



# STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

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This agreement is made:

**BETWEEN the OWNER:** City of Nashua, New Hampshire  
229 Main Street  
Nashua, NH 03060-2019

**And the CONTRACTOR:** and its successors, transferees and assignees (together "CONTRACTOR")

For the following Project:

## **ARTICLE 1 – THE CONTRACT DOCUMENTS**

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

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

The date of commencement shall be the date of the Notice to Proceed. Substantial Completion shall be

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### ARTICLE 3 – CONTRACT SUM

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

( \$ \_\_\_\_\_ )

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

### ARTICLE 4 – INSURANCE AND INDEMNIFICATION

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

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

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

The parties agree that CONTRACTOR shall have the status of and shall perform all work under this contract as an independent CONTRACTOR, maintaining control over all its consultants, sub consultants, CONTRACTORS, or SUBCONTRACTORS. The only contractual relationship created by this contract is between the OWNER and CONTRACTOR, and nothing in this contract shall create any contractual relationship between the OWNER and CONTRACTOR's consultants, sub consultants, CONTRACTORS, or SUBCONTRACTORS. 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.
- 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 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.

Regardless of any coverage provided by any insurance, CONTRACTOR agrees to indemnify and shall defend 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, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

# **General Terms and Conditions**

## **ARTICLE 5 – GENERAL PROVISIONS**

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

## **ARTICLE 6 – OWNER**

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

## **ARTICLE 7 – CONTRACTOR**

1. Execution of the Contract by the CONTRACTOR is a representation that the CONTRACTOR has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
2. The CONTRACTOR shall carefully study and compare the Contract Documents with each other and with information furnished by the OWNER. Before commencing activities, the CONTRACTOR shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the CONTRACTOR with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the OWNER.

3. Within ten (10) days of notification of award, and prior to commencement of work, the CONTRACTOR shall obtain and forward to OWNER a Performance Bond and a Payment Bond representing 100% of the contract work
4. The CONTRACTOR shall supervise and direct the Work, using the CONTRACTOR's best skill and attention. The CONTRACTOR shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.
5. The CONTRACTOR, as soon as practicable after award of the Contract, shall furnish in writing to the OWNER the names of SUBCONTRACTORS or suppliers for each portion of the Work. The OWNER will promptly reply to the CONTRACTOR in writing if, after due investigation, he has reasonable objection to the SUBCONTRACTORS or suppliers listed.
6. Unless otherwise provided in the Contract Documents, the CONTRACTOR shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work.
7. The CONTRACTOR shall deliver, handle, store and install materials in accordance with manufacturers' instructions.
8. The CONTRACTOR warrants to the OWNER that (1) materials and equipment furnished under the contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.
9. The CONTRACTOR shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.
10. The CONTRACTOR shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.
11. The CONTRACTOR shall comply with and give notices required by agencies having jurisdiction over the Work. If the CONTRACTOR performs Work knowing it to be contrary to laws, statutes, ordinances building codes, and rules and regulations without notice to the OWNER, the CONTRACTOR shall assume full responsibility for such Work and shall bear the attributable costs. The CONTRACTOR shall promptly notify the OWNER in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.
12. The CONTRACTOR shall promptly review, approve in writing and submit Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.
13. The CONTRACTOR shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the OWNER.
14. The CONTRACTOR shall be responsible for cutting, fitting or patching required 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. CONTRACTOR warrants and guarantees to OWNER, for years, upon completion of work, that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:
  - Abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, SUBCONTRACTORS, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or
  - Normal wear and tear under normal usage.

## **ARTICLE 8 – CHANGES IN THE WORK**

1. After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The OWNER, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

2. A Change Order shall be a written order to the CONTRACTOR signed by the OWNER to change the Work, Contract Sum or Contract Time.
3. Change Order requests must include material and equipment cost plus labor with a profit margin of no more than 10%. Change Orders may require approval by the OWNER Board of Public Works and the OWNER 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 11 – 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 directly to:

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

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

4. The CONTRACTOR warrants that title to all Work covered by an Application for Payment will pass to the OWNER no later than the time of payment. The CONTRACTOR further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the OWNER shall, to the best of the CONTRACTOR's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the OWNER's interests.
5. OWNER shall make payments, 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 material supplier out of the amount paid to the CONTRACTOR on account of such entities' portion of the Work.
7. The OWNER shall have no responsibility for the payment of money to a SUBCONTRACTOR or material supplier.

8. An Application for Payment, a progress payment, or partial or entire use or occupancy of the project by the OWNER shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.
9. Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the OWNER can occupy or utilize the Work for its intended use.
10. When the Work or designated portion thereof is substantially complete, the CONTRACTOR and OWNER shall establish responsibilities for completion and shall fix the time within which the CONTRACTOR shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
11. Upon receipt of a final Application for Payment, the OWNER will inspect the Work. When he finds the Work acceptable and the Contract fully performed, the OWNER will promptly issue a final Certificate for Payment.
12. Acceptance of final payment by the CONTRACTOR, a SUBCONTRACTOR or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

#### **ARTICLE 11– RETAINAGE**

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

#### **ARTICLE 12– PROTECTION OF PERSONS AND PROPERTY**

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

#### **ARTICLE 13 – CORRECTION OF WORK**

1. The CONTRACTOR shall promptly correct Work rejected by the OWNER as failing to conform to the requirements of the Contract Documents. The CONTRACTOR shall bear the cost of correcting such rejected work
2. In addition to the CONTRACTOR'S other obligations including warranties under the Contract, the CONTRACTOR shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

3. If the CONTRACTOR fails to correct nonconforming Work within a reasonable time, the OWNER may correct it and the CONTRACTOR shall reimburse the OWNER for the cost of the correction.

#### **ARTICLE 14 – PROHIBITED INTERESTS**

CONTRACTOR shall not allow any officer or employee of the 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**

1. **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.

2. **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:

- 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 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, sub-CONTRACTORS, 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)*

\_\_\_\_\_  
*CONTRACTOR (signature)*

\_\_\_\_\_  
*James Donchess, Mayor*  
*(Printed Name and Title)*

\_\_\_\_\_  
*(Printed Name and Title)*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*