F-MV-NW-2-GY-1A | \$ 230.90 | \$ 52,876.10 | \$ 43.97 | \$ 10,069.13 | \$ 53.06 | \$ 12,150.74 | \$ 327.93 | \$ 75,095.97 | 1000 | LiteOn | Lumileds | 3000K or 4000K | 12000 | | | |
| 6 | 29 | 400 | Cobra Head | 29 | 200 | Leetek | GC2-120F-MV-NW-2-GY-530-PCRS-WL | \$ 378.50 | \$ 10,976.50 | \$ 43.97 | \$ 1,275.13 | \$ 53.06 | \$ 1,538.74 | \$ 475.53 | \$ 13,790.37 | 530 | LiteOn | Lumileds | 3000K or 4000K | 20800 | | | |
| 7 | 38 | 150 | Floodlight | 38 | 62 | Lumecon | LF LG-60 | \$ 441.60 | \$ 16,780.80 | \$ 60.46 | \$ 2,297.48 | \$ 53.06 | \$ 2,016.28 | \$ 555.12 | \$ 21,094.56 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 7164 | | | |
| 8 | 8 | 250 | Floodlight | 8 | 62 | Lumecon | LF LG-60 | \$ 441.60 | \$ 3,532.80 | \$ 60.46 | \$ 483.68 | \$ 53.06 | \$ 424.48 | \$ 555.12 | \$ 4,440.96 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 7164 | | | |
| 9 | 12 | 400 | Floodlight | 12 | 124 | Lumecon | LF LG-120 | \$ 570.50 | \$ 6,846.00 | \$ 60.46 | \$ 725.52 | \$ 53.06 | \$ 636.72 | \$ 684.02 | \$ 8,208.24 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 13574 | | | |
| 10 | 2 | 1000 | Floodlight | 2 | 124 | Lumecon | LF LG-120 | \$ 570.50 | \$ 1,141.00 | \$ 60.46 | \$ 120.92 | \$ 53.06 | \$ 106.12 | \$ 684.02 | \$ 1,368.04 | 105 | Thomas Ind | Nichia | 3000K or 4000K | 13574 | | | |
| 11 | 108 | 50 | Acorn | 108 | 18 | Leetek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 50,738.40 | \$ 60.46 | \$ 6,529.68 | \$ 53.06 | \$ 5,730.48 | \$ 583.32 | \$ 62,998.56 | 700 | Phillips | Nichia | 3000K or 4000K | 2295 | | | |
| 12 | 15 | 70 | Acorn | 15 | 18 | Leetek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 7,047.00 | \$ 60.46 | \$ 906.90 | \$ 53.06 | \$ 795.90 | \$ 583.32 | \$ 8,749.80 | 700 | Phillips | Nichia | 3000K or 4000K | 2295 | | | |
| 13 | 78 | 50 | Suburban | 78 | 45 | Leetek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 36,644.40 | \$ 60.46 | \$ 4,715.88 | \$ 53.06 | \$ 4,138.68 | \$ 583.32 | \$ 45,498.96 | 700 | XITANIUM | Nichia | 3000K or 4000K | 2295 | | | |
| 14 | 18 | 100 | Suburban | 18 | 45 | Leetek | 247L 20LEDE70 MVOLT 4K R3 AY | \$ 469.80 | \$ 8,456.40 | \$ 60.46 | \$ 1,088.28 | \$ 53.06 | \$ 955.08 | \$ 583.32 | \$ 10,499.76 | 700 | XITANIUM | Nichia | 3000K or 4000K | 2295 | | | |
| 15 | | | | | | | | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | | | | | | | | |
| 16 | | | | | | | | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | | | | | | | | |
| 17 | TOTALS | 5,508 | | 5,508 | | | | \$ | \$ 848,376.75 | \$ | \$ 246,787.47 | \$ | \$ 292,254.48 | \$ | \$ 1,387,418.70 | | | | | | | | |
| 18 | | | | | | | | | | | | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | | | | | | | | | | | | |
| 21 | ADDITIONAL PROJECT UNIT PRICES | | | | | | | | | | GENERAL NOTES: | | | | | | | | | | | | |
| 22 | 1) Hourly Labor Rates for Traffic Control | | | | | | | | | | (1) Provide only complete New Fixtures for Base Proposal. No Retrofits. | | | | | | | | | | | | |
| 23 | Police Detail \$ 58.93 Per Officer, Per Hour | | | | | | | | | | (2) Provide information on any alternate fixtures your firm has proposed. | | | | | | | | | | | | |
| 24 | Traffic Flagger \$ 25.00 Per Flagger, Per Hour (not to exceed \$25/hour for straight time work and \$37.50/hour for overtime work) | | | | | | | | | | (3) Material Unit Cost shall include the base fixture per spec including 20 year Photocell per original spec, and any additional hardware to connect to existing poles, existing brackets and existing mounting arms. Include any material related markup here. | | | | | | | | | | | | |
| 25 | | | | | | | | | | | (4) Provide only Labor cost associated with the installation, including related markup (Installer & Equipment Charges Not Including Traffic Control). | | | | | | | | | | | | |
| 26 | 2) Miscellaneous Unit Pricing | | | | | | | | | | (5) Provide All Costs associated with Audit, Shipping, Project Management, required bonds/permits, and any additional overhead profit (excluding Traffic Control). | | | | | | | | | | | | |
| 27 | Bracket - 4' Galvanized Cantilever Wood Pole Bracket & Hardware \$ 64.00 \$ 142.00 Per Bracket | | | | | | | | | | (6) Total Unit Cost will be the Unit pricing used for the schedule of values. Total Unit Cost is the sum of (Materials (H), Installation (J), and Project Fees (L)). | | | | | | | | | | | | |
| 28 | Bracket - 6' Galvanized Cantilever Wood Pole Bracket & Hardware \$ 80.00 \$ 174.00 Per Bracket | | | | | | | | | | (7) All Fixtures Must BE DLC Certified. | | | | | | | | | | | | |
| 29 | Bracket - 8' Galvanized Cantilever Wood Pole Bracket & Hardware \$ 110.00 \$ 275.00 Per Bracket | | | | | | | | | | (8) A minimum ten year Manufacturer Warranty per RFP is required. | | | | | | | | | | | | |
| 30 | | | | | | | | | | | (9) The City reserves the right to select fixture colors similar to existing fixtures and poles. | | | | | | | | | | | | |
| 31 | 3) Fixture Recycling | | | | | | | | | | Colors will be selected from the manufacturer's option color chart (only applies to decorative fixtures). | | | | | | | | | | | | |
| 32 | Estimated Value \$ Per Fixture Assumes delivering complete fixtures to Eversource. | | | | | | | | | | | | | | | | | | | | | | |
| 33 | | | | | | | | | | | | | | | | | | | | | | | |
| 34 | | | | | | | | | | | | | | | | | | | | | | | |
| 35 | NOTES: | | | | | | | | | | | | | | | | | | | | | | |
| 36 | All proposed fixtures covered by a Manufacturer's 10 yr. warranty? | | | | | | | | | | YES/NO | | | | | | | | | | | | |
| 37 | All fixtures models are DLC approved? | | | | | | | | | | YES | | | | | | | | | | | | |
| 38 | | | | | | | | | | | | | | | | | | | | | | | |
| 39 | ADD OTHER NOTES AS NEEDED | | | | | | | | | | | | | | | | | | | | | | |
| 40 | | | | | | | | | | | | | | | | | | | | | | | |
| 41 | | | | | | | | | | | | | | | | | | | | | | | |
| 42 | SUMMARY - BASE PROPOSAL PRICING: | | | | | | | | | | | | | | | | | | | | | | |
| 43 | Proposal Date | | | | | | | | | | March 11, 2016 | | | | | | | | | | | | |
| 44 | Base Bid Materials - All new fixtures per given quantities | | | | | | | | | | \$ 848,377 | | | | | | | | | | | | |
| 45 | Base Bid Labor | | | | | | | | | | \$ 246,787 | | | | | | | | | | | | |
| 46 | Base Bid Other Fees | | | | | | | | | | \$ 292,254 | | | | | | | | | | | | |
| 47 | Traffic Control & Contingency Allowance | | | | | | | | | | \$ 68,275.00 | | | | | | | | | | | | |
| 48 | Total Estimated Project Cost | | | | | | | | | | \$ 1,455,694 | | | | | | | | | | | | |
| 49 | | | | | | | | | | | | | | | | | | | | | | | |
| 50 | | | | | | | | | | | | | | | | | | | | | | | |