FINANCE COMMITTEE

MAY 15, 2019

ROLL CALL

PUBLIC COMMENT

COMMUNICATIONS

From: Mayor Jim Donchess
       Director Tim Cummings, Economic Development
Re:   Notice of Change in Contract for AECOM Engineering Services Relative to Studying Passenger Rail

From: Dan Kookken, Purchasing Manager
Re:   Transit Bio-Diesel Fuel (Value Estimated $25,000); Department: 186 Transportation; Fund: FTA Grant

From: Dan Kookken, Purchasing Manager
Re:   Public Health Building Renovation Design Services (Value: $143,000); Department: 183 Economic Development; Fund: Bond

From: Dan Kookken, Purchasing Manager
Re:   2019 Pavement Preservation Program–Crack Sealing (Value: $143,865); Department: 160, Administration/Engineering; Fund: Bond

From: Dan Kookken, Purchasing Manager
Re:   Purchase of Castings for the 2019 Paving Program (Value: $194,866); Department: 169 Wastewater; Fund: Wastewater

From: Dan Kookken, Purchasing Manager
Re:   2019 Sidewalk Program (Value: $47,150); Department: 160 Admin/Engineering; Fund: Northwest Quadrant Fund, Southeast Quadrant Fund; and FY19 Sidewalk Capital Funds

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS – None

RECORD OF EXPENDITURES

GENERAL DISCUSSION

PUBLIC COMMENT

REMARKS BY THE ALDERMEN

POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT
To: Finance Committee

From: James Donchess, Mayor – Tim Cummings, Economic Development Director

Date: May 6, 2019

Re: Notice of Change in Contract for AECOM Engineering Services Relative to Studying Passenger Rail

The Office of Economic Development engaged AECOM Engineering due to its professional and unique acumen relative to rail services expertise and knowledge specifically in the Commonwealth of Massachusetts, but also with its familiarity with the State of New Hampshire’s plan.

We engaged AECOM in an effort to position ourselves to help bring passenger rail services to the City of Nashua in the spring of 2018 and after the creation of the local transit rail committee. The contract is written to allow for scope specific on-call services as necessary to help bring forward or analyze certain ideas and concepts or to provide technical assistance as necessary. We engaged AECOM in a yearlong contract not to exceed $100,000 and to date we have only committed $24,930 out of the $100,000.

This memo is being provided to update and provide notice to the Finance Committee that AECOM’s contract is set to expire and is being extended to July 1, 2020.
May 9, 2019
Memo #19-147

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: TRANSIT BIO-DIESEL FUEL (VALUE ESTIMATED $25,000)
DEPARTMENT: 186 TRANSPORTATION; FUND: FTA GRANT

Please see attached communication to Mayor Jim Donchess from Camille Pattison, Transportation Manager, dated May 1, 2019 for information related to this contract award.

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 Transportation Manager and the Purchasing Department recommend the award of the contract for B5 Bio-Diesel at $2.4351 per gallon with an estimated amount of $25,000 for FY20 to Dennis K. Burke of Taunton, MA.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: C. Pattison J. Graziano
To: Dan Kooen, Purchasing Manager

From: Camille Pattison, Transportation Manager

Date: May 1, 2019

Re: FY20 Bio-Diesel Fuel Contract for Nashua Transit

For FY20 Nashua Transit went out to bid for a fixed rate price for bio-diesel fuel. The RFP was posted on the City website under RFP0464-0426219 and sent to five known biodiesel suppliers. Three (3) bids were received as follows:

1. Santa Buckley Energy $2.3982 per gallon

2. Dennis K. Burke – $2.4351 per gallon

3. East River Energy – $2.5703 per gallon

Although Santa Buckley Energy was the lowest bidder, this vendor did not comply with bid submittal requests, therefore eliminating them as a viable option for selection.

The Community Development Division recommends that the biodiesel contract be awarded to Dennis K. Burke Inc., Taunton, MA, for a period of twelve months expiring on June 30, 2020 with the option to extend for (1) year at the same price. Dennis K. Burke is a responsive and responsible company.
B5 BIODIESEL AGREEMENT BETWEEN
THE CITY OF NASHUA, NH
AND
DENNIS K. BURKE, INC

THIS AGREEMENT is made and entered into effective as of , 2019 by and
between the CITY of Nashua, located at 229 Main Street, Nashua, NH 03060 (the "CITY") and
DENNIS K. BURKE, INC, located at 555 Constitution Drive, Taunton, MA,(the
"CONTRACTOR").

WITNESSETH

WHEREAS, the CITY is desirous of obtaining B5 Biodiesel fuel blend for the Nashua Transit
System. NOW, THEREFORE, in consideration of the foregoing recitals and covenants and
agreements of each of the parties herein set forth, the parties do agree as follows:

1. CONTRACTOR SERVICES

The CITY does hereby engage and retain the CONTRACTOR to deliver BS-Bio-diesel fuel
blend on a year-round basis. It is required that the B5 Biodiesel product being supplied is
formulated utilizing "premium ultra-low sulfur #2" blend stock on a year-round basis.

CONTRACTOR will follow the guidelines listed below for the minimum protection cloud points
required. All fuel as delivered shall meet or exceed the cloud point requirements as stated below
unless superseded by requirements stated at time of order:

ADDITIVE WINTER PREMIUM DIESEL CLOUD POINT REQUIREMENTS
October 1st to December 14th - "B5 fuel delivered" with a required cloud point that
meets or exceeds +8° cloud point

December 15th to March 14th - "B5 fuel delivered" with a required cloud point that meets
or exceeds -5° cloud point

March 15th to September 30th - "B5 fuel delivered" with a required cloud point that meets
or exceeds +20° cloud point

2. COMMENCEMENT AND TERM

Deliveries shall commence upon the full execution of this Agreement and shall proceed diligently and
in good faith from July 1, 2019 through June 30, 2020 - with an option to extend for up to one (1) year.

• The CONTRACTOR will deliver quantities requested to 11 Riverside Street within a
24-hour time period. Friday requests will be delivered on Monday.
• The CONTRACTOR’s drivers will take precautions to prevent spillage during deliveries. Driver will immediately notify CITY of Nashua personnel of problems resulting from defective equipment at the 11 Riverside Street, Nashua NH facility. The City of Nashua will not be responsible for spillage during deliveries.

• Quantity stated is an estimate based on history and anticipated needs. The CITY shall not be bound to this specific quantity to fulfill the agreement.

• Deliveries must be made between 6:00am - 9:00pm EST.

• The bio-diesel component must meet ASTM-D-6751 code and the final blend must meet the requirements of the D975 code.

• The bio-diesel product must include a cold weather additive.

• An authorized CITY of Nashua employee must sign all delivery slips.

• All invoices must be forwarded to CITY of Nashua, c/o Accounts Payable, City Hall, 229 Main Street, PO Box 2019, Nashua NH 03061-2019. Invoices must identify the delivery point, date and quantity, and must include proof of delivery slip.

• Delivery price will be $ 2.4351 per gallon for the duration of this agreement.

• The CONTRACTOR’s Certificate of Liability Insurance must be on file at the CITY’s Purchasing Office and Risk Management Department. New certificates must be forwarded as coverage is renewed.

• No confirming purchase order will be mailed to the CONTRACTOR from the CITY. Nashua Transit, acting for the CITY, will issue draw-down orders to cover processing of invoices. However, no purchase order needs to be referenced on invoices. Location of delivery point is the critical data to identify the CITY of Nashua cost center.

• All requests for delivery will come from an authorized CITY employee.

• The CITY is utilizing funding from the Federal Transit Administration for this project. The federally required FTA clauses for this contract can be found in the attached document Exhibit A- FTA Clauses which are incorporated herein by reference.
3. INSURANCE REQUIREMENTS

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

- General Liability *(which must include hazardous material/waste coverage):*
  - $1,000,000 per Occurrence
  - $2,000,000 Aggregate
  - *(City of Nashua Additional Insured)*

- Motor Vehicle Liability:
  - $1,000,000 Combined Single Limit *(coverage must include all owned, non-owned and hired vehicles).*
  - *(City of Nashua Additional Insured)*

- Workers’ Compensation Coverage according to Statute of the State of New Hampshire:
  - $100,000 / $500,000 / $100,000
  - *(Sole Proprietors not subject to Workers' Compensation requirements)*

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

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 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 agreement as an independent contractor, maintaining control over all its consultants, sub consultants, contractors, or subcontractors. The only contractual relationship created by this agreement is between the CITY and CONTRACTOR, and nothing in this agreement shall create any contractual relationship between the CITY and CONTRACTOR's consultants, sub consultants, contractors. 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 CONTRACTOR or the CITY to the public employees 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 with certificates of insurance for coverage, as listed, and endorsements affecting coverage required by the Agreement. The CITY 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, Employers’ 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 CITY 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 negligence or willful misconduct of the party indemnified or held harmless.
4. GOVERNING LAW AND VENUE

This Agreement shall be interpreted and enforced in accordance with the laws of the state of New Hampshire, excluding any choice of law or conflicts of law rules that would result in the application of the laws of a different jurisdiction, and any litigation related to this Agreement shall be brought in a state court located in the State of New Hampshire.

5. SEVERABILITY

If any provision of this Agreement is determined to be void, unlawful, or otherwise unenforceable, that provision shall be severed from the remainder of this Agreement, and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible, or otherwise modified in such fashion as to preserve, to the maximum extent possible, the original intent of the Parties, and this Agreement, as so modified, shall continue to be in full force and effect.

6. AMENDMENT

No modification, amendment, or other change to this Agreement shall be effective unless agreed to in a writing signed by each of the Parties.

Any proposed modification to the Scope of Work, including schedule, shall be submitted in writing to the CITY with an explanation for the need to amend the Agreement and proposed adjustment.

7. NO WAIVER

Failure or forbearance by any Party to exercise any of its rights or remedies under this Agreement shall not constitute a waiver of such rights or remedies in that or any other instance. No Party shall be deemed to have waived any right or remedy resulting from such failure to perform unless it has made such waiver specifically in writing.

8. TERMINATION

This Agreement can be terminated, in its sole discretion, by the CITY at any time, and CONTRACTOR will be paid for all work performed up to the termination date. The CITY shall have the benefit of all work performed to the date of termination, and is entitled to all work, reports, drafts, notes, recommendations, etc. performed or prepared by CONTRACTOR up to the termination date. For termination by default please refer to the FTA clauses located within Exhibit A.
9. ENTIRE AGREEMENT
This Agreement and any amendments to this Agreement contain the complete agreement between the Parties with respect to the subject matter of this Agreement and supersede all other agreements and understandings, whether written or oral, with respect to the matters contained in this Agreement, including any letters of intent, term sheets or similar proposals exchanged by the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the

CITY OF NASHUA

By: James W. Donchess, Duly Authorized
Signature: __________________________
Title: Mayor
Date: __________________________

CONTRACTOR

By: ______________, Duly Authorized
Signature: __________________________
Title: __________________________
Date: __________________________
May 9, 2019
Memo #19-148

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PUBLIC HEALTH BUILDING RENOVATION DESIGN SERVICES (VALUE: $143,000)
DEPARTMENT: 183 ECONOMIC DEVELOPMENT; FUND: BOND

Please see attached communication from Tim Cummings, Director of Economic Development dated May 6, 2019 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 Director of Economic Development and the Purchasing Department recommend approval of this contract in the amount of $143,000 to Dennis Mires, P.A. The Architects of Manchester, NH.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: T Cummings J Graziano
To: James Donchess, Mayor  
From: T. Cummings, Economic Development Director  
Cc: B. Bagley, Director Public Health & Community Services  

Date: May 6, 2019  

Re: Contract for Design Services for Public Health Building  

The Office of Economic Development in partnership with the City’s Office of Public Health & Community Services along with Building Maintenance solicited proposals for design services for the Public Health Building in an RFP #0275-073118 released this past summer. Specifically, the services sought are to assist with the renovation of 18 Mulberry Street.

I along with Bobbi Bagley and Jay Hunnewell solicited proposals from firms who have past experience renovating and designing municipal buildings. Three firms responded and only two firms were deemed valid to move forward through the procurement process. Jay Hunnewell, Kim Kleiner and I reviewed the proposals and evaluated them on the following criteria: qualifications/experience, past performance and service on similar projects, proposed approach to scope of work, responses in interviews and cost.

Dennis Mires a principle of “The Architects” was chosen unanimously due to their comprehensive knowledge and their strong past experience working with municipalities, specifically Nashua on this project.

I am recommending awarding a contract for design services for the amount not to exceed $143,000 plus miscellaneous expenses to The Architects. However, the way the proposal is structured the city is only obligating to paying $24,000 for schematic design related services at this time. A written authorization to proceed is necessary before the balance of the contract can be expended. The Purchase Order for the city should only be issued for $24,000.

We built this additional safeguard into the contract to ensure we are designing a project with the available budget, which is approximately $2.5 million dollars.

As a reminder the scope of work is focused on the building’s envelope: Doors, Windows, elevator, creating ADA accessibility, upgrading HVAC and other miscellaneous improvements as necessary to be code compliant.
May 2, 2019

Tim Cummings, Economic Development Director
City Hall
229 Main Street
Nashua, NH
Cummingst@nashuanh.gov

Re: Architectural Services Contract
   Nashua Public Health
   18 Mulbury Street
   Nashua, NH

Dear Tim,

This letter serves as an amendment to the AIA B101-2017 contract for full services that authorizes us to proceed with schematic design only not to exceed $24,000. Should the project continue to move forward this fee will be a part of the full-service contract of $143,700 as outlined in the AIA document. Returning an executed copy of this letter will authorize us to proceed with schematic design only under the terms and conditions of that phase of the work provided for in the AIA document.

We look forward to assisting you move this project forward to a successful conclusion. Should you have additional questions, please contact me.

Sincerely,

Dennis B. Mires, AIA, President

For the City of Nashua

Date

DBM\jd
(Architects_DS/ActiveProjects/NashuaPublicHealth-2018058/ArchSvcsLtr5/2/19)
AGREEMENT made as of the day of April in the year Two Thousand and Nineteen
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Nashua
229 Main Street
PO Box 2019
Nashua, NH 03061-2019

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

Dennis Mires, P.A. The Architects
697 Union Street
Manchester, NH 03104
(603) 625-4548

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

Nashua Public Health
Addition & Renovations
18 Mulberry Street
Nashua, NH

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.
TABLE OF ARTICLES
1 INITIAL INFORMATION
2 ARCHITECT'S RESPONSIBILITIES
3 SCOPE OF ARCHITECT'S BASIC SERVICES
4 SUPPLEMENTAL AND ADDITIONAL SERVICES
5 OWNER'S RESPONSIBILITIES
6 COST OF THE WORK
7 COPYRIGHTS AND LICENSES
8 CLAIMS AND DISPUTES
9 TERMINATION OR SUSPENSION
10 MISCELLANEOUS PROVISIONS
11 COMPENSATION
12 SPECIAL TERMS AND CONDITIONS
13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION
§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

City of Nashua RFP dated July 31, 2018.

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Address the Owners priorities including:
- New Elevator
- New Windows
- New Roof
- Upgraded Mechanical System
- Upgraded Electrical System
- New Exterior Doors

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Nashua Public Health
18 Mulberry Street
Nashua, NH
§ 1.1.3 The Owner’s budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

$2.3 Million (2,300,000.00)

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

1. Design phase milestone dates, if any:
   TBD

2. Construction commencement date:
   TBD

3. Substantial Completion date or dates:
   TBD

4. Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Construction Management

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:
(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreement with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Jay Hunnewell
229 Main Street
PO Box 2019
Nashua, NH 03061-2019
(603) 589-3340

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:
(List name, address, and other contact information.)
Tim Cummings  
229 Main Street  
PO Box 2019  
Nashua, NH 03061-2019  
(603) 589-3072

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:  
TBD

.2 Civil Engineer:  
N/A

.3 Other, if any:  
(List any other consultants and contractors retained by the Owner.)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

Kreg jones  
697 Union Street  
Manchester, NH 03104  
(603) 625-4548

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:  
.1 Structural Engineer:  
SFC Engineering  
Eric Kisak, P.E.  
1 Industrial Drive  
Windham, NH 03087  
(603) 647-8700

.2 Mechanical Engineer:  
Design Day Mechanicals  
Andy Arsenault, P.E.
§ 1.11.2 Consultants retained under Supplemental Services:
N/A

§ 1.12 Other Initial Information on which the Agreement is based:
N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall negotiate adjustments in the schedule, compensation, and changes in the Work in accordance with Sections 3.6.3 and 4. The Owner shall adjust the Owner’s budget for the Cost of the Work and the Owner’s anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

(Paragraph deleted)

ARTICLE 2 ARCHITECT’S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect will provide all professional services necessary for the complete design and construction documentation of the Project as required by the terms of this Agreement. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting, structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements of construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exception to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being ‘the Owner’s responsibility’ or “owner-provided” and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and Architect). The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2.1 The Architect hereby warrants that it (and the individual architects and engineers it employs on this Project) are registered, licensed and authorized to practice Architecture (or Engineering, as the case may be) as required by law of the State of New Hampshire. The Architect warrants that its decisions, Construction Documents and Services shall conform to all federal, state and local statutes and regulations governing its Services, the Project, and the Work. The Architect agrees and
acknowledges that the Architect's duty is non-delegable – and that the Architect, by signing drawings or preparing Construction Documents to submit for purpose of obtaining building and other governmental permits, shall be deemed to certify that it has taken every reasonable measure to ascertain what codes apply to the Project and has applied them accordingly. Nothing in this Agreement shall be construed to eliminate or diminish the Architect's responsibility for compliance of its design, its Construction Documents, and its Services provided with local, state and federal statutes and regulations.

§ 2.2.2 The Architect hereby represents and agrees that the plans, drawings, specifications and other documents prepared by it pursuant to this Agreement must be complete and functional for the purposes intended, except as to any deficiencies which are due to cause beyond the control of the Architect, and that the Project, if constructed in accordance with such plans, drawings, specifications and other documents, will be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million (§ 1,000,000 ) for each occurrence and Two Million (§ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million (§ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million (§ 1,000,000 ) each accident, One Million (§ 1,000,000 ) each employee, and One Million (§ 1,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Three Million (§ 3,000,000 ) per claim and Three Million (§ 3,000,000 ) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.
ARTICLE 3  SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect shall provide all the usual and customary professional services necessary for the complete design and construction documentation of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents the adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owners responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect). Except as stated otherwise in this Agreement, the Architect's Basic Services shall not include design of materials, systems or equipment that are the responsibility of the Contractor or third parties (that are not the Architect's consultants).

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect may require that an Owner's directive or substitution be made in writing.

§ 3.1.5 The Architect shall at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall prepare design and documents in accordance with applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services and prepare designs and documents accordingly.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.
§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner’s approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner’s approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner’s approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner’s program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner’s program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Construction Manager shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner’s approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner’s approval of the Schematic Design Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner’s approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Construction Manager shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3. (Not Used)

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner’s approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner’s approval of the Design Development Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner’s approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the
Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Construction Manager shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.3, and request the Owner's approval.

§ 3.5 Procurement Phase Services
§ 3.5.1 General
The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding
§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:
.1 facilitating the distribution of Bidding Documents to prospective bidders;
.2 organizing and conducting a pre-bid conference for prospective bidders;
.3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
.4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals
§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:
.1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
.2 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
.3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services
§ 3.6.1 General
§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.
§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.4 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201-2007, General Conditions of the Contract for Construction (as amended and supplemented with city made modifications). Architect shall revise and issue the General Conditions of the Contract for Construction (AIA form A201-2007) in accordance with Owner’s instructions and consistent with the duties of the Architect as set forth in the revised A201-2007. The Owner and Architect shall amend this Agreement to reflect material changes in Services required by those instructions.

§ 3.6.2 Evaluations of the Work
§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect’s decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor
§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor’s
Application for Payment, that, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor’s right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals
§ 3.6.4.1 The Architect shall review the Contractor’s submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect’s professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor’s responsibility. The Architect’s review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor’s design professional, provided the submittals bear such professional’s seal and signature when submitted to the Architect. The Architect’s review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect’s response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work
§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to
Section 4.2. the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion
§ 3.6.6.1 The Architect shall:
.1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
.2 issue Certificates of Substantial Completion;
.3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES
§ 4.1 Supplemental Services
§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

<table>
<thead>
<tr>
<th>Supplemental Services</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 4.1.1.1 Programming</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.2 Multiple preliminary designs</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.3 Measured drawings</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.4 Existing facilities surveys</td>
<td>Architect, Basic Agreement</td>
</tr>
<tr>
<td>§ 4.1.1.5 Site evaluation and planning</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.6 Building Information Model management responsibilities</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### Supplemental Services

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 4.1.1.7 Development of Building Information Models for post construction use</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.8 Civil engineering</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.9 Landscape design</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.10 Architectural interior design</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.11 Value analysis</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3</td>
<td>CM/Owner</td>
</tr>
<tr>
<td>§ 4.1.1.13 On-site project representation</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.14 Conformed documents for construction</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.15 As-designed record drawings</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.16 As-constructed record drawings</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.17 Post-occupancy evaluation</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.18 Facility support services</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.1.19 Tenant-related services</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.20 Architect's coordination of the Owner's consultants</td>
<td>Architect, Basic Agreement</td>
</tr>
<tr>
<td>§ 4.1.21 Telecommunications/data design</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.22 Security evaluation and planning</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.23 Commissioning</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.24 Sustainable Project Services pursuant to Section 4.1.3</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.25 Fast-track design services</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.26 Multiple bid packages</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.27 Historic preservation</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.28 Furniture, furnishings, and equipment design</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.29 Other services provided by specialty Consultants</td>
<td>N/A</td>
</tr>
<tr>
<td>§ 4.1.30 Other Supplemental Services</td>
<td>N/A</td>
</tr>
</tbody>
</table>

#### § 4.1.2 Description of Supplemental Services

**§ 4.1.2.1** A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

*Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.*

As requested in RFP no further supplemental services anticipate at this time.

**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

*Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.*
§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™. 2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect’s Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect’s schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner’s written authorization:

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method;

.2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner’s consultants or contractors;

.5 Preparing digital models or other design documentation for transmission to the Owner’s consultants and contractors, or to other Owner-authorized recipients;

.6 Preparation of design and documentation for alternate bids or proposal requests proposed by the Owner;

.7 Preparation for, and attendance at, a public presentation, meeting or hearing;

.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

.9 Evaluation of the qualifications of entities providing bids or proposals;

.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,

.11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect’s notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner’s determination. The Owner shall compensate the Architect for the services provided prior to the Architect’s receipt of the Owner’s notice.

.1 Reviewing a Contractor’s submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor’s requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor’s proposals and supporting data, or the preparation or revision of Instruments of Service;

.4 Evaluating an extensive number of Claims as the Initial Decision Maker, or;

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:
.1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor.

.2 Two per month (2/mo.) visits to the site by the Architect during construction.

.3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.

.4 Two (2) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect’s services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER’S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner’s objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner’s other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner’s budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner’s budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project’s scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner’s behalf with respect to the Project. The Owner shall render decisions and approve the Architect’s submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect’s services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including vaults and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner’s responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™. 2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect’s request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner’s consultants. The Owner shall furnish the services of consultants other than those designated as...
the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service. All construction estimates provided by CM.

Init.
§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner’s budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect’s estimate of the Cost of the Work exceeds the Owner’s budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project’s size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner’s budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall
   1. give written approval of an increase in the budget for the Cost of the Work;
   2. authorize rebidding or renegotiating of the Project within a reasonable time;
   3. terminate in accordance with Section 9.5;
   4. in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
   5. implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner’s budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner’s budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect’s services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect’s modification of the Construction Documents shall be the limit of the Architect’s responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect hereby assigns to the Owner, without reservation, all copyrights in all Project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the Construction Documents. The Owner’s obligation to pay the Architect is expressly conditioned upon the Architect’s obtaining a valid written comprehensive assignment of copyrights from its Consultants in terms identical to those the-oblige the Architect to the Owner as expressed in this subsection, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect and its Consultants a revocable, nonexclusive license to reproduce the documents for purposes relating directly to the Architect’s performance of its obligations under this Agreement for the Architect’s archival records, and for the Architect’s reproduction of drawings and photographs in the Architect’s marketing materials, provided that the Project-related contents of those materials are approved as request in Section 7.3 of this Agreement. This nonexclusive license shall terminate automatically upon the occurrence of either a breach of this Agreement by the Architect or the accused commission by the Architect of a tort or a crime affecting the Owner or the Project or upon termination of this Article. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity, except that the nonexclusive license granted in this Agreement to the Architect for purposes of the Architect’s performance hereunder may be sub-licensed to the Architect’s Consultants (with the same limitations). Subject to the foregoing, this nonexclusive license shall terminate automatically upon and Architect’s assignment of this nonexclusive license to another or its attempt to do so.

§ 7.3 The Architect shall obtain similar nonexclusive licenses from the Architect’s consultants consistent with this Agreement.

§ 7.3.1 To the extent that liability arises from misuse of the misuse of the Instruments of Service by the Owner or another architect or engineer, the Architect shall not be responsible for that misuse. If the Owner uses the Instruments of Services for purposes including additions to and modifications of the Project, and for other purposes, the Owner shall indemnify the Architect for...
losses, including reasonable attorney's fees, suffered by the Architect as a result of the use of the design and these documents for such other purposes, the Owner shall see that they are modified (a) to indicate that the Architect did not prepare them for such other purposes and is not responsible for their use in connection with such other purposes and (b) to delete the Architect's name and seal from the documents (where permitted or required by law).

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. No other Project-related data, expression, or documents may be reproduced by the Architect of its Consultants for any other proposes without the express written permission of the Owner.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 Intentionally omitted

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Intentionally omitted

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Choose the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[ X ] Litigation in the State of New Hampshire, Superior Court Hillsborough South.

[ ] Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.
§ 8.3 Arbitration
§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

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

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

§ 8.3.4 Consolidation or Joinder
§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION
§ 9.1 The Architect shall give the Owner twenty-one (21) days written notice of the Architect’s intention to terminate or suspend provisions of Services. This notice shall detail the Architect’s specific reason(s) for its intended termination or suspension and shall state with specificity the means by which the Owner may cure the alleged reason.

§ 9.2 If the Owner fails to make payments to the Architect that are otherwise due hereunder and are not subject to a good faith dispute, the Architect shall give the Owner fourteen (14) days’ advanced written notice of its intention to suspend Services. If the Owner fails either to pay or justify its lack of payment of undisputed amounts in accordance the terms of this Agreement, the Architect may give notice of suspension and suspend the Services five (5) day thereafter. Services shall otherwise be performed continually and expeditiously, including during the pendency of disputes. The suspension shall cease when payment in full of undisputed amounts is made.

§ 9.3 Unless otherwise noted herein or indicated in the Project Schedule most recently approved by the Owner, or unless caused by the Architect if the Project is suspended by the Owner for more than ninety (90) consecutive days, the Architect shall be compensated for Services that were fully and satisfactorily performed prior to suspension and shall receive equitable payment for the Architect’s demonstrated actual costs to remobilize to continue performance when Services are recommended by request of the Owner.
§ 9.4 This Agreement may be terminated by the Owner, with or without cause, for the Owner’s convenience upon not less than seven (7) day’s written notice to the Architect. Should the Owner terminate this Agreement for cause, but that cause be subsequently found to be insufficient to support termination, the termination shall be deemed one of convenience.

§ 9.5 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

§ 9.6 Intentionally omitted.

§ 9.7

*Paragraphs deleted*

Intentionally omitted.

§ 9.8 (Termination Expenses) Any reference to Termination Expenses elsewhere in this Agreement shall be of no effect.

§ 9.9 (Cooperation after Termination) In case of any termination, The Architect shall:
1) Cooperate with Owner in completing the Project;
2) Provide information requested by the Owner in connection with completion of the Project;
3) Provide a reproducible copy of all Drawings, Specifications and other documents, even if incomplete, prepared by
the Architect up to the date of termination; and
4) if requested by the Owner, provide a reproducible copy of all Drawings, Specifications and other documents to
describe the constructed Work as of the date of termination.

Services provided after termination shall be compensated as Additional Services.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that
jurisdiction’s choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the
Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201 2017, General
Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal
representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written
consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project
if the lender agrees to assume the Owner’s rights and obligations under this Agreement, including any payments due to
the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be
submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests
the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute
all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect
for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents
that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of,
a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery,
presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any
form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project
among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the
completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants, and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11  COMPENSATION
§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

<table>
<thead>
<tr>
<th></th>
<th>Stipulated Sum</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Insert amount)</td>
</tr>
<tr>
<td></td>
<td>143,700.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Percentage Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Insert percentage value)</td>
</tr>
<tr>
<td></td>
<td>( )% of the Owner’s budget for the Cost of the Work, as calculated in accordance with Section 11.6.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Describe the method of compensation)</td>
</tr>
</tbody>
</table>

§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Quoted for defined scope with prior approval

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Quoted for defined scope with prior approval
§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (1.15 %), or as follows:

(Insert amount of, or basis for computing Architect’s consultants’ compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

<table>
<thead>
<tr>
<th>Schematic Design Phase</th>
<th>20,000.00</th>
<th>percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Development Phase</td>
<td>25,000.00</td>
<td>percent (%)</td>
</tr>
<tr>
<td>Construction Documents</td>
<td>62,763.00</td>
<td>percent (%)</td>
</tr>
<tr>
<td>Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement Phase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Phase</td>
<td>35,937.00</td>
<td>percent (%)</td>
</tr>
<tr>
<td>Total Basic Compensation</td>
<td>143,700.00</td>
<td>percent (%)</td>
</tr>
</tbody>
</table>

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit B & Dennis Mires, PA The Architects Hourly Rates

<table>
<thead>
<tr>
<th>Employee or Category</th>
<th>Rate ($0.00)</th>
</tr>
</thead>
</table>

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling, and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses;
§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus ten percent (10%) of the expenses incurred.

§ 11.9 Architect’s Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below.
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

N/A

§ 11.10 Payments to the Architect
§ 11.10.1 Initial Payments
§ 11.10.1.1 An initial payment of Zero (0 $) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of N/A ($ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect’s payments to the Certifying Authority shall be credited to the Owner’s account at the time the expense is incurred.

§ 11.10.2 Progress Payments
§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect’s invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

Zero % 0 /per mo.

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect’s compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS
Special terms and conditions that modify this Agreement are as follows:
(Including other terms and conditions applicable to this Agreement.)

ARTICLE 13 SCOPE OF THE AGREEMENT
§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:
.1 AIA Document B101™ 2017, Standard Form Agreement Between Owner and Architect
.2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

Init. / 23

AIA Document B101™ — 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under law. This document was produced by AIA software at 11:12:42 ET on 04/02/2019 under Order No 0100024863 which expires on 12/13/2019, and is not for resale.

User Notes: (1131096814)
N/A

.3 Exhibits:
(Insert the date of the E203-2013 incorporated into this agreement.)

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

[ ] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits
and scopes of services identified as exhibits in Section 4.1.2.)

Exhibit A - Proposal dated July 31, 2018
Exhibit B - Dennis Mires, P.A. The Architects Hourly Rates

.4 Other documents:
(List other documents, if any, forming part of the Agreement.)

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

OWNER (Signature)

ARCHITECT (Signature)

Dennis Mires, President, AIA  Lic. No. 01018

(Printed name and title)

(Printed name, title, and license number, if required)
Additions and Deletions Report for
AIA® Document B101™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:12:42 E1 on 04/02/2019.

PAGE 1

AGREEMENT made as of the day of April in the year Two Thousand and Nineteen

...

City of Nashua
229 Main Street
PO Box 2019
Nashua, NH 03061-2019

...

Dennis Mires, P.A. The Architects
697 Union Street
Manchester, NH 03104
(603) 625-4548

...

Nashua Public Health
Addition & Renovations
18 Mulberry Street
Nashua, NH

PAGE 2

City of Nashua RFP dated July 31, 2018.

...

Address the Owners priorities including:
- New Elevator
- New Windows
- New Roof
- Upgraded Mechanical System
- Upgraded Electrical System
- New Exterior Doors

...

Nashua Public Health
18 Mulberry Street
Nashua, NH
$2.3 Million  (2,300,000.00)
...  
TBD
...
TBD
...
TBD
...
Construction Management
...
N/A
...
Jay Hunnewell
229 Main Street
PO Box 2019
Nashua, NH 03061-2019
(603) 589-3340

PAGE 4

Tim Cummings
229 Main Street
PO Box 2019
Nashua, NH 03061-2019
(603) 589-3072
...
TBD
...
N/A
...
Kreg Jones
697 Union Street
Manchester, NH 03104
(603) 625-4548
...
SFC Engineering
Eric Kisak, P.E.
1 Industrial Drive
Windham, NH 03087
(603) 647-8700

Design Day Mechanicals
Andy Arsenaux, P.E.
PO Box 447
New Ipswich, NH 03071
(603) 878-3769

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Electrical Systems Engineering
Victor Reno, P.E.
185 Winchester St.
Keene, NH 03431
(603) 446-3426

N/A

N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect’s services, schedule for the Architect’s services, and the Architect’s compensation; negotiate adjustments in the schedule, compensation, and changes in the Work in accordance with Sections 3.6, 5 and 4. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™—2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™—2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect will provide all professional services necessary for the complete design and construction documentation of the Project as required by the terms of this Agreement. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting, structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the Project and prepare Construction Documents that fully indicate the requirements of construction of the Work, whether or not those Services are individual listed or referred to in this Agreement, the only exception to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being ‘the Owner's responsibility’ or ‘owner-provided’; and (2) the cost of those engineering or
consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and Architect). The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2.1 The Architect hereby warrants that it (and the individual architects and engineers it employs on this Project) are registered, licensed and authorized to practice Architecture (or Engineering, as the case may be) as required by law of the State of New Hampshire. The Architect warrants that its decisions. Construction Documents and Services shall conform to all federal, state and local statutes and regulations governing its Services, the Project, and the Work. The Architect agrees and acknowledges that the Architect's duty is non-delegable – and that the Architect, by signing drawings or preparing Construction Documents to submit for purpose of obtaining building and other governmental permits, shall be deemed to certify that it has taken every reasonable measure to ascertain what codes apply to the Project and has applied them accordingly. Nothing in this Agreement shall be construed to eliminate or diminish the Architect's responsibility for compliance of its design, its Construction Documents, and its Services provided with local, state and federal statutes and regulations.

§ 2.2.2 The Architect hereby represents and agrees that the plans, drawings, specifications and other documents prepared by it pursuant to this Agreement must be complete and functional for the purposes intended, except as to any deficiencies which are due to cause beyond the control of the Architect, and that the Project, if constructed in accordance with such plans, drawings, specifications and other documents, will be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended.

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§ 2.5.1 Commercial General Liability with policy limits of not less than One Million (S 1,000,000.00) for each occurrence and Two Million (S 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million (S 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.5 Employers' Liability with policy limits not less than One Million (S 1,000,000.00) each accident, One Million (S 1,000,000.00) each employee, and One Million (S 1,000,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Three Million (S 3,000,000.00) per claim and Three Million (S 3,000,000.00) in the aggregate.

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§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Architect shall provide all the usual and customary professional services necessary for the complete design and construction documentation of the Project. The Architect agrees that the Basic Services Fee, as stated in Article 11, represents the adequate and sufficient compensation for its timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and civil, and other consulting engineers) necessary to completely design the project and prepare Construction Documents that fully indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being "the Owners responsibility" or "Owner-provided", and (2) the cost of those engineering or consulting Services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect). Except as stated otherwise in this Agreement, the Architect's Basic Services shall not
include design of materials, systems or equipment that are the responsibility of the Contractor or third parties (that are not the Architect’s consultants).

§ 3.1.4 The Architect shall not be responsible for an Owner’s directive or substitution, or for the Owner’s acceptance of non-conforming Work, made or given without the Architect’s written approval may require that an Owner’s directive or substitution be made in writing.

§ 3.1.5 The Architect shall at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities. In designing the Project, the Architect shall prepare design and documents in accordance with applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect’s services; services and prepare designs and documents accordingly.

§ 3.2.6 The Architect Construction Manager shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.2 The Architect Construction Manager shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3. (Not used)

§ 3.4.4 The Architect Construction Manager shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.6.1.4 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201-2007, General Conditions of the Contract for Construction as amended and supplemented with city made modifications. The Architect shall revise and issue the General Conditions of the Contract for Construction (AIA form A201-2007) in accordance with Owner’s instructions and consistent with the duties of the Architect as set forth in the revised A201-2007. The Owner and Architect shall amend this Agreement to reflect material changes in Services required by those instructions.

| § 4.1.1.1 | Programming | N/A |
| § 4.1.1.2 | Multiple preliminary designs | N/A |
| § 4.1.1.3 | Measured drawings | N/A |
| § 4.1.1.4 | Existing facilities surveys | Architect, Basic Agreement |
| § 4.1.1.5 | Site evaluation and planning | N/A |
| § 4.1.1.6 | Building Information Model management responsibilities | N/A |
| § 4.1.1.7 | Development of Building Information Models for post construction use | N/A |
| § 4.1.1.8 | Civil engineering | N/A |
| § 4.1.1.9 | Landscape design | N/A |
| § 4.1.1.10 | Architectural interior design | N/A |
| § 4.1.1.11  | Value analysis | N/A |
| § 4.1.1.12  | Detailed cost estimating beyond that required in Section 6.3 | CM / Owner |
| § 4.1.1.13  | On-site project representation | N/A |
| § 4.1.1.14  | Conformed documents for construction | N/A |
| § 4.1.1.15  | As-designed record drawings | N/A |
| § 4.1.1.16  | As-constructed record drawings | N/A |
| § 4.1.1.17  | Post-occupancy evaluation | N/A |
| § 4.1.1.18  | Facility support services | N/A |
| § 4.1.1.19  | Tenant-related services | N/A |
| § 4.1.1.20  | Architect’s coordination of the Owner’s consultants | Architect, Basic Agreement |
| § 4.1.1.21  | Telecommunications/data design | N/A |
| § 4.1.1.22  | Security evaluation and planning | N/A |
| § 4.1.1.23  | Commissioning | N/A |
| § 4.1.1.24  | Sustainable Project Services pursuant to Section 4.1.3 | N/A |
| § 4.1.1.25  | Fast-track design services | N/A |
| § 4.1.1.26  | Multiple bid packages | N/A |
| § 4.1.1.27  | Historic preservation | N/A |
| § 4.1.1.28  | Furniture, furnishings, and equipment design | N/A |
| § 4.1.1.29  | Other services provided by specialty consultants | N/A |
| § 4.1.1.30  | Other supplemental services | N/A |

As requested in RFP no further supplemental services anticipate at this time.

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1. Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor.
2. Two per month (2/mo.) visits to the site by the Architect during construction.
3. Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.
4. Two (2) inspections for any portion of the Work to determine final completion.

...§ 4.2.5. If the services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect’s services beyond that time shall be compensated as Additional Services.

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§ 5.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternatives as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect’s estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect’s responsibility in Section 4.1.1, as a Supplemental Service. All construction estimates provided by CM.

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§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants hereby assigned to the Owner, without reservation, all copyrights in all Project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the Construction Documents. The Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of copyrights from its Consultants in terms identical to those the obligate the Architect to the Owner as expressed in this subsection, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect and its Consultants a revocable, nonexclusive license to reproduce the documents for purposes relating directly to the Architect's performance of its obligations under this Agreement for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials, provided that the Project-related contents of those materials are approved as request in Section 7.3 of this Agreement. This nonexclusive license shall terminate automatically upon the occurrence of either a breach of this Agreement by the Architect or the accused commission by the Architect of a tort or a crime affecting the Owner or the Project or upon termination of this Agreement. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity, except that the nonexclusive license granted in this Agreement to the Architect for purposes of the Architect's performance hereunder may be sub-licensed to the Architect's Consultants (with the same limitations). Subject to the foregoing, this nonexclusive license shall terminate automatically upon and Architect's assignment of this nonexclusive license to another or its attempt to do so.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt-payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractor, Sub-subcontractor, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and the Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4. To the extent that liability arises from misuse of the misuse of the Instruments of Service by the Owner or another architect or engineer, the Architect shall not be responsible for that misuse. If the Owner uses the Instruments of Service for purposes including additions to and modifications of the Project, and for other projects, the Owner shall indemnify the Architect for losses, including reasonable attorney's fees, suffered by the Architect as a result of the use of the design and these documents for such other purposes, the Owner shall see that they are modified (a) to indicate that the Architect did not prepare them for such other purposes and is not responsible for their use in connection with such other purposes and (b) to delete the Architect's name and seal from the documents (where permitted or required by law).

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultant. No other Project-related data, expression, or documents may be reproduced by the Architect or its Consultants for any other purposes without the express written permission of the Owner.

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§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. Intentionally omitted

... 

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. Intentionally omitted

...

[ ] — Litigation in a court of competent jurisdiction X [ ] — Litigation in the State of New Hampshire, Superior Court Hillsborough South.

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§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. The Architect shall give the Owner twenty-one (21) days' written notice of the Architect's intention to terminate or suspend provisions of Services. This notice shall detail the Architect's specific reason(s) for its intended termination or suspension and shall state with specificity the means by which the Owner may cure the alleged reason.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. If the Owner elects to suspend services, the Architect shall give the Owner fourteen (14) days' advanced written notice of its intention to suspend Services. If the Owner fails to pay or justify its lack of payment of undisputed amounts in accordance the terms of this Agreement Architect may give notice of suspension and suspend the Services five (5) day thereafter. Services shall otherwise be performed continually and expeditiously, including during the pendency of disputes. The suspension shall cease when payment in full of undisputed amounts is made.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice. Unless otherwise noted herein or indicated in the Project Schedule most recently approved by the Owner, or unless caused by the Architect if the Project is suspended by the Owner for more than ninety (90) consecutive days, the Architect shall be compensated for Services that were fully and satisfactorily performed prior to suspension and shall receive equitable payment for the Architect's demonstrated actual costs to remobilize to continue performance when Services are recommended by request of the Owner.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. This Agreement may be terminated by the Owner, with or without cause, for the Owner's convenience.
upon not less than seven (7) day's written notice to the Architect. Should the Owner terminate this Agreement for cause, but that cause be subsequently found to be insufficient to support termination, the termination shall be deemed one of convenience.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination. Reimbursable expenses incurred, and costs attributable to termination, including the costs attributable to the Architect’s termination of consultant agreements, Intentionally omitted.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

1. — Termination Fee:

2. — Licensing Fee if the Owner intends to continue using the Architect’s Instruments of Service:

Intentionally omitted.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion. (Termination Expenses) Any reference to Termination Expenses elsewhere in this Agreement shall be of no effect.

§ 9.9 The Owner’s rights to use the Architect’s Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7. (Cooperation after Termination) In case of any termination, The Architect shall:

1) Cooperate with Owner in completing the Project;
2) Provide information requested by the Owner in connection with completion of the Project;
3) Provide a reproducible copy of all Drawings, Specifications and other documents, even if incomplete, prepared by the Architect up to the date of termination; and
4) if requested by the Owner, provide a reproducible copy of all Drawings, Specifications and other documents to describe the constructed Work as of the date of termination.

Services provided after termination shall be compensated as Additional Services.

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143,700.00

... Quoted for defined scope with prior approval ...

... Quoted for defined scope with prior approval

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (1.15 %), or as follows:

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| Schematic Design Phase | 20,000.00 | percent (1.15 %) | % |

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Design Development Phase 25,000.00 percent (%)
Construction Documents 62,263.00 percent (%)
Phase ...

Construction Phase 35,937.00 percent (%)
...

Total Basic Compensation one hundred 143,700.00 percent (%) 100 %

See Exhibit B & Dennis Mires, PA The Architects Hourly Rates
PAGE 23

§ 11.8.2 For Reimburseable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus ten percent (10.%) of the expenses incurred.

...

N/A ...

§ 11.10.1.1 An initial payment of Zero (0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of N/A_($) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect’s payments to the Certifying Authority shall be credited to the Owner’s account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect’s invoice. Amounts unpaid thirty (_30_) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

Zero % 0 /per mo.
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N/A ...

[ N/A_ ] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:

...

Exhibit A - Proposal dated July 31, 2018
Exhibit B - Dennis Mires, P.A. The Architects Hourly Rates
I, Dennis B. Mires, AIA President, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:12:42 ET on 04/02/2019 under Order No. 0100024863 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA© Document B101™ 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

President

(Dated)

4/2/19
May 9, 2019
Memo #19-144

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: 2019 PAVEMENT PRESERVATION PROGRAM–CRACK SEALING (VALUE: $143,865)
DEPARTMENT: 160 ADMIN/ENGINEERING; FUND: BOND

Please see the attached communication from Stephen Dookran, P.E., City Engineer, dated April 25, 2019
for information related to this purchase.

Pursuant to § 5-78 Major purchases (greater than $10,000) A. All supplies and contractual services,
extcept 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, Board of Public Works (April 25, 2019 meeting) and the Purchasing Department
recommend the award of this contract in an amount of $143,865 to Sealcoating, Inc. of Braintree, MA.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: S Dookran L Fauteux
City of Nashua, Public Works Division

To: Board of Public Works  
Meeting Date: April 25, 2019

From: Stephen Dookran, P.E., City Engineer  
Engineering Department

Re: 2019 Pavement Preservation Program - Crack Sealing

D. Motion: To approve the award of the construction contract with for the 2019 Pavement Preservation Program (Crack Sealing) to Sealcoating, Inc. of Braintree, MA in an amount of $143,865. Department: 160 Admin/Engineering; Fund: Bond; Activity: Paving.

Discussion: The 2019 Pavement Crack Sealing Program is expected to crack seal approximately 31 miles of streets. This will include cleaning and sealing of construction and random cracks in the street. Once the cracks are free from debris, dirt, or vegetation, crack sealant will be applied through a high pressure hose line and applicator shoe.

Formation of cracks in the roads is inevitable and will develop as the asphalt pavement undergoes oxidation and deterioration. Once the cracks are sealed with an approved sealant, it slows the rate of their formation in pavements over time and decreases the amount of moisture penetrating the asphalt layers.

The streets selected in this program are in reasonably good condition (Pavement Condition Index [PCI] in the range of 60 to 99). This type of treatment is more of a routine maintenance with the goal of extending the pavement life and delaying the need for more extensive treatments. Majority of the streets that are selected in this program are residential streets and few are arterial/major roads.

The contract was advertised on March 28, 2019 and non-mandatory pre-bid meeting was held on April 10, 2019. However, no contractor attended. Given below is the list of the bids:

- Sealcoating, Inc. of Braintree, MA $143,865
- Superior Sealcoat, Inc., Wilmington, MA $211,683

Sealcoating, Inc. of Braintree, MA is the qualified low bidder. References have been checked and were found to be acceptable.
May 9, 2019
Memo #19-145

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF CASTINGS FOR THE 2019 PAVING PROGRAM (VALUE: $194,866)
DEPARTMENT: 169 WASTEWATER; FUND: WASTEWATER

Please see the attached communication from Stephen Dookran, P.E., City Engineer, dated April 25, 2019 for 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, Board of Public Works and the Purchasing Department recommend the award of this contract in the amount of $194,866 to Concord Winwater Works Co. of Concord, NH.

Respectfully,

[Signature]
Dan Koochen
Purchasing Manager

Cc: S Dookran L Fauteux
To: Board of Public Works               Meeting Date: April 25, 2019
From: Stephen Dookran, P.E., City Engineer
      Engineering Department
Re: 2019 Paving Program - Castings

C. Motion: To approve the purchase of manhole and catch basin castings from Concord
Winwater Works Co. of Concord, NH in the amount of $194,866.40. Funding
will be through: Department: 169 Wastewater; Fund: Wastewater; Activity:
Sewer Structures.

Discussion: The 2019 Paving Program includes the work of replacing all broken and obsolete
manhole and catch basin castings. In order to keep costs low, the paving contract
specifies that the castings will be supplied by the City. This approval is for the
purchase of 460 catch basin frames, 400 catch basin grates, 460 manhole frames,
390 sewer manhole covers, and 70 drain manhole covers, meeting DPW
specifications to be installed under the 2019 Paving Program.

Request for quotes were emailed to Concord Winwater Works, EJ Prescott,
Ferguson Water Works, EJ Company, Blair Supply USA, and Neenah Foundary.
The quotes were received from the following three vendors:

  Concord Winwater works, Concord, NH       $194,866.40
  EJ Prescott, Inc. of Concord, NH           $201,873.10
  Ferguson Water works of Raymond, NH        $229,110.60

Concord Winwater Works Co. is the qualified, low bidder for this purchase. They
have supplied castings on NHDOT projects and several construction projects in
State of New Hampshire.
### City of Nashua

**DPW - Engineering Department**

**2019 Street Paving Program**

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**TOTAL BID PRICE**

Dollars and Cents

$194,856.40

**NOTES:**

*All units shall be US products.

*All units shall be Heavy Duty.

*Prices are to be quoted FOB delivered to the City of Nashua laydown yard at 6 Riverside St, Nashua, NH 03062.

* Prior to delivery of the Castings, Mandep Gill should be notified via phone call (603-589-3123) during regular office business hours (Monday through Friday: 8:00 AM to 5:00PM)

*Delivery will be required within ten (10) days after issuance of Purchase Order.

*Shop Drawings and Certificates of Compliance will be required. Submit castings as per the attached drawings or equivalent.

**Supplier:** Concord Winderu Co.

**Authorized Signature:**

**Date:** 3-29-2019
May 9, 2019  
Memo #19-146

TO: MAYOR DONCHESS  
FINANCE COMMITTEE

SUBJECT: 2019 SIDEWALK PROGRAM (VALUE: $47,150)  
DEPARTMENT: 160 ADMIN/ENGINEERING; FUND: NORTHWEST QUADRANT FUND,  
SOUTHEAST QUADRANT FUND AND FY19 SIDEWALK CAPITAL FUNDS

Please see the attached communication from Stephen Dookran, P.E., City Engineer, dated May 10, 2019  
for information related to this purchase.

Pursuant to § 5-78 Major purchases (greater than $10,000) A. All supplies and contractual services,  
extcept 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, Board of Public Works (May 10, 2020) and the Purchasing Department recommend  
the award of this contract in an amount of $47,150 to Tri State Curb of Weare, NH.

Respectfully,  
Dan Kookan  
Purchasing Manager

Cc: S Dookran L Fauteux
City of Nashua, Public Works Division

To: Board of Public Works

Meeting Date: May 10, 2019

From: Stephen Dookran, P.E., City Engineer
Engineering Department

Re: 2019 Sidewalk Program

A. Motion: To approve the construction contract with Tri State Curb of Weare, NH in an amount not to exceed $47,150. Funding will be through the Northwest Quadrant Funds, the Southeast Quadrant Funds and the FY19 Sidewalk Capital Funds.

Discussion: A large portion of Broad Street is being paved this spring as part of the Federal Highway Paving Program. A 2,500 foot long sidewalk on the south side of Broad St from Lutheran Drive to Denise Street is proposed to provide a continuous sidewalk for pedestrians, including those walking to both Nashua North High and the Broad Street Middle Schools. In addition, the sidewalk will provide greater walkability for the entire community centered on Broad Street and it will connect to the current sidewalk configuration making it accessible to people with disabilities. In order to construct this proposed sidewalk, coordination with the associated with the paving program is required.

Broad Street is being paved using federal funding that has time sensitive requirement as to when the funding must be spent. Broad Street is scheduled to be paved in early June so it is urgent that the curb be in place prior to final paving.

In addition, approximately 230 feet of granite curb will be installed on East Dunstable Road as part of a proposed sidewalk to connect several segments of sidewalk into a continuous stretch. This contract includes the installation of granite curbing from 158 East Dunstable Road to Judith Drive with the sidewalk to be constructed by in-house forces.

In April, a request for proposals was emailed to four contractors and advertised on the City website. Only one proposal was received from Canterbury Timber Company of Canterbury, NH in the amount of $258,468.50, which exceeded the available funding. It was decided to perform the majority of sidewalk construction using DPW forces except for the granite curb installation.

Phone calls were made to various curbing contractors to install 2,300 linear feet of curb required for the sidewalk construction. Only Tri State Curb of Weare, NH is available and is willing to coordinate the curb installation with the Broad Street paving schedule. The quote of $47,150 is reasonable to install this quantity of vertical granite curbing.
**PROPOSAL**

# 8634

**66 South Sugar Hill Road**
**Weare, NH 03281**
**Ph: 603-529-4009**
**Fx: 603-529-4014**
**info@tristatecurb.com**

**PROPOSAL SUBMITTED TO:**
City of Nashua - Street Dept.
9 Riverside Street
Nashua NH 03062

**DATE:** 04/26/2019
**JOB NAME:** Broad Street
**JOB LOCATION:** Nashua, NH
**PROJECT NUMBER:**

**ATTN:** Mark
**PHONE:** (603) 589-4709
**FAX:** (603) 594-3396

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<th>Description</th>
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<td>LF</td>
<td>609.01 Straight Granite Curb</td>
<td>$20.50</td>
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We hereby propose to furnish and install - complete in accord
specifications, for the estimated

Dollars ($ 47,150.00 ).

---

**Project Notes:**
FIELD LAYOUT, TRAFFIC CONTROL AND CONCRETE TOE BY OTHERS. CONTRACTOR
MUST LIST TRI STATE CURB AS EXCAVATOR/CURB WORK ON DIGSAFE TICKET &
PROVIDE COPY OF TICKET PRIOR TO STARTUP. PRICE INCLUDES 2 MOBILIZATIONS
MIN 800’ PER MOB.

Terms: Unless otherwise specified, payment is due in full net 30 DY.

All material is guaranteed to be as specified. All work to be completed
in a workmanlike manner according to standard practices. Any
alteration or deviation from above proposal involving extra costs
will be executed only upon written orders, and will become an extra
charge over and above the estimate. Our workers are fully covered
by Workman’s Compensation Insurance.

**Acceptance of Proposal**
The above prices, specifications and conditions are satisfactory and
are hereby accepted. You are authorized to do the work as specified.
Payment will be made as outlined above.

Date of Acceptance ___________________________

Authorized Signature _________________________

Note: This proposal may be withdrawn by us if not accepted within 90 days

**To confirm order and schedule please sign and return.**

Thank you

Signature _____________________________
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 03060-2019

And the CONTRACTOR: Tri State Curb
66 South Sugar Hill Road
Weare, NH 03281
and its successors, transferees and assignees
(together “CONTRACTOR”)

For the following Project: 2019 Sidewalk Program – Curbing
Broad Street and East Dunstable Road

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. Special Conditions;
3. Construction Specification – Item 609.01 Straight Granite Curb;
4. Tri State Curb Proposal dtd April 26, 2019;
5. Insurance Certificate;
6. Written change orders for minor changes in the Work issued after execution of this Agreement; and
7. Fully Executed OWNER 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.

In the event of a conflict between the terms of the Proposals and the terms of this Agreement, a written change order and/or fully executed OWNER Purchase Order, the terms of this Agreement, the written change order or the fully executed OWNER Purchase Order shall control over the terms of the Proposals.
ARTICLE 2 – DATE OF COMMENCEMENT AND COMPLETION DATE

The date of commencement shall be the date of the Notice to Proceed and Completion shall be as described in the Special Conditions.

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:

FORTY-SEVEN THOUSAND ONE HUNDRED FIFTY DOLLARS ($47,150.00)

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; and
- Workers’ Compensation Coverage in compliance with the State of NH Statutes, $100,000/$500,000/$100,000.

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, or subcontractor’s. The only contractual relationship created by this contract is between the OWNER and CONTRACTOR, and nothing in this contract shall create any contractual relationship between the OWNER and CONTRACTOR’s consultants, sub consultants, or subcontractor’s. The parties also agree that CONTRACTOR is not an OWNER employee and that there shall be no:

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

CONTRACTOR will provide the OWNER with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the OWNER issues the notice of award. The OWNER 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 OWNER as an
additional insured and reflect on the certificate of insurance. CONTRACTOR is responsible for filing updated certificates of insurance with the OWNER'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.
- The specified insurance requirements do not relieve CONTRACTOR of its responsibilities or limit the amount of its liability to the OWNER 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 OWNER 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 OWNER, caused in whole or part by CONTRACTOR or anyone employed, directed, or supervised by CONTRACTOR.
- The insurance provided herein is primary, and no insurance held or owned by the OWNER, 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 OWNER, 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 hold harmless the OWNER, 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 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 (7) 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 the OWNER a Payment Bond and a Performance 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 completing 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. Upon completion of WORK, CONTRACTOR warrants and guarantees to OWNER, for one (1) year, and that all WORK was completed 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 Board of Public Works and the OWNER’s 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. Once every thirty (30) days, 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 as follows:

   ➢ Electronically via email to VendorAPInvoices@NashuaNH.gov

   OR

   ➢ Paper Copies via US Mail to:

       City of Nashua, City Hall
       Accounts Payable
       229 Main Street
       Nashua, NH 03060

   Please do not submit invoices both electronically and paper copy.

In addition, and to facilitate the proper and timely payment of applications, the OWNER requires that all submitted invoices 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, for work satisfactorily completed and accurately invoiced, on the basis of CONTRACTORS Application for Payment, within 30 days of approval by the OWNER.

6. The CONTRACTOR shall promptly pay each subcontractor and 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 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 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 OWNER, 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 OWNER 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 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, 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 OWNER. If OWNER determines that a conflict exists and was not disclosed to the OWNER, it may terminate the contract at will or for cause.

ARTICLE 15 – TERMINATION OF THE CONTRACT

Termination, Abandonment, or Suspension At Will

The OWNER, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the OWNER chooses to terminate, abandon, or suspend all or part of the project, it shall provide CONTRACTOR 10 day’s written notice of its intent to do so. If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or that part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, CONTRACTOR shall:

a. Immediately discontinue work on the date and to the extent specified in the notice.

b. Provide the OWNER with a list of all unperformed services.

c. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.

d. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the OWNER of all orders or sub-contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the OWNER any orders or sub-contracts specified in the notice, and revoke agreements specified in the notice.

e. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the OWNER to resume performance.

In the event of a termination, abandonment, or suspension at will, CONTRACTOR shall receive all amounts due and not previously paid to CONTRACTOR for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter
completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

**TERMINATION FOR CAUSE**

This agreement may be terminated by the OWNER on 10 calendar day’s written notice to CONTRACTOR in the event of a failure by CONTRACTOR to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the OWNER, to complete or make sufficient progress on the work in a timely and professional manner. CONTRACTOR shall be given an opportunity for consultation with the OWNER prior to the effective date of the termination. CONTRACTOR may terminate the contract on 10 calendar days written notice if, through no fault of CONTRACTOR, the OWNER fails to pay CONTRACTOR for 45 days after the date of approval by the OWNER of any Application for Payment.

Upon receipt of notice of termination for cause, CONTRACTOR shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Provide the OWNER with a list of all unperformed services.
3. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
4. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the OWNER of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the OWNER any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
5. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the OWNER to resume performance.

In the event of a termination for cause, CONTRACTOR shall receive all amounts due and not previously paid to CONTRACTOR for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the OWNER by reasons of CONTRACTOR's failure. CONTRACTOR shall not be relieved of liability to the OWNER for damages sustained from the failure, and the OWNER may withhold any payment to the CONTRACTOR until such time as the exact amount of damages due to the OWNER is determined. All claims for payment by the CONTRACTOR must be submitted to the OWNER within 30 days of the effective date of the notice of termination.

If after termination for the failure of CONTRACTOR to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the OWNER, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that CONTRACTOR had not so failed, the termination shall be deemed to have been a termination at will. In that event, the OWNER shall, if necessary, make an adjustment in the compensation paid to CONTRACTOR such that CONTRACTOR receives total compensation in the same amount as it would have received in the event of a termination-at-will.
GENERAL PROVISIONS FOR TERMINATION

Upon termination of the contract, the OWNER may take over the work and prosecute it to completion by agreement with another party or otherwise. Upon termination of the contract or in the event CONTRACTOR shall cease conducting business, the OWNER shall have the right to solicit applications for employment from any employee of the CONTRACTOR assigned to the performance of the contract. Neither party shall be considered in default of the performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of CONTRACTOR's principals, officers, employees, agents, subcontractors, sub consultants, vendors, or suppliers are expressly recognized to be within CONTRACTOR's control.

ARTICLE 16 – DISPUTE RESOLUTION

The parties shall attempt to resolve any dispute related to this contract as follows. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the OWNER Representative and the CONTRACTOR Representative. At all times, CONTRACTOR shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the OWNER. If the parties are unable to resolve their dispute as described above within 30 days, the parties may request that the dispute be submitted to the Board of Public Works for resolution. If the parties are dissatisfied with the decision of the Board of Public Works, the parties’ reserve the right to pursue any available legal and/or equitable remedies for any breaches of this contract except as that right may be limited by the terms of this contract.

ARTICLE 17 – CHOICE OF LAW AND VENUE

This contract 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.

ARTICLE 18 – 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.
IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

City of Nashua, NH (signature)  Tri State Curb (signature)

James Donchess, Mayor (Printed Name and Title)  (Printed Name and Title)

Date  Date
**Special Conditions**

**Working Hours**

A. Except as stated below, Normal working hours shall be from 9:00 AM to 3:00 PM Monday through Friday. Working hours can be extended with written authorization from the Director of Public Works.

B. No weekend, holiday or night work will be allowed without advance written approval of the City Engineer. Any request for approval for weekend, holiday or night work must be made in writing to the Engineer at least one week in advance of the work.

**Notice to Proceed and Completion**

A. It is anticipated that the City of Nashua will issue a Notice to Proceed on or about **May 20, 2019**.

B. Installation of granite curb on Broad Street shall be complete by **June 7, 2019**.

C. Installation of granite curb on East Dunstable Road shall be complete by **October 15, 2019**.

**ADA Compliance**

A. Contractor shall take measurements as needed before work commences at each ramp location to assure that Contractor has all control needed to install curbing improvements in compliance with ADA.

B. City representative will meet with the contractor in advance of work at each ramp location to assure concurrence on the limits and extent of work needed to achieve ADA compliance.

C. If in the opinion of the contractor, construction of an ADA complaint ramp is not possible at any location based on the concept presented on the Contract Drawings, the contractor shall notify the Engineer in writing in advance of any construction activities at that location. Unless notifications of any such concerns are made to the Engineer, Contractor shall be responsible for the ADA compliance of the finished work.

**Protection of Catch Basins**

A. Contractor shall be responsible to protect catch basins in close proximity to the work and as directed by the Engineer.
SPECIAL CONDITIONS

B. Silt sacks shall be installed at catch basins to be protected in accordance with silt sack manufacturer's recommendations. Silt sacks and debris shall be removed upon completion of the project and properly disposed of by the contractor.

C. Furnishing, installing, maintaining and disposal of silt sacks shall be incidental to other items of work and no separate payment shall be made for this work.

Cooperation with Nearby City or Utility Projects

A. Other City or utility projects may be undertaken by others in proximity to work proposed under this contract.
B. The contractor shall take all reasonable steps to cooperate with other projects.
C. Should the contractor consider that coordination and cooperation with other City or Utility projects presents any unreasonable hardship, the contractor shall notify the Engineer as soon as practical.
City of Nashua  
Division of Public Works  

2019 Sidewalk Program - Curbing  
Broad Street and East Dunstable Road

CONSTRUCTION SPECIFICATION

ITEM 609.01 STRAIGHT GRANITE CURB

A. SCOPE

This work shall consist of constructing curbs as shown on the plans or as ordered by the Engineer. Work includes furnishing, placing, and clean-up work associated with the installation of new granite curb, transition curb the removal and relocation of existing granite curb and shall be installed as detailed in the contract drawings.

B. MATERIALS AND CONSTRUCTION

The Contractor shall furnish all materials, labor and equipment necessary for constructing granite curb including all setting materials and pavement patch all in accordance with relevant provisions of the NHDOT Standard Specifications for Road and Bridge Construction, latest edition as amended herein and on the contract drawings.

C. MEASUREMENT AND PAYMENT

Straight Granite Curb and Remove & Reset Vertical Granite Curb will be measured by the linear foot to the nearest 0.1 foot, from end to end along the lower edge of the exposed face of the curbing and shall include all required excavation and base course material. Payment shall be at the contract unit price per linear foot, complete in place, and shall include full compensation for material, equipment and labor to complete the work under these items.

Saw-cutting, excavation, gravel, concrete, pavement and all else needed to complete the work shall be incidental to this item and no separate payment shall be made.

Item 609.01 Straight Granite Curb Linear Foot
**PROPOSAL**

# 8634

**City of Nashua - Street Dept.**
9 Riverside Street  
Nashua NH 03062

**DATE:**
04/26/2019

**JOB NAME:**
Broad Street

**JOB LOCATION:**
Nashua, NH

**PROJECT NUMBER:**

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We hereby propose to furnish and install - complete in accord specifications, for the estimated

Dollars ($ 47,150.00 )

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**Project Notes:** FIELD LAYOUT, TRAFFIC CONTROL AND CONCRETE TOE BY OTHERS. CONTRACTOR MUST LIST TRI STATE CURB AS EXCAVATOR/CURB WORK ON DIGSAFE TICKET & PROVIDE COPY OF TICKET PRIOR TO STARTUP. PRICE INCLUDES 2 MOBILIZATIONS MIN 800' PER MOB.

Terms: Unless otherwise specified, payment is due in full net 30DY.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above proposal involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Workman's Compensation Insurance.

**Acceptance of Proposal**
The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance

Authorized Signature

Note: This proposal may be withdrawn by us if not accepted within 90 days

To confirm order and schedule please sign and return. Thank you

Signature