# **PROJECT MANUAL**

# NAUGATUCK INDUSTRIAL PARK III – PHASE 1 NAUGATUCK, CONNECTICUT

Contract No. FY24-B099

**OCTOBER 16, 2024** 



Designer: Civil 1 43 Sherman Hill Road Suite D-101 Woodbury, CT 06798

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MMP 8.2023

RAPr 6.2023

O&G Health & Safety Manual

#### **SECTION 00 11 16 INVITATION TO BID**

# NAUGATUCK INDUSTRIAL PARK III PHASE 1 NAUGATUCK, CONNECTICUT

1. Sealed proposals for the trade contracts listed below addressed to the Borough of Naugatuck\_will be received by the Purchasing Agent for the Borough of Naugatuck, Accounting Dept., Town Hall Basement, 229 Church Street, Naugatuck, Connecticut, 06770 until 11:00AM local time on the date listed below. Immediately following, all bids will be opened publicly and read aloud. Bids received after the specified closing time will not be accepted and will be returned unopened.

Immediately following the above time and date sealed bids will be publicly opened and read aloud in the Commissioner's Corner, located on the 4<sup>th</sup> floor of Town Hall at the Borough of Naugatuck, 229 Church Street, Naugatuck, CT 06770 and read aloud via Zoom.

For questions regarding Addenda, or to confirm the bid date, contact: Preconstruction Manager Mike Skapczynski at O&G Industries, Inc. (860) 496-4226 or email msapczynski@ogind.com. Technical questions, specific questions regarding bidding procedures, project scope and site visits may be directed to Mike Skapczynski at O&G Industries, Inc. (860) 496-4226 or email mskapczynski@ogind.com.

CTDAS Pre-	Tuada Daalaasa	Set-Aside	(CHRO)	D: J Du c
Qualification <u>Necessary</u>	<u>Trade Package</u>	<u>REQUIRED</u>	<u>GOALS</u>	<u>Bid Due</u> <u>Date</u>
Yes *	1.31 – Sitework & Utilities		25% SBE & 6.25% MBE	11/18/2024

\* Note: Any bidder whose bid is in excess of \$1,000,000.00 must be pre-qualified by CTDAS and their bid shall be accompanied by the Bidder's CTDAS Update (Bid) Statement, as noted hereafter. In accordance with C.G.S. 4a-100, 4b-91, and 4b-101, any contractor or subcontractor submitting a bid greater than \$1,000,000.00 is required to submit their DAS Update (Bid) Statement with their bid. Failure to submit this item with the bid will require such bidder to submit their DAS Update (Bid) Statement within two business days after the receipt of such bids. All subcontractors must be pre-qualified at the time of performance of their work. If you have any questions regarding these requirements contact CTDAS, at telephone number (860) 713-5280 or visit their web site at www.das.state.ct.us.

# 2. **KEY DATES:**

Optional Prebid meeting: October 29, 2024, at 10:00 a.m.

Bidder questions due: November 6, 2024, at 3:00 p.m.

Borough answers due: November 11, 2024, at 3:00 p.m.

November 18, 2024, at 11:00 a.m.

Prebid meeting will be held at Town Hall, 229 Church Street, Naugatuck, CT.

3. Plans and specifications will be available on and may be viewed and downloaded free of charge from SmartBidNet at the following address:

# https://securecc.smartinsight.co/#/PublicBidProject/781508

Copies of the plans and specifications may be obtained at the cost of reproduction by contacting Aaron at the following location:

Buckaplan | Universal Copy 35 South Main Street, Naugatuck, CT 06770 Contact: Aaron Dean at Repro@universal-copy.com Phone: 203-757-2100. Fax: 203-757-8260

- 4. Bidders will be held accountable for the requirements of all documents made available including subsequently issued Addenda and Memoranda, if any. Although efforts will be made to make bidders aware of all Addenda and Memoranda, bidders are advised to contact Mark Carroll at the above number to verify they have all Addenda and Memoranda.
- 5. This project is being performed under the Construction Management form of construction. With respect to this project, the Construction Manager is the representative of the Owner. The Owner shall approve the award of the trade contract. The Trade Contractor's contract shall be with the Construction Manager.
- 6. The Owner, Borough of Naugatuck, has contracted with O&G Industries to serve as the Construction Manager (CM).
- 7. No oral, telephone or electronic proposals will be considered. All bids shall stand available for acceptance for a period of ninety (60) days from the date proposals are received.
- 8. No bid shall be accepted from any person/company who is in arrears to the Owner upon debt, or contract, or who is a defaulter as surety or otherwise upon obligations to the Owner.
- 9. The Owner or its Designee reserves the right to reject any or all bids, without stating reasons therefor, including without limitation the right to reject any or all nonconforming, non-responsive, unbalanced, or conditional bids and to reject the bid of any bidder if the Owner or its Designee believes that it would not be in the best interest of the Owner or the project to make an award to that bidder, whether because the bid is not responsive or the bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Owner or its Designee. The Owner or its Designee reserves the right to waive informalities and to negotiate contract terms with one or more bidders without reopening the bidding process insofar as such negotiations are not violative of applicable competitive bidding statutes or law.

In evaluating bids, the Owner or its Designee will consider the qualifications of bidder, whether or not the bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Form of Proposal or prior to Notice of Award.

The Owner or its Designee may consider the qualification and experience of subcontractors and other persons and organizations proposed for those portions of the work as to which the identity of subcontractors and other persons and organizations must be submitted as provided by the bid documents.

The Owner or its Designee reserves the right to require, prior to Notice of Award, a statement of facts in detail of the business and technical organization and plant of the bidder available for the contemplated work, including financial resources, present commitments, and experience of the bidder in performance of comparable work.

- 10. Bid Security, Payment and Performance Bonds will be required. Refer to paragraph 1 in the Instructions to Bidders Section 002113 for amount of Bid Security required for this project.
- 11. Bidders should note O&G's insurance requirements.
- 12. Out-of-state bidders without a permanent office in the State of Connecticut are required to comply with the Connecticut Department of Revenue Services Statute §12-430(7) if awarded the contract.
- 13. This contract is subject to state set-aside and contract compliance requirements, including non-discrimination statutes and set-aside requirements. State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract be set aside for award to subcontractors holding current certification as a small/minority contractor from the Connecticut Department of Administrative Services. The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

Contractors shall note the Small/Minority Business participation requirements identified for each trade package and are responsible for ensuring that they, and the SBE/MBE's they have selected, are eligible contractors and that they meet State requirements. Trade Contractors will be responsible for compliance with the following Goals and Requirements established for this project as follows:

- a) In accordance with Sections 4a-60g and 4a-60h Conn. Gen. Stat., as revised, the contractors shall note the CHRO MBE Set-aside Program Requirements and Small/Minority Business participation requirements as indicated above for each trade package and are responsible for ensuring that they, and the SBE/MBE's they have selected, are eligible contractors and that they meet State of Connecticut CHRO Project Requirements. Referring to the Table above, trade contractors working on this project shall utilize State of Connecticut Supplier Diversity program certified Small Business Enterprises (SBE) and Minority Business Enterprises (MBE) for the minimum as stated above. For those trade contractors with goals indicated, the contractors shall provide documentation of their good faith efforts.
- b) Prior to the Scope Review Meeting, Bidders are required to provide Contractor's Means of Compliance Table totaling their Bid Value and outlining their means of compliance with these minimum project SBE and MBE goals. The successful contractor shall provide a clear and concise breakout of their Bid Value and assigned value allocation representing the contractor's means of compliance with the State of Connecticut CHRO percentages. This information is mandatory and required to be submitted for review and discussion at the Scope Review Meeting and compliance is a condition of contract award. See Specification Section 00 21 13 titled Instructions to Bidders.
- 14. O&G is an affirmative action-equal opportunity M/F/veteran/disability employer. Minority/Women's Business Enterprises are encouraged to apply. This contract is subject to state set-aside and contract compliance requirements.

**BOROUGH OF NAUGATUCK** 

#### SECTION 00 21 13 INSTRUCTIONS TO BIDDERS

#### 1. BIDS

All proposals, to be submitted in duplicate, shall be received by the Office of the Purchasing Agent on the date and time shown on the "Invitation to Bid" for each individual bid package.

Bids will be opened publicly and read aloud. Prepare proposals on your own letterhead duplicating the Form of Proposal attached and clearly indicate the amount of your proposal in both words and figures.

All proposals must be accompanied by Bid Security in the form of a Certified Check or a Cashier's Check, drawn upon either a State Bank & Trust Company or a National Banking Association, to the order of the Borough of Naugatuck or accompanied by a Bid Bond, on Form AIA Document A310, 2010 Edition, and having as Surety thereto such Surety Company or Companies as are authorized to do business in the State of Connecticut and acceptable to the Owner. Bid Security shall be an amount not less than 10% of the total amount of the Bid.

Each bid must be in a sealed envelope, addressed to:

Purchasing Agent for the Borough of Naugatuck Accounting Dept, Town Hall Basement 229 Church Street Naugatuck, CT 06770

Each sealed envelope containing a bid must be plainly marked on the outside with the following information:

- a. Title of project:
- b. Bid Package No. and Title:
- c. Name and address of bidder

If submitted by mail, the envelope containing the sealed bid must be enclosed within the sending envelope.

## 2. BID FORM

The Form of Proposal is included in this Bid Document and shall be submitted in duplicate. Bid amounts shall be clearly indicated on the Bid Form, in ink or typewritten, in both words and figures. In the case of a discrepancy between the figures and written text, the written words amount will take precedence. All blank spaces for bid prices must be filled in. The bid form must be fully completed and executed when submitted.

# 3. <u>UNIT PRICES AND MANDATORY ALTERNATES</u>

If Unit Prices and Mandatory Alternates are required, the Bidders shall provide the information required on the Bid Proposal Form. Otherwise, the Proposal may be considered non-conforming and subject to rejection.

# 4. ADDENDA AND INTERPRETATIONS

No interpretations of the meaning of the Plans, Specifications or other Contract Documents will be made orally to any bidder. Every request for such interpretation must be in writing to the awarding authority and to be given consideration must be received at least ten (10) days prior to the date fixed for the opening of bids.

Oral questions may be asked at the Pre-Bid meeting, but oral responses given by the Architect/Construction Manager or their representative shall not be binding unless confirmed in writing by addendum as set forth below. Any and all such interpretations, responses and supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be made available to all prospective bidders (at the respective addresses furnished for such purposes pursuant to the provisions of the Invitation to Bid) not later than five (5) days prior to the date fixed for the opening of bids. All such modifications shall be included in the work covered by the bid and shall become a part of this contract. The bidder shall state in his bid the number and title of all addenda which he has received.

# 5. QUALIFICATION OF BIDDERS

The Construction Manager and/or Owner may make such investigation as they deem necessary to determine the responsibility, qualifications, ability, and capacity of Bidder to perform the work. The Bidder shall furnish all information and data for this purpose as the Owner may request. The Construction Manager and Owner reserve the right to reject any Bid if the CM or Owner determine that the Bidder is not properly qualified or responsible to successfully perform the obligations of the Contract and to complete the work within a specified time.

# 6. PREQUALIFICATION

In accordance with C.G.S. 4a-100, 4b-91, and 4b-101, any contractor or subcontractor submitting a bid of \$1,000,000 or greater is required to submit their DAS Update (Bid) Statement with their bid. Failure to submit this item with the bid will result in disqualification of the bidder. All subcontractors must be pre-qualified at the time of performance of their work. If you have any questions regarding these requirements contact CTDAS, at telephone number (860) 713-5280 or visit their web site at <a href="https://www.das.state.ct.us">www.das.state.ct.us</a>.

## 7. CONTRACT

All successful Bidders will be required to execute the Construction Management Trade Contract Agreement in accordance with the sample form contained in Section 00 52 00 <u>without revision</u>. Successful bidders agree and acknowledge that by submitting a proposal, you are accepting without revision all terms and conditions of the sample form agreement and that proposed revisions to the sample form agreement by the bidder shall not be considered.

Successful bidders will be required to comply with the insurance requirements as outlined in Article 11 of the General Conditions, and as modified by the Supplementary General Conditions in the Form of Agreement.

The successful Bidder agrees to commence work within seven days of execution of a Contract or receipt of a Limited Notice to Proceed Letter, whichever is earlier. However, no contractor may perform any physical work on the site until they have an executed contract and furnished an insurance certificate.

#### 8. BONDS AND INSURANCE

The successful Bidder, within ten days after the award of the Contract, will be required to furnish a Performance Bond and a Labor and Material Payment Bond, each in the amount of 100% of the Contract price payable to the Owner on bond forms in Specification Section 00 61 13.

The Bonds will be executed by a Surety Company or Companies that are authorized to do business in the State of Connecticut and who are acceptable to the Construction Manager and the Owner. The cost of these Bonds are to be paid for by the contractor and included in his bid.

The successful bidder shall purchase the bonds from a company or companies with an AM Best Rating of A- VII or better. Said bonds shall be maintained for the life of the contract.

Out-of-state bidders without a permanent office in the State of Connecticut are required by the Connecticut Department of Revenue Services to obtain an Out-of-State Contractors "Guarantee Bond" if awarded the contract.

#### 9. REPRESENTATION

Each bidder, by submitting their bid, represents that they have read and understand the Bidding Documents and their Bid is made in accordance therewith. Also, they represent that they have visited the site and have familiarized themselves with the conditions under which the work is to be performed. Failure to do so will not relieve the successful Bidder of his obligation to furnish all labor, material and equipment necessary to complete his work in accordance with the Contract Document.

#### 10. PRE-CONTRACT AWARD REQUIREMENTS

After submitting a bid proposal and prior to award of a contract, selected trade contractors will be required to attend a pre-construction/scope review meeting. At this meeting, the scope of work and requirements of the documents will be reviewed to confirm the lowest, qualified, responsible bidder. When advised by O&G Industries and prior to the award of a contract, each trade contractor shall submit to O&G Industries a list of the proposed subcontractors which the trade contractor intends on using for the project and shall sign and return the General Safety & Procedural Regulations and Environmental, Health and Safety Rules, Regulations and Procedures included in Section 005200.

## 11. IN ARREARS TO THE OWNER

No bid shall be accepted from, or contracts awarded to, any person/company who is in arrears to the Owner or O&G Industries, upon debt, or contract, or who is a defaulter as surety or otherwise upon obligations to the Owner or O&G Industries.

# 12. SITE VISITS

Arrangements can be made to visit the site by contacting Preconstruction Manager Mike Skapczynski at O&G Industries, Torrington, CT, (860) 496-4226 or email mskapczynski@ogind.com.

# 13. TIME OF ESSENCE

The provisions of the Contract relating to the time of performance and completion of the work are of the essence of this Contract. Accordingly, each trade contractor shall begin work on the day specified and shall prosecute the work diligently so as to permit full occupancy not later than the first day following the construction period established in the Schedule of Construction.

#### 14. NON-DISCRIMINATION IN EMPLOYMENT

Each trade contractor, attendant subcontractors, vendors, and suppliers shall be subject to, and shall comply with the following requirements, included herein by reference, to insure through affirmative action that qualified employees, applicants for employment and subcontracting are not discriminated against because of race, creed, color, religion, age, sex, physical disability, or national origin.

Said requirements shall include compliance with all applicable Federal, state and local statues, ordinances and regulations relating to discrimination in employment. It shall be the responsibility of the bidder to be familiar with and knowledgeable about the above.

The apparent successful bidder may be required to undergo a pre-award compliance review for the purpose of ascertaining whether in the opinion of the Owner they are willing and/or capable of complying with the above requirements.

#### 15. STATE LABOR STANDARD PROVISIONS, LAWS AND REGULATIONS

The prevailing wage rates for the Project are subject to annual adjustment in accordance with §31-55a of the Connecticut General Statutes. Bidders shall anticipate and include all annual adjustments to the prevailing wages rates within the lump sum bid price. Subsequent to Contract award, each Trade Contractor will be required to submit electronic certified payrolls weekly, in accordance with Connecticut General Statute (C.G.S.) Title 31, Chapter 557 (Part III) §31-53(e) and §31-53(f), in a format acceptable to the Connecticut Department of Labor. Paper copies will be rejected.

All provisions of all applicable State Labor Standards must be complied with under this Contract.

The execution of the Contract by the Bidder binds him to all applicable State Labor Laws and Regulations. All such Standards, Laws and Regulations shall be binding to the same extent as if they were copied at length herein.

As a condition of contract, any out-of-state contractor who is awarded work must provide O&G Industries with a copy of the State of Connecticut Trade License for Employees working in the State of Connecticut.

## 16. SALES TAX

This project is exempt from State of Connecticut sales tax. A Tax Exemption Certificate will be issued to all contractors and material suppliers.

If a Trade Contractor is a nonresident, within the meaning of C.G.S. §12-430 (7) and will consume or use tangible personal property in Connecticut in carrying out this contract, the Trade Contractor shall comply with the requirement set out in said statute and cause the Commissioner of Revenue Services to provide the Construction Manager with a copy of the Commissioner's Certification of Compliance. If

the Construction Manager does not receive this documentation on the earlier of (a) twenty-one days from the date that the Trade Contractor signs this Contract, or (b) the date on which it commences to provide any services or materials under the contract, then at the option of the Construction Manager, it may exercise any and all rights under the statute, including, but not limited to, making the deductions provided for in said statute and/or by declaring the Trade Contractor in breach and holding the Trade Contractor liable for any and all loss sustained as a result of the Trade Contractor's failure to comply with the statute and losses sustained by the Construction Manager as a consequence of the Trade Contractor's failure of performance.

# 17. ACCEPTANCE OF TOWN ORDINANCES AND REGULATIONS

The submission of a bid or proposal by a contractor for the whole or any part of the work contained in the specifications shall constitute an acceptance by such contractor of the terms and conditions of all duly promulgated ordinances and regulations of the Borough of Naugatuck to the extent the same are applicable; and a contract awarded in response to such bid or proposal shall be deemed to incorporate all such pertinent ordinances and regulations.

#### 18. MATERIAL AND EQUIPMENT SUBSTITUTIONS

Each bidder shall utilize the specified manufacturers. Any requests for substitutions from a non-listed manufacturer must be submitted, in writing, ten (10) working days prior to the bid due date. Acceptance or rejection of a substitution will be issued to all bidders as an addendum. Substitutions will not be accepted after the bid date unless requested by the Owner. NOTE: Considering a manufacturer that is not specified as an "or equal" is considered a substitution.

## 19. NOTIFICATION TO BIDDERS

Prior to execution of a contract, the successful bidder will be required to document the good faith efforts to provide opportunities for SBE and MBE contractors to participate in the bidding process and to submit the Bidder Contract Compliance Monitoring Report.

The contractor who is selected to perform this State project must comply with C.G.S. §§ 4a-60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5.

State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of C.G.S. §4a-60g (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses). The contractor must demonstrate good faith efforts to meet the indicated set-aside goals. For more information on good faith effort, follow this link <a href="http://www.ct.gov/chro/lib/chro/Good Faith Effort.pdf">http://www.ct.gov/chro/lib/chro/Good Faith Effort.pdf</a>.

For municipal public works contracts and quasi-public agency projects, the contractor must complete a written or electronic non-discrimination affidavit form and submit the completed form to the Commission on Human Rights and Opportunities (email: spencer.hill@ct.gov). Forms can be found at <a href="http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav GID=1806">http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav GID=1806</a>.

# 20. SBE / MBE / WBE / DisBE RESOURCES AND CONSULTANTS

This project is subject to the requirements of the Connecticut Commission on Human Rights and Opportunities (CHRO).

It is mandatory that the Contractor's Means of Compliance with CHRO Requirements percentage amounts included in the Form of Proposal be completed and submitted with the bid. The stated participation percentages may be considered when evaluating the proposals.

Bidders are required to provide Contractor's Means of Compliance Table totaling their Bid Value and outlining their means of compliance with the minimum project SBE and M/WBE goals. Bidder shall submit this information after their Bid is recommended for approval and prior to contract execution. This Table shall include the Contractor's clear and concise breakout of their Bid Value and assigned value allocation representing the Contractor's means of compliance with the State of Connecticut CHRO percentages.

#### **CONTRACTOR'S MEANS OF COMPLIANCE TABLE:**

ITEM	DESCRIPTION CERTIFIED SPE MANDE				DESCRIPTION CERTIFIED SCHEDUI		SCHEDULE OF	COMPLIANCE ALLOCATION (Checkmark)			YPE	TOTAL BID VALUE	PERCENTAGE OF BID VALUE
NO.	O. SPEC. SECTION CONTRACTOR * V	VALUE	S B E	M B E	W B E	D B E							

\*SBE – M/WBE contractor shall be certified by CTDAS no later than the date of contract award of the applicable bid package.

All bidders are required to document the good faith efforts made to obtain SBE and MBE participation during the bidding. All bidders should note that CHRO will reject any plan that is not accompanied by records of this good faith effort.

In accordance with C.G.S. Sec. 46a-68e the successful bidder is required to file a Set-Aside Plan (SAP) and have that plan approved by CHRO. All bidders should note that the CHRO requires that two percent (2%) of the contract value be withheld until acceptance of the trade contractor's SAP.

Each Trade Contractor that submits a SAP to CHRO is also required to adhere to the CHRO's monthly and quarterly report filings. In addition to this reporting the Construction Manager (CM) may require that each Trade Contractor submit to the CM signed copies of subcontracts and /or purchase orders to substantiate participation in meeting CHRO goals. As the work proceeds the Trade Contractor may also be required to provide satisfactory evidence of payment to SBE and MBE participants under their contract. The substantiation of participation commitment will be based on all of the information provided.

The Construction Manager strongly suggests that bidders employ a consultant to assist them in the development of the Set Aside and Affirmative Action Plans.

# 21. <u>INCURRING COSTS</u>

The Borough of Naugatuck and the Construction Manager are not liable for any cost incurred for the preparation of proposals or submission of samples by the firms submitting proposals for the work requested in this bid document.

#### 22. STATE OF CONNECTICUT GRANT REQUIREMENTS

The projects are funded, in part, with grants received by the Town from the State of Connecticut. The grants are conditioned, in part, upon compliance with all requirements of the State of Connecticut Department of Administrative Services' Office of Grants Administration. By submitting a bid, each proposer represents that it is familiar with the requirements of the grant program and will, at all times, perform its obligations in compliance with such requirements.

**END OF SECTION** 

# BID PACKAGE NO. 1.31 SITEWORK & UTILITIES

## I. SCOPE OF WORK

#### A. GENERAL

The following documents/specification sections are included in this Scope of Work. Unless specifically noted otherwise, wherever "Construction Manager" is indicated in these documents/ specification sections, it shall mean "Trade Contractor" and thus it is the responsibility of the Trade Contractor to comply with the work noted therein. This Trade Contractor is responsible for complying with all of these documents in completing the work described in Paragraph IB and II:

000010	Table of Contents
001116	Invitation to Bid
002113	Instructions to Bidders
002413	Bid Packages
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004200	Form of Proposal
005200	Trade Contract Agreement
005223	Owner/CM Agreement
006113	Performance and Payment Bonds
006313	Bidders Prebid RFI
007200	General Conditions
007316	Sample Certificate of Insurance
007343	Wage and Hour Rates
012100	Allowances
013513	General Administrative Procedures for the Project
015000	Construction Controls and Temporary Facilities

#### B. SPECIFIC

Furnish all labor, material and equipment necessary to complete all work that is described in the following Sections of the Specifications or is shown on the drawings and relates to one of the following Specification Sections but is not referenced in a Specification Section. This Scope of Work also includes any work indicated on the Drawings to be completed by this Trade Contractor unless modified by addendum, Paragraph II (Special Instructions) or Paragraph III (Exclusions):

General Requirements
Technical Specifications – Special Provisions
Technical Memorandum – Materials Management Plan – Summary of Contractor
Responsibilities
Materials Management Plan – Addendum 1
Remedial Action Plan - Addendum 1
Appendices

## II. SPECIAL INSTRUCTIONS

1. The Trade Contractor will not be allowed to perform any work on any portion of the project between 6:00AM and 6:00PM on all days. Excepted therefrom will be roadway reconstruction, paving, and utility service connection activities as approved by the Borough of Naugatuck, within the limits noted, during which the Trade Contractor will be allowed to work during this time. The trade Contractor shall notify the Borough of Naugatuck (14) days in advance of the anticipated start of night work.

#### **END OF BID PACKAGE 1.31**

#### SECTION 00 31 13 - PROJECT SCHEDULE AND PHASING

#### 1. SCHEDULES

- a. This Contractor is responsible to meet the requirements of the Construction Schedule included in the bid documents. This includes providing the appropriate manpower, equipment and materials. The Contractor is required to perform its work in compliance with all safety rules issued by the Owner, Construction Manager, State, Federal and Local agencies, and to sufficiently staff the site to effectuate this performance. The Contractor will be responsible for all overtime and costs associated with meeting this schedule.
- b. The intent of the Bid Document Construction Schedule is to define the construction performance period(s). The Bid Document Construction Schedule included in these documents shall represent the major activities of work and the duration of time allocated to those activities, also referred to hereinafter as the assigned construction performance period(s). It is the responsibility of the trade contractor to develop a detailed construction schedule of activities and plan their work within the assigned construction performance period(s) provided by the Bid Document Construction Schedule. The Trade Contractor, by providing a Bid, acknowledges and accepts the defined assigned construction performance period(s) to complete their work and further agrees to provide detailed information to the Construction Manager for the development of additional detail and relationships for the project Construction Schedule.
- c. A more detailed Construction Schedule will be prepared and issued during the project by the Construction Manager. Within twenty (20) working days of receipt of the Limited Notice to Proceed, each trade contractor shall provide detailed scheduling information for the development of the project Construction Schedule. This information is to include, at a minimum, a man loaded construction schedule with detailed itemizations, durations and sequences of all work activities including predecessor/successor relationships and designation of manpower required to achieve the schedule in accordance with the assigned construction performance period(s) as outlined in the bid document Construction Schedule.
- d. Failure to submit required schedule information to the Construction Manager as outlined in this section forfeits the trade contractor's opportunity for any adjustment to durations, sequence, or logic of specific tasks. Further, as this scheduling information is critical to the successful execution of the project, any delay in providing such information will cause all payments due the Trade Contractor to be held until such time as the information is submitted and approved by the Construction Manager.
- e. All Trade Contractors are obligated to comply with the project Construction Schedule upon its issuance. The project Construction Schedule will be updated throughout the project to incorporate changes in work, changes in sequence and changes in logic, all of which are recognized and anticipated as common in the construction industry and with this project. As such, all Trade Contractors shall comply with the appropriate adjustments to their manpower and material and equipment deliveries to accommodate the schedule changes without additional compensation from the Construction Manager or Owner.

- f. In the event the Construction Manager determines the Trade Contractor is behind schedule and/or will not be able to meet completion dates at the Trade Contractor's current rate of progress, the Construction Manager may direct the Trade Contractor to increase its workforce. Should the Trade Contractor at any time refuse or neglect to: supply a sufficiency of properly skilled workmen; supply materials of the proper quality and quantity; become insolvent or unable to pay its obligations as they mature, or, in the opinion of the Construction Manager, fail in any respect to prosecute the work with sufficient promptness and diligence to insure its completion within the time herein provided; or fail in the performance of any of the agreements on its part herein contained; the Construction Manager shall be at liberty (after two (2) business days of written notice to the Trade Contractor, delivered personally, mailed to, or left at its place of business) to default the Trade Contractor. In the event the Construction Manager declares the Trade Contractor in default, the Construction Manager may (1) terminate this Contract in whole or in part or, (2) supplement the Trade Contractor's forces and use any materials, implements, equipment, or tools furnished by or belonging to Trade Contractor. In the event the Construction Manager itself, or another contractor, or both, furnishes labor and material to complete Trade Contractor's work. Construction Manager may offset the cost thereof and any expenses therefore including overhead and profit against any money due or to become due under this Contract. Trade Contractor shall be liable for any excess costs and expenses over the Contract amount for completion of Trade Contractor's work. In the event the costs and expenses of completing Trade Contractor's work are less than the amount remaining on this Contract, the Trade Contractor shall be entitled to the differential. In addition to the costs and expenses of completing Trade Contractor's work as set forth herein, Construction Manager shall be entitled to reasonable legal fees to enforce the terms of this Contract. Notwithstanding the Construction Manager's use of its own forces and/or utilizing forces of another contractor in performing in whole or in part the work of the Trade Contractor, the Trade Contractor shall remain fully responsible for the timely completion of the work which is the subject of this Contract.
- g. If the work is complete but the area is not cleaned and debris or equipment is not removed, the Owner/Construction Manager shall have the right to prepare the area for occupancy with his own forces and deduct the costs from the contract amount.
- h. If the Trade Contractor fails to staff the job adequately to meet the milestone or completion dates, the Owner/Construction Manager reserves the right to assume possession of the material and complete the installation with the Owner's forces or other Contractors under the direction of the Construction Manager or to require the Trade Contractor to work second shift and/or weekends. The trade contractor shall be responsible for any additional costs incurred by other contractors and/or the Construction Manager resulting from the trade contractor working overtime, Saturday and/or Sunday to remedy the schedule impact.

# 2. PHASING

- a. Swing-overs to new services shall be made so as to cause the least interruption to the facilities' operations. Any premium time cost for work related to utility shutdown or change over shall be included in the contractor's base bid.
- b. In case of fluid, gaseous or electrical tie-ins, provide temporary manual monitoring equipment to ensure the safety of all employees and occupants.
- c. Utility shutdowns shall be closely coordinated with the Construction Manager and the Owner.
- d. It is the responsibility of all Trade Contractors to coordinate all work with the Construction Manager.

- e. A six-day work week shall be included in all trade contractor's base contract for all summer breaks and school vacation periods. In addition, Saturday premium labor costs shall be included in the base contract for Holiday weekend work; review the school break and holiday schedule enclosed in Section 00 31 13. During masonry operations, all trade contractors whose work is embedded in masonry shall provide necessary manpower and material to maintain Saturday masonry operations.
- f. All work to be performed on the roof of the existing building shall be done during the summer months or any other period when school is not in session.
- g. All trade contractors shall carefully review the Phasing Plan for this project and shall include in their base bid any premium costs for multiple mobilizations necessary for maintaining the construction schedule. Except for mechanical and electrical work in mechanical rooms, tunnels, corridor ceilings, vertical shafts, and electric closets, no work will be allowed to be performed out of sequence, i.e., in areas different from the Phasing Plan unless specifically approved or directed to do so by the Construction Manager. All trades must recognize the fact that due to phasing, some out-of-sequence work will be required in order to make systems in other phases operational. The cost of this out-of-sequence work is to be included in each contractor's base bid. The Construction Manager may, at his discretion, alter the sequencing of activities in the project Construction Schedule if it is deemed necessary to benefit the overall construction project schedule.
- h. No drilling or cutting into the building structure will be allowed in areas located over or under or immediately adjacent to an occupied space while school is in session.
- i. All work that impacts any new and existing circulation areas (ex. corridors and stairs), including demolition, excavation, duct installation, sprinkler piping, electrical conduit and lighting, low voltage conduit and wiring, plumbing rough-in, new ceiling installation and new flooring shall be performed while school is not in session. Contractors shall cooperate in expediting their work during this time.
- j. Contractors shall note the various dates of installation of materials and equipment due to the phasing and shall schedule delivery of materials and equipment to the site at intervals accordingly. Should materials be delivered to the site significantly ahead of the scheduled date of installation, and impede the progress of the work, the materials shall be removed from the site or relocated to another area of the project site by the respective contractor at no additional cost as directed by the Construction Manager.
- k. Contractors shall note the various dates of installation of materials and equipment due to the phasing and shall schedule delivery of materials and equipment to the site at intervals accordingly. The trade contractor shall only be allowed to store material within the construction area that can be consumed (installed) within five (5) working days. All material stored within the construction area will be on movable dollies and must be relocated by the trade contractor when requested to do so by the Construction Manager at the contractor's expense. All other material may be stored in storage trailers or in other areas designated by the Construction Manager if ample room on site is available. Only material that will be consumed/installed within six (6) weeks of delivery to the site will be allowed to be stored on site in areas designated by the Construction Manager. Material not needed within the six (6) week period may be required to be removed from the site at the contractor's expense and may not be billable. Delivery of materials and equipment must be reviewed and approved by the Construction Manager before arriving on site. Failure to do so will result in deliveries being turned away at the contractor's expense.

## 3. LEAN CONSTRUCTION

At the Construction Manager's option, Lean Construction principles may be implemented during the construction of this project. As such, the following are contract requirements from each trade contractor for implementing Lean procedures.

## A. Lean Philosophy

Lean Construction is a philosophy of designing production systems in a construction environment with the aim of decreasing time, effort, and waste. It essentially changes the relation between the Construction Manager and the contractors, as well as the relationship between the various contractors. The Lean project delivery goal is to create a consistent, predictable workflow that maximizes value and minimizes costs by reducing variation in design, procurement, and operations to benefit the owner, the Construction Manager and all contractors.

This project will be implementing Lean Construction methodologies, including but not limited to the Last Planner System (LPS). LPS is a tool to assist teams create a coordinated and reliable plan that achieves workflow. It is expected that all contractors will use these methodologies in the planning and execution of their respective scope of work, including full participation in all phases of the Last Planner System.

# B. Pull Planning Sessions, Weekly Work Plans

- 1. All contractors are required to make and keep commitments based on their confidence that prerequisite work, design information, materials, labor, and equipment will be ready so that they can start and complete installations to meet project milestones. The contractors' Superintendent/Foreman is required to participate with all other contractors in pull planning each major phase of work on the project in which they will be involved.
- 2. Each pull plan will work towards creating the detailed expansion of the construction schedule included in the Bid Documents. The milestones included in the bid document Construction Schedule is a guide for the intended phasing and flow throughout the project. Dates, durations, and sequencing will be confirmed through pull planning sessions throughout the life of the project. Do not assume sequencing or handoffs prior to any pull planning session other than those specifically defined within the Bid Documents. Final sequencing and handoffs at all pull planning sessions will be agreed upon by the entire project team to support the best interest of the project.
- 3. The durations and sequencing agreed upon in the pull planning sessions will be contractual obligations. At each pull planning session, the Superintendent/Foreman from each contractor will structure the flow of work and outline the network of commitments by identifying the handoffs between related trades. Each Superintendent/Foreman has the responsibility to plan their work six weeks ahead in a look ahead schedule and to identify crew assignments for the current and subsequent week in a weekly work plan. They are required to commit to performing work that can be made ready for their crews and should not assume or assign work that cannot be started due to turnover from a predecessor trade not being ready.

#### C. The "5 S" Standards

- 1. **Sort:** Identify needed materials from clutter and waste. Remove all materials that do not belong on the project
- 2. <u>Set-in-Order</u>: Arrange the needed materials in an effective manner to maximize productivity, provide minimal range or motion, and ensure ease of use.
- 3. **Shine:** Clean work area, tools, and equipment daily, thereby making potential hazards more identifiable.
- 4. **Standardize:** Formalize standards and procedures for work performed in A through C above.
- 5. <u>Sustain</u>: Ensure that the project continues to improve its 5S processes by conducting safety and quality inspections.

# D. Scheduling Procedures

- 1. Each Superintendent/Foreman for each contractor shall have the most current information about the status of contract issues, submittals, shop drawings, material and equipment deliveries, design changes, change orders, safety, and labor availability.
- 2. Each Superintendent/Foreman shall have the ability to plan work for their respective company and the authority from their company to make commitments to the project in order to execute this plan.
- 3. Each Superintendent/Foreman will participate in the pull planning sessions for each phase in which their company is involved.
- 4. Each Superintendent/Foreman will bring their look ahead schedule and weekly work plan to the weekly planning meeting and actively participate in coordinating work with other contractors under the direction of the project team. Each Superintendent/Foremen will identify constraints to work within their look-ahead schedule, take actions to remove identified constraints, and make requests of others to remove identified constraints.
- 5. Each Superintendent/Foreman will report task completions as they occur to the project team as well as subsequent contractors.
- 6. Each Superintendent/Foreman will track tasks completed as planned and report the results along with explanations of shortfalls and limiting factors in the weekly planning meeting. The total completed tasks will be measured weekly by a Percent Plan Complete (PPC) matrix.
- 7. Each Superintendent/Foreman will participate in contractor coordination sessions to coordinate work for the upcoming weeks.
- 8. Each Superintendent/Foreman will participate in a daily huddle to discuss the progress of the day's commitments and methods for mitigating shortfalls and limiting factors.
- 9. Roles and Responsibilities:
  - a. O&G will facilitate and administer all scheduling sessions, provide direction and coordination of the activities of the contractors, approve work plans, and update/maintain/distribute all requisite forms to all contractors.
  - b. Contractors shall include in their bid the necessary resources to implement these procedures and participate in all facets therein for the duration of the project.
  - c. By submitting a proposal for this project, contractors are committing to this process and shall allot the necessary time/effort to plan the work and make themselves available for all planning sessions.
- E. Each Trade Contractor shall have their site foreman attend a weekly foreman's meeting and weekly work planning session. This meeting will be approximately one (1) hour long, but may run longer depending on the extent of work taking place at any given time and the number of trade contractors working onsite.
  - 1. The purpose of this planning and coordination meeting is to plan the work for the coming weeks (up to six weeks in advance), confirm work currently ongoing and to confirm the two week commitments for work that will be ready to be handed off to the next trade.
  - 2. Each foreman shall come prepared and shall be required to engage themselves in this weekly planning session and have the authority to commit to start and completion dates. The foreman shall also have the authority to adjust their crew size to meet the requirements of the schedule.
  - 3. Each trade contractor shall have their foreman attend these meetings starting two-weeks before their work onsite begins so that they may fully coordinate their work with the other Trade Contractors.
- F. It shall be understood that each area of the project shall be broken down into smaller work areas appropriate to the scope and pace of the work. The Trade Contractor shall complete all scheduled work activities within these work areas before they can proceed into the next work area.

## 4. SUBMITTAL & DELIVERABLES SCHEDULES

- a. Within five (5) working days of receipt of the O&G submittal schedule, the trade contractor shall respond with acceptance and comments including submittal lead time information. This schedule will include a complete listing of all shop drawings, samples, manufacturer's data, warranties/guarantees, O&M Manuals, etc. required by the specifications to be submitted for review. The submittal schedule shall reflect how submittals will be packaged and submitted to O&G. The trade contractor shall also indicate any critical submittals that may impact schedule or other trade contractors' work. Failure to provide a satisfactory response to the O&G submittal schedule shall result in all payment applications being held in abeyance until such time as a satisfactory response is provided and accepted by O&G. Failure to provide a satisfactory response to the O&G submittal schedule within five (5) working days shall result in O&G finalizing the O&G submittal schedule on the trade contractors' behalf. At this time, O&G will issue a backcharge of \$3,000.00 to the trade contractor for the failure to provide an acceptable response to the O&G submittal schedule within five (5) working days. Once O&G has finalized the submittal schedule on the trade contractors' behalf, the trade contractor will be required to submit/package submittals following O&G's created submittal schedule. Failure to provide submittals as indicated on the submittal schedule will result in a \$100.00 per day per submittal fine until the submittal has been received and deemed acceptable by O&G.
- b. The submittal schedule will identify the submittals, required by date, critical action submittals, non-critical action submittals, initial close-out submittals, and final close-out submittals. All critical action submittals are due to O&G within twenty (20) working days, or as agreed to by O&G, of the trade contractors' receipt of the Limited Notice to Proceed. All non-critical action submittals are due to O&G within sixty (60) working days, or as agreed to by O&G, of the trade contractors' receipt of the Limited Notice to Proceed. All initial closeout submittals such as O&M's, attic stock, sample warranties, training agendas, etc. are due to O&G within one hundred and twenty (120) working days, or as agreed to by O&G, of the trade contractors' receipt of the Limited Notice to Proceed. All final closeout submittals such as final warranties, as-builts, training recordings, reports, certificates, etc. are due to O&G within ten (10) working days, or as agreed to by O&G, of the date of substantial completion.
- c. Once submittals are approved, O&G will make available copies of approved submittals for all applicable trade contractors who may require them for coordination of their work. However, it is the sole responsibility of each trade contractor to ascertain all coordination requirements between the work of its Bid Package and the work of all other applicable Bid Packages. In addition to overdue submittal fines, trade contractors may be subject to charges due to any rework needed from overdue submittals and or a lack of coordination.
- d. Trade contractors must provide a contact list, including a contact for submittals for the project, and register said staff on Aconex within ten (10) working days of receipt of the Limited Notice to Proceed.
- e. Within fifteen (15) working days of receipt of the Limited Notice to Proceed, all trade contractors shall furnish the following:
  - 1. A schedule of values for billing purposes broken down with individual line items for each major component of the work. This schedule of values shall be subject to review and approval by O&G.
  - A man-loaded construction schedule shall be submitted to O&G for review. This schedule shall
    minimally meet the requirements of the Project Schedule and the bid documents. The schedule
    shall be updated monthly to indicate progress and submitted with trade contractors' requisition
    for payment.

f. Not later than ten (10) working days from the date of execution of the trade contractors' agreement, the trade contractor shall provide a list showing the name of the manufacturer to be used for each product identified in the specifications and, where applicable, the name of the installing trade subcontractor.

## 5. LIQUIDATED DAMAGES FOR FAILURE TO COMPLETE ON SCHEDULE

- a. The Construction Manager and each Trade Contractor agree that time is of the essence to the Contract Documents and all obligations thereunder. The Trade Contractor acknowledges and agrees that the Owner will sustain damage and loss as a result of the Trade Contractor's failure to meet the schedules established herein. The Owner will hold the Construction Manager responsible for those damages and losses. The exact amount of such damages and loss will be extremely difficult to ascertain. Therefore, the parties agree that in the event the Trade Contractor fails to meet the schedule set forth by these Contract Documents, the Trade Contractor shall be assessed liquidated damages, and not as a penalty, the per diem amounts set forth in Paragraph 6b. It is expressly agreed such liquidated damages are a reasonable pre-estimate of damages the Owner will incur as a result of the Trade Contractor failing to meet the schedule. In addition, the Trade Contractor agrees to be responsible for, indemnify and hold the Construction Manager harmless from all losses, claims or damages claimed by other Trade Contractors or resulting from or connected with the Trade Contractor's failure to meet the time schedule. The Construction Manager and the Trade Contractor whose funds have been retained specifically retain the right to contest a Trade Contractor's claim for delay on factual, legal and contractual grounds.
- b. All Trade Contractors are responsible for scheduling its labor and material procurement so as to complete its work within the time periods set forth in the Contract Documents. The Trade Contractor is also required to perform its work in such a manner so as not to interfere with or prohibit other Trade Contractors from completing their work within the milestones set forth in the Contract Documents. In the event the Trade Contractor does not meet the schedule requirements set forth to complete its work, the Trade Contractor will be assessed Liquidated Damages at the rate of \$1,000.00 a day for each day completion is delayed. Notwithstanding the foregoing, and as consequence of special circumstances, reference is made to the Special Instructions for per diem liquidated damage amounts that may be applicable to specific work tasks.

#### 6. ADDITIONAL DAMAGES FOR FAILURE TO COMPLETE ON SCHEDULE

- a. In the event the non-performance or under-performance of a Trade Contractor causes the Construction Manager to increase its staffing over the levels set forth in the Contract between the Owner and the Construction Manager, the Construction Manager may backcharge by Change Order the cost of the additional staffing to the Trade Contractor whose under or non-performance caused the staffing increase.
- b. These damages shall be in addition to any liquidated damages assessed due to the non-performance or under-performance of the Trade Contractor provided for in Section 5 above.

**END OF SECTION** 

# SECTION 004200 - FORM OF PROPOSAL

Data	,	
Purchasing Agent for Naugatuck Accounting Dept, Town 229 Church Street	C	WHEN SUBMITTING YOUR BID, DOCUMENTS ARE TO BE ARRANGED IN THE FOLLOWING ORDER IN ONE PDF: 1. BID BOND 2. DAS UPDATE STATEMENT 3. BID FORM
Naugatuck, CT 06770		
Gentlemen:		
Pursuant to and in complia	nce with your Invitation to	o Bid relating thereto, the Undersigned,
Company Name:		
Street Address:		<del></del>
City, Town, Zip Code:		
Contact:		
Telephone Number/Fax Nu	ımber:	/
E-Mail Address:		
Drawings, Bidding Packag	e Contract Documents, Sp	conditions present and carefully examined the becifications and Appendices, together with all or receipt of Bids hereby offers and agrees as follows:
in connection with the Nau	gatuck Industrial Park III	never necessary to erect and properly finish all work  — Phase 1 project, Borough of Naugatuck,  struction Manager and Owner for the lump sum as
BID PACKAGE NUMBER	DESCRIPTION	LUMP SUM PRICE (WRITTEN AND NUMBERS)
1.31	Sitework & Utilities	s

# **UNIT PRICES**

A unit price is an amount proposed by Bidders and stated on the Bid Form as a price per unit of measurement for materials or services that will be added to or deducted from the Contract Sum by Change Order in the event the project Scope of Work is altered. All Unit Prices shall include all cost to complete the Work to the representative Contractor, including all charges for materials, labor, plant, equipment, additional insurance, taxes and all charges of whatever kind.

The stated unit prices shall apply whether the work is added or deducted to the Trade Contractor's Contract. Overhead and profit markups will be applied to the unit prices on the Change Order as allowed per the contract.

U.P. No.	Description	Amount	
1.31 –	Sitework & Utilities		
1	Trench Rock Excavation, Drill & Blast, and Haul to On-Site Stockpile	\$	/CY
2	Trench Rock Excavation, Mechanical Removal, and Haul to On-Site Stockpile	\$	/CY
3	Unsuitable Soil Excavation and Haul to On-Site Stockpile	\$	/CY
4	Unknown Foundation / Concrete Excavation and Haul to On-Site Stockpile	\$	/CY
5	Transport and Handling of Material from the Soil Characterization Temporary Stockpile Area to one of three Temporary Stockpile Areas as defined in the Materials Handling Special Provision	\$	/CY
6	Furnish & Install Compacted Granular Fill	\$	/CY
7	Furnish & Install Gravel Subbase	\$	/CY
8	Furnish & Install Processed Aggregate Base	\$	/TON
9	Furnish & Install No. 6 Stone	\$	/TON
10	Furnish & Install Bituminous Concrete Class 1	\$	/TON
11	Furnish & Install Bituminous Concrete Class 2	\$	/TON
12	Furnish & Install 6" Bituminous Concrete Curb	\$	/LF
13	Furnish & Install Metal Beam Rail	\$	/LF
14	Furnish & Install Timber Guiderail	\$	/LF
15	Furnish & Install Silt Fence	\$	/LF
16	Furnish & Install Topsoil	\$	/SF

17	Furnish & Install Lawn Seed	\$ /SF
18	Excavate Test Pits	\$ /DAY
19	Reconstruct Catch Basin Up To 3 VF	\$ /EA
20	Furnish & Install 6" Perf HDPE Underdrain	\$ /LF
21	Replace Sanitary Sewer Manhole Frame & Cover	\$ /EA
22	Furnish & Install Permanent 6' Chainlink Fence	\$ /LF
23	Furnish & Install Temporary 6' Chainlink Fence with Scrim	\$ /LF

# **UNIT LABOR RATES**

The undersigned further proposes and agrees that should the amount of work required be increased or decreased where unit prices have not been established, the following unit labor rates will be the basis for any Change Order Proposal. For Change Order purposes, the Labor Rates which any Contractor submits on this Form of Proposal must be based on current labor rates and not on projected labor rates. Upon confirmation of base labor rate increases, change order rates may be adjusted in July of each year based on new prevailing wage rates issued by the Connecticut Department of Labor. Labor rates are to include all direct costs without overhead & profit as defined in Item 7.3 of the General Conditions. Prior to contract award, if requested by the CM, the successful bidder shall provide documentation substantiating the insurance costs included in the proposed labor rates.

Classification	Hourly Rate	Benefits	Workmen's Comp.	General Liability	FICA (6.2% hourly rate)	State U.C. (SUTA 6.8% hourly rate)	Federal U.C. (FUTA .6% hourly rate)	Medicaid (1.45% hourly rate)	Other	Total
Foreman w/ Pickup										
Laborer										
Track Excavator w/ Operator										
Dozer w/ Operator										
Loader w/ Operator										
Roller w/ Operator										

Tri-Axle					
Dump					
Dump Truck w/					
Driver					

#### **ADDENDA**

Acknowledgment is hereby made of the following addenda supplements to the Drawings and Specifications:

Addendum No Dated	Addendum No Dated
Addendum No Dated	Addendum No Dated
Addendum No Dated	Addendum No Dated

## **NON-COLLUSIVE BIDDING CERTIFICATION**

By submission of this bid each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the opening, directly or indirectly, to any other bidder or to any competitor; and
- 3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition. The foregoing statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury and is made pursuant to the applicable section of the General Laws of the State of Connecticut as most recently amended.

#### CONTRACTOR'S MEANS OF COMPLIANCE WITH CHRO REQUIREMENTS

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

Unless otherwise noted, all Bidders are required to obtain a minimum goal of 25% of the state-funded portion of the awarded contract to small business enterprises (SBE) and 6.25% to minority business enterprises (MBE) trade Contractors and/or suppliers certified by the State of Connecticut Department of Administration Services (DAS).

The successful Trade Contractor shall substantiate this participation within 10 days of receiving a limited Notice to Proceed and prior to signing of the Trade Contract.

	Project Name	Contract Sum	Class of Work	% Complete	Name of Owner and Contact Information - Email and Phone Number
7.	. List below the construction projects the Company currently has under contract as of this date, use a separate sheet if necessary:				
6.	. The Company has had years of experience in construction work similar to that described in the bid documents for this project.				
5.	The Company has been in business under its present name for years.				
4.	If yes, please provi	ide your Connec	ticut Tax Identification nu	mber:	
3.	Is your Company response.		duct business in the State of	of Connecticut?	? Circle the appropriate
2.		of the Company	Corporation LLC 's principals or key persor nel conducted business du	nnel, and any n	
1.			m (i.e. Corporation, LLC,		
			S/BIDDER'S QUALIFIC		
pa			idder is cautioned to make requirements of the Conne		
Tł Tł	nis Proposal includes nis Proposal includes	% 	certified SBE participation certified MBE participation	on on	
pe in	ercentage of the base your proposal being	bid. Failure to codeemed incomp	of Small and Minority busions between this form by indicallete, and thus may result in thall be interpreted as zero	ating your SBI n the rejection	E/MBE goals may result of your bid. Note if no
Re	Refer to Section 00 21 13 Instructions to Bidders item 21 for further information.				

8.			projects the Company has ject and would qualify yo			
	Project Name	Contract Sum	Class of Work	% Complete	Name of Owner and Contact Information - Email and Phone Number	
9.	Has the undersign response. Yes		er failed to complete awar	ded work? Cir	cle the appropriate	
	If the answer is y	es, please provid	le location, date and reaso	n below.		
10.	Provide the names of the Principal/Project Executive, Project Manager and Field Superintendent/ Foreman the Company will use on the Project. On a separate sheet summarize their experience, including any information that demonstrates they are suitable for the proposed work.					
	Principal/Project	Executive:				
	Project Manager:					
	Field Superintendent/Foreman:					
11.	List the categories of work that your Company normally performs with its own forces.					

12. Has any officer or partner of the Company, while performing in the capacity of an officer, partner or individual owner of another entity, ever failed to complete a construction contract? Circle the

appropriate response. Yes

If the answer is yes, please state below the following information: Name of individual(s), name(s) of organization and reason(s)

13. In the past five (5) years, has the Company been involved in, or is the Company currently involved in, any litigation, administrative or arbitration proceedings? Circle the appropriate response. Yes No

If the answer is yes, describe all such actions including the outcome of any closed or pending actions. Use a separate sheet as necessary.

- 14. Has the Company or an officer, director, shareholder, partner, employee or other individual associated with the Company:
  - a. been convicted or entered a plea of guilty or nolo contendere for, or admitted to the commission
    of, a criminal offense incident to obtaining or attempting to obtain a public or private contract or
    subcontract, or in the performance of such contract or subcontract?
     Circle the appropriate response. Yes

    No

If so, identify such conviction, plea or admission here and provide details on a separate sheet.

b. been convicted or entered a plea of guilty or nolo contendere, or admitted to the violation of any state or federal law, for fraud, graft, embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a Company?
 Circle the appropriate response. Yes No

If so, identify each such conviction, plea, or admission here and provide details on a separate sheet.

been convicted or entered a plea of guilty or nolo contendere, or admitted to a violation of any state or federal antitrust, collusion or conspiracy law, arising out of the submission of bids or proposals on a public or private contract or subcontract? Circle the appropriate response.
 Yes
 No

If so, identify each such conviction, plea or submission here and provide details on a separate sheet.

d. committed a willful failure to perform in accordance with the terms of one or more public contracts, agreements or transactions? Circle the appropriate response. Yes No

If so, identify each such willful failure here and provide details on a separate sheet.

e. have a history of failure to perform or unsatisfactory performance of one or more public contracts, agreements or transactions? Circle the appropriate response. Yes No

If so, identify each such contract, agreement or transaction here and provide details on a separate sheet.

f. committed a willful violation of a statutory or regulatory provision or requirement applicable to a public contract agreement or transaction? Circle the appropriate response. Yes No

If so, identify each such violation here and provide details on a separate sheet.

For purposes of responding to Questions 8(a)-(f) above, the fraudulent, criminal or other seriously improper conduct of one Company participating in a joint venture or similar arrangement may be imputed to other participating Company if the conduct occurs for or on behalf of the joint venture or similar arrangement and if these Companies knew of or had reason to know of such conduct. Identify each such Company participating in a joint venture or similar arrangement with your Company where fraudulent, criminal or other serious improper conduct occurred.

	company where manufactured out of the manufactured of the manufact
15.	Has the Company, or an officer, director, shareholder, or partner ever filed for protection from creditors under any chapter of the United States Bankruptcy Code? Circle the appropriate response. Yes No
	If so, identify each such Company or individual here and provide details on a separate sheet.
16.	State what percentages of your business are for private versus public owners.
	Public: %
	Private: %
17.	State the name of your surety and A.M. Best & Company rating of your surety.
	Surety:
	Rating:
18.	State the bonding capacity and the bond premium rate for your firm.
	Bonding Capacity: \$
19.	Bond Premium Rate: State the name of your insurance carrier and the A.M. Best & Company rating of your insurance carrier.
	Insurance Carrier:
	Rating:
20.	State the general liability rate for your Company and the interstate or intrastate workers' compensation experience modification rate for your Company for the past five (5) years.
	General liability rate:
	Workers' Compensation Experience Modification Rate:
	20
	20

21.	Summarize the accident and fatality experience of your Company for the last five (5) years by providing the relevant OSHA No. 300A logs as an attachment to your proposal.
22a.	Has the Company or any persons associated with the Company been cited for one (1) or more willful or serious violations of any occupational safety and health act in the previous five (5) year period? Circle the appropriate response. Yes No
22b.	Has the Company or any persons associated with the Company received a criminal conviction related to the injury or death of an employee in the previous five (5) year period? Circle the appropriate response. Yes No
	If yes to either or both, explain the citations or convictions on a separate sheet.
22c.	On a separate sheet provide a list all citations issued to the Company by OSHA, MSHA or other state agency regarding health, welfare or safety violations in the previous five (5) years. If none then state so here
23a.	Within the past five (5) years, has the Company ever been cited by the Connecticut Department of Labor for disregarding its obligations under Connecticut General Statute sections 31-53 (prevailing wages) or 31-57c (length of workweek)? Circle the appropriate response. Yes No
23b.	Within the past five (5) years, has the Company been barred from bidding on any state or federal government contracts? Circle the appropriate response. Yes No
23c.	Within the past five (5) years, has the Company been involved in any legal or administrative proceedings that were settled or concluded adversely against the Company or any of the Company's principals or key personnel which related to the procurement or performance of any public or private construction contract? Circle the appropriate response. Yes No
23d.	Within the past five (5) years, has the Company been involved in any legal or administrative proceedings that concluded adversely against the Company or any of the Company's principals or key personnel which related to the nonpayment or underpayment of wages or benefits to the Company's principal's or key personnel's employees during the performance of any public or private construction contract? Circle the appropriate response. Yes No
23e.	Within the past five (5) years, has the Company been involved in any legal or administrative proceedings that concluded adversely with the imposition of civil penalties against the Company or any of the Company's principals or key personnel pursuant to C.G.S. Section 31-69, or the issuance of any stop work orders pursuant to C.G.S. Section 31-288?  Circle the appropriate response. Yes No
	If your response is "Yes" to any of the above, please describe on a separate sheet.
24a.	Has your Company ever been disqualified pursuant to C.G.S. Sections 4a-100, 4b-95, 31-57c or 31-57d? Circle the appropriate response. Yes No
24b.	Has your Company ever been disqualified or prohibited from being awarded a contract pursuant to C.G.S. Section 31-57b? Circle the appropriate response. Yes No
25c.	Has your Company ever been disqualified by another state? Circle the appropriate response Yes No

25d.	Has your Company been disqualified by a federal agency or pursuant to federal law? Circle the appropriate response Yes No
25e.	Has your Company's registration ever been suspended or revoked by the Department of Consumer Protection pursuant to C.G.S. Section 20-341gg? Circle the appropriate response Yes No
25f.	Has your Company ever been disqualified by a municipality? Circle the appropriate response Yes No
	If your response is "Yes" to any of the above, please describe on a separate sheet.
26.	Has your bonding Company, your Company or a subcontractor to and through your Company within the past 5 years been noticed or have been served with a claim, both either formally or informally by an Owner, a Construction Manager or General Contractor for failure to manage, perform, meet a deadline, a milestone or a schedule or fail to complete a project or a portion thereof? Circle the appropriate response. Yes No
	If yes, state the project, location, Owner, subcontractor (if applicable) and by whom the claim was filed.
27.	Within the past five (5) years, has your bonding company, your Company or a subcontractor to and through your Company been charged with, paid liquidated damages, or been back-charged for failure to manage, perform, meet a deadline, a milestone or a schedule, or fail to complete a project or a portion thereof? Circle the appropriate response. Yes No
	If yes, state the project, location, Owner, subcontractor (if applicable) and to whom the claim was paid and the dollar amount.
28.	Within the past five (5) years, has your Company or a subcontractor to and through your Company ever filed a formal or informal claim to an Owner, Construction Manager, or General Contractor for acceleration, delay, and/or other types of recovery costs? Circle the appropriate response. Yes No
	If yes, state the project, location, to whom the claim was filed and the dollar amount.
29.	Complete the following items if your bid is in excess of \$1,000,000.00:
	<ul> <li>a. Do you have a DAS Pre-Qualification Certificate? Circle the appropriate response. Yes</li> <li>b. Identify all trade classifications that you are pre-qualified for:</li></ul>
	Failure to disclose any of the information requested above or fail in any way to respond to each question accurately and truthfully may be grounds for immediate rejection of the bid proposal.  HER REQUIREMENTS

It is understood that the Owner and/or Construction Manager reserves the right to accept or reject any and all bids that they deem to be in their best interest based upon the information provided within this Form of

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Proposal and during the Scope Review Meeting. The Owner and Construction Manager shall be the sole arbiters of whether a bidder is responsible and qualified.

Upon notification of acceptance of this proposal, the undersigned agrees to execute a contract in the form as stated within these contract documents, without alteration or modification by the undersigned, for the amount stated, within ten (10) days of receipt.

Prices quoted shall be guaranteed for ninety (90) calendar days after date of the opening of bids. If written notice of award is received within ninety (90) calendar days after the opening of bids, the undersigned agrees to execute said contract, without modification or alteration by bidder, and furnish to the Construction Manager within ten (10) business days after receipt of said contract, the executed Contract, together with the Performance and Payment Bonds and Insurance Certificates as required herein.

The undersigned agrees that the Bid Security payable to Owner accompanying this proposal is left in escrow with the Owner; that its amount is the measure of liquidated damages which the Owner will sustain by the failure of the undersigned to execute and deliver the above-named bonds, insurance certificates and contract; and that if the undersigned defaults in furnishing said bonds and insurance and in executing and delivering said Contract within ten (10) business days of receipt of contract to him/her, then said Security shall be payable to the Owner for its own account; but if this proposal is not accepted within said ninety (90) days of the time set for submission of bids, or if the undersigned executes and delivers said bonds, insurance and Contract, the Bid Security shall be returned to the undersigned. The undersigned hereby certifies that they are able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.

By submission of this proposal, the undersigned acknowledges that they have visited the site, informed themselves of the existing conditions, and have included in the proposal a sum to cover the costs of all items in the contracts.

By submission of this proposal, the undersigned acknowledges that they have read the job narrative and schedule requirements and agrees to provide sufficient staff and organization and to select subcontractors and suppliers to comply with the requirements for submittals, delivery dates, work periods and completion dates as specified.

Respectfully submitted,	
Signature	
Printed Name and Title	
Attest:	

**SEAL IF REQUIRED** 

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

(Revised 09/3/15)

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

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

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

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

# INSTRUCTIONS AND OTHER INFORMATION

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

# 1) Definition of Small Contractor

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

2) Description of Job Categories (as used in Part IV Bidder Employment Information) (Page 2)

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

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

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

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

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

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

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

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

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

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

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

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

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

<u>White</u> (not of Hispanic Origin)- All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

<u>Black</u>(not of Hispanic Origin)- All persons having origins in any of the Black racial groups of Africa.

<u>Hispanic</u>- All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

<u>Asian or Pacific Islander</u>- All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.

American Indian or Alaskan Native- All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

# BIDDER CONTRACT COMPLIANCE MONITORING REPORT

# PART I - Bidder Information

Company Name Street Address City & State Chief Executive	Bidder Federal Employer Identification Number Or Social Security Number
Major Business Activity (brief description)	Bidder Identification (response optional/definitions on page 1)  -Bidder is a small contractor. YesNoBidder is a minority business enterprise YesNo (If yes, check ownership category) BlackHispanicAsian AmericanAmerican Indian/Alaskan NativeIberian Peninsula Individual(s) with a PhysicalDisability_ Female
Bidder Parent Company (If any)	- Bidder is certified as above by State of CT Yes_ No
Other Locations in Ct. (If any)	

#### PART II - Bidder Nondiscrimination Policies and Procedures

1 AKT II - Didder Nondiscrimination I officies and I focedures	T
Does your company have a written Affirmative Action/Equal Employment Opportunity statement posted on company bulletin boards?  YesNo  YesNo	7. Do all of your company contracts and purchase orders contain non-discrimination statements as required by Sections 4a-60 & 4a-60a Conn. Gen. Stat.?  YesNo
Does your company have the state-mandated sexual harassment prevention in the workplace policy posted on company bulletin boards?  YesNo	Do you, upon request, provide reasonable accommodation to employees, or applicants for employment, who have physical or mental disability?  YesNo
Do you notify all recruitment sources in writing of your company's Affirmative Action/Equal Employment Opportunity employment policy?  YesNo	9. Does your company have a mandatory retirement age for all employees?  YesNo
4. Do your company advertisements contain a written statement that you are an Affirmative Action/Equal Opportunity Employer? YesNo	10. If your company has 50 or more employees, have you provided at least two (2) hours of sexual harassment training to all of your supervisors?  YesNoNA
Do you notify the Ct. State Employment Service of all employment openings with your company?  YesNo  YesNo  YesNo  YesNo  Output  No  YesNo  YesNo  YesNo  YesNo  YesNo  YesNo  YesNo  No  No  YesNo  No  No  No  No  No  No  YesNo  YesNo  No  No  No  YesNo  YesNo  No  No  No  YesNo  No  No  No  No  No  No  YesNo  No  No  No  No  YesNo  No  No	11. If your company has apprenticeship programs, do they meet the Affirmative Action/Equal Employment Opportunity requirements of the apprenticeship standards of the Ct. Dept. of Labor?  Yes _No _NA _
Does your company have a collective bargaining agreement with workers?  YesNo  6a. If yes, do the collective bargaining agreements contain non-discrim ination clauses covering all workers? YesNo  6b. Have you notified each union in writing of your commitments under the nondiscrimination requirements of contracts with the state of Ct?  YesNo	12. Does your company have a written affirmative action Plan? YesNo If no, please explain.  13. Is there a person in your company who is responsible for equal employment opportunity? YesNo If yes, give name and phone number.

1	Part III - Bluder Subcontracting Practices	(Page 4)
Ī	1. Will the work of this contract include subcontractors or suppliers? YesNo	
	1a. If yes, please list all subcontractors and suppliers and report if they are a small contractor and/or a minority business enterprise additional sheet if necessary)	e. (defined on page 1 / use
	1b. Will the work of this contract require additional subcontractors or suppliers other than those identified in 1a. above?	Yes No

PART IV - Bidder E	mployment	Informat	ion		Date	:					
JOB CATEGORY *	OVERALL TOTALS		HITE Hispanic	BLA (not of H origin)	ispanic	HISPA	ANIC	ASIAN o	r PACIFIC ER	AMERICAN ALASKAN N	
		Male	Female	Male	Female	Male	Female	Male	Female	male	female
Management											
Business & Financial Ops											
Marketing & Sales											
Legal Occupations											
Computer Specialists											
Architecture/Engineering											
Office & Admin Support											
Bldg/ Grounds Cleaning/Maintenance											
Construction & Extraction											
Installation , Maintenance & Repair											
Material Moving Workers											
Production Occupations											
TOTALS ABOVE											
Total One Year Ago											
	FORM	IAL ON THE J	OB TRAINEES (	ENTER FIGUE	RES FOR THE SA	ME CATE	GORIES AS	ARE SHOWN A	BOVE)		
Apprentices											
Trainees											

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

PART V - Bidder H	Iiring a	nd Rec	ruitment Practi	ces				(Page 5)	
Which of the following (Check yes or no, and re)			s are used by you?		any of the below listed nts that you use as alification	Describe below any other practices or actions that you take which show that you hire, train, and promote employees without discrimination			
SOURCE	YES	NO	% of applicants provided by source						
State Employment Service					Work Experience				
Private Employment Agencies					Ability to Speak or Write English				
Schools and Colleges					Written Tests				
Newspaper Advertisement					High School Diploma				
Walk Ins					College Degree				
Present Employees					Union Membership				
Labor Organizations					Personal Recommendation				
Minority/Community Organizations					Height or Weight				
Others (please identify)					Car Ownership				
					Arrest Record				
					Wage Garnishments				
Certification (Read this form and check your statements on it CAREFULLY before signing). I certify that the statements made by me on this BIDDER CONTRACT COMPLIANCE MONITORING REPORT are complete and true to the best of my knowledge and belief, and are made in good faith. I understand that if I knowingly make any misstatements of facts, I am subject to be declared in non-compliance with Section 4a-60a, and related sections of the CONN. GEN. STAT.									
(Signature)				(Title)			(Date Signed)	(Telephone)	
L							<u>I</u>	<u>I</u>	

# State of Connecticut Department of Administrative Services (DAS) Contractor Prequalification Update (Bid) Statement

(Statement to be included with the bid)

Connecticut General Statute §4a-100 and Connecticut General Statute §4b-91

Each bid submitted for a contract shall include a copy of a prequalificate issued by the Commissioner of Administrative Services. The bid shall also be accompanied by an **update bid** statement shall provide some regarding all projects completed by the bidder as the Commissioner of Administrative Services prescribes. The form for such update **bid** statement shall provide space of information regarding all projects completed by the bidder size the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has tuner contract, including the percentage of work on such projects not completed. The names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or <u>corporate structure</u> since the date the certificate was issued or renewed, any change of present the contract, and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate and an **update bid statement** shall be invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate and en update **bid statement** as required by this section, may become ineligible for the receipt of funds related to such bid.

Name of Project that company is bidding on:		
Project Number:		
Name of Company:		
TEIN:		
Company Address:		
Prequalification Contact:		Telephone Number:
Date of Prequalification with the DAS:	Single Limit:	Aggregate Work Capacity (AWC):
* This amount equals your company's AWC minus the Total \$ Amount of Work Remaining.	us the Total \$ Amount of Work Remaining.	* Remaining Aggregate Work Capacity:

Please list all of your company's BONDED PROJECTS (BOTH PUBLIC AND PRIVATE) WHICH WERE 100% COMPLETED SINCE THE DATE YOUR PREQUALIFICATION WAS ISSUED OR RENEWED: (Please add additional page(s) if required)

Date Design Completed Total Contract Amount			
Date Project Completed	Date 11 Ject Completed		
Owner of Project			
Namo of Brainet	valle of rioject		

Please list all of your company's BONDED PROJECTS (BOTH PUBLIC AND PRIVATE) CURRENTLY UNDER CONTRACT: (Please add additional page(s) if required. Please total the Work Remaining column)

ne of Project	Owner of Project	Total Contract Amount	% Complete	Work Remaining (\$)
	Total \$ Amount	Total \$ Amount of Work Remaining		

Please list the names and titles of the personnel who will have supervisory responsibility for the performance of the contract being bid on: (Please add additional page(s) if required)

Individual Name	Title of Individual
Have there been any changes in your company's financial condition or business organization, which might affect your company's ability to successfully complete this contract?	iness organization, which might affect your company's ability to

If yes, please explain: Yes \B\ \n \n \o

I certify under penalty of law that all of the information contained in this Update (Bid) Statement is true and accurate to the best of my knowledge as of the date below.

Signature

It is the responsibility of the Awarding Authority to determine if any of the information provided above will impact the contractor's performance on this project.

The DAS' Contractor Prequalification Program can be reached at (860) 713-5280

Rev. 09\_24\_07



# Construction Management Trade Contract Contract No. «ContractNumber» Cost Control No. «ItemNumber»

# Naugatuck Industrial Park #3 Naugatuck, Connecticut

TRADE CONTRACTOR:

«ToCompany» «ToAddressLine1» «ToAddressLine2» «ToAddressCity», «State», «Zip»

**RETAINAGE:** 5%

**RESIDENT CONTRACTOR:** Y/N **PYMT/PERFORM BOND:** «Bonds»

**OWNER:** 

Borough of Naugatuck 229 Church Street Naugatuck, CT 06770

**ENGINEER:** 

Civil 1 43 Sherman Hill Road, Suite D-101 Woodbury, CT 06798

This Agreement made October 17, 2024, by and between «ToCompany» hereinafter called "Trade Contractor" a corporation, partnership, limited liability company, individual proprietorship (*circle applicable business form*) and O&G Industries, Inc., hereinafter called "Construction Manager" for the above-referenced "Project".

WITNESSETH: That Trade Contractor and Construction Manager for the consideration hereinafter named, agree as follows:

**SCOPE OF WORK:** FURNISH all labor, material, and equipment necessary to complete all work of Bid Package No. «BidPackage», all in accordance with the contract documents listed in Exhibit A, attached.

The following Allowances are made a part of this Agreement:

Specifically included in this Contract are the following:

Scope Review Meeting Minutes dated xxx

Contractor agrees to comply with all specified requirements to meet CHRO small/minority business participation requirements.

Excluded from this contract are the following:

CT State Sales Tax

Included or Excluded ??
Pollution Liability Insurance
Professional Liability Insurance

The following Alternates have been accepted and are hereby included in the contract: Alternate No. xx

\$0.00

The following unit prices apply:

The following labor rates shall be utilized for change orders:

Contract	No.	«Contrac	tNumber>	<b>,</b>
Page 2				

# TRADE CONTRACT AMOUNT:

TRADE CONTRACTOR:

Trade Contractor shall complete the Work under this Trade Contract for the lump sum Trade Contract Price equal to «ContractAmount».

 Base Bid:
 \$0.00

 Alternates:
 \$0.00

 Allowances:
 \$0.00

 Lump Tax:
 \$0.00

 TOTAL:
 «ContractAmount»

This Contract/ Trade Contractor Agreement continues in the attached General Conditions, as if fully set forth herein.

Please note: No payments will be made on this contract until the signed copies have been returned to O&G Industries, Inc.

Any and all work performed shall be in conformity with and governed by this contract, including all terms and conditions.

CONSTRUCTION MANAGER.

«TOCOMPANY»	O&G INDUSTRIES, INC.
Signed:	Signed:
By:	By: Aaron L. Mednick, Vice-President
Date:	Date:
Witness:	Witness:

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#### 1. TRADE CONTRACTOR'S WORK

#### 1.1 Definitions

The following terms as used in this Trade Contract shall have the following meanings:

- (a) "Applicable Law" shall mean means all laws, treaties, ordinances, judgments, decrees, injunctions, writs and orders of any court or governmental agency or authority, and rules, regulations, codes, orders, interpretations of any federal, state, county, municipal, regional, environmental or other governmental body, instrumentality, agency, authority, or court having jurisdiction over the Project or any activity conducted at or in connection with the Project or in connection with the Trade Contract.
- (b) "Architect" is the party identified as "Architect/Engineer" on page 1 of this Trade Contract.
- (c) "Construction Manager" shall mean O&G Industries, Inc.
- (d) "Contract Documents" shall have the meaning set forth in Section 2.1 of this Trade Contract.
- (e) "Owner" is the party identified as "Owner" on page 1 of this Trade Contract.
- (f) "Owner Contract" shall mean the contract between the Owner and Construction Manager, including all documents incorporated therein.
- (g) "Project" is the construction project identified on page 1 of this Trade Contract.
- (h) "Project Schedule" shall have the meaning set forth in Section 3.1 of this Trade Contract.
- (i) "Trade Contractor" is the party identified as "Trade Contractor" on page 1 of this Trade Contract.
- (j) "Trade Contractor-subcontractor" shall mean lower tier vendor, supplier, materialmen, consultant, contractor, subcontractor or other person or entity performing a portion of the Work for Trade Contractor hereunder and/or providing equipment or services directly or indirectly in connection with the Work or Trade Contract.
- (k) "Trade Contract Price" is the amount identified as "Trade Contract Amount" on page 1 of this Trade Contract.
- (1) "Work" shall have the meaning set forth in Section 1.2 of this Trade Contract.

# 1.2 Work Defined

Trade Contractor shall perform all work required by this Trade Contract, under the general direction of Construction Manager, and shall furnish all supervision, labor, materials, tools, equipment and all other items necessary for the completion of the work described in **Exhibit A** and work incidental thereto, in strict accordance and full compliance with the terms of this Trade Contract and the Contract Documents described herein, to the satisfaction of the Owner and Construction Manager (hereinafter, the "Work").

#### 1.3 Trade Contract Includes All Items Necessary to Complete Work

Trade Contractor and its Subcontractors shall strictly comply with all requirements of the Trade Contract in the performance of the Work and other activities in connection with the Trade Contract. Trade Contractor acknowledges and agrees that it can perform and complete the Work in strict compliance with the Trade Contract requirements, including Trade Contract Price and Project Schedule, and acknowledges and agrees that it can do so even though certain drawings, specifications, addenda and bulletins, may not be fully developed at the time of contracting. Trade Contractor further acknowledges and agrees that the Work includes the provision of all equipment, components, systems, materials, documentation and other services and items required to perform the Work and make it complete, functional and/or operational, notwithstanding the fact that each such service or item may not be expressly mentioned in the Contract Documents.

### 1.4 Investigation of Site and Contract Documents

Trade Contractor represents that it has, or has had, full opportunity to examine the Project site and Contract Documents, that it has satisfied itself as to the requirements of the Work and all conditions which may affect the Work, including but not limited to the availability and costs of labor, services, equipment, materials, supplies and other items required for the Work, the observable condition of the Project site and access thereto to perform the Work and actual and anticipated local weather conditions; that the Trade Contract Price and Project Schedule have been determined with due regard for all such requirements and conditions which do or may affect the Work; and, that its entry into the Trade Contract has not been induced either wholly or in part by any promises, representations or statements by or on behalf of Construction Manager, Owner and/or the Architect, other than those set forth in the Trade Contract. Trade Contractor acknowledges and accepts the risk of mistake or error with respect to all matters within the scope of its Project investigation, and agrees that it shall not be entitled to, and shall make no claim for, any additional compensation or damages of any kind or character or an extension of time for performance should any requirements or conditions applicable to the Work be different from or in addition to those identified by Trade Contractor through such reasonable investigation.

#### 1.5 Duty to Inspect

Trade Contractor shall inspect the work provided by others onto which the Work is to be placed or to which the Work is to be applied or attached and shall notify Construction Manager in writing of any observable defect or other detrimental condition in any such work prior to the performance of the affected Work. If Trade Contractor fails to so notify Construction Manager, Trade Contractor shall be deemed to have accepted the condition of such work as suitable for its Work. Trade Contractor shall be liable for any added costs or damage resulting from its performance of any Work involving any unsuitable work provided by others of which Trade Contractor has not notified Construction Manager as required, including any reperformance and related costs of correction as well as any additional costs incurred by the Construction Manager, Owner or their other contractors.

#### 1.6 Coordination with Other Work

Trade Contractor agrees that Owner and Construction Manager shall have the right to perform or have performed other work in or about the Project site during the time when Trade Contractor is performing its Work. Trade Contractor shall: coordinate its Work activities at the Project site with those of Construction Manager, Owner, and their other contractors; afford a reasonable opportunity for the introduction and storage of materials and the execution of such work; and make every reasonable effort to enable both its Work and such other work to be completed without hindrance or interference. Trade Contractor shall notify Construction Manager in writing of any potential conflicts between its Work and such other work and if requested by Construction Manager shall participate in the preparation of coordination drawings in areas of congestion. In situations where a conflict arises between the Trade Contractor's Work and the work of others, Construction Manager will determine in its sole discretion which work has the highest priority and direct the performance of the Work accordingly. Trade Contractor shall not be entitled to an adjustment of the Trade Contract Price or an extension of time for its field coordination activities as the Trade Contractor shall anticipate and provide for such activities in the Trade Contract Price and agreed time for performance.

# 1.7 Compliance with Applicable Law, Rules and Regulations

All work, labor, services and materials to be furnished by Trade Contractor must strictly comply with all Applicable Law now in force or hereafter in effect. All work, labor, services or materials necessary to comply with said Applicable Law will be furnished by Trade Contractor as part of this Trade Contract without any additional compensation. All work shall be performed, when required by law, by properly licensed workmen. Trade Contractor agrees to indemnify and save Construction Manager and Owner harmless from and against any and all claims, loss or expense caused directly or indirectly by its failure to fully comply herewith.

# 2. <u>CONTRACT DOCUMENTS</u>

#### 2.1 Contract Documents Defined

The Trade Contract is comprised of the following "Contract Documents": the Trade Contract Agreement; the Trade Contract Exhibits (including without limitation, the plans and specifications referenced therein); and the Owner Contract as it relates (directly or indirectly) to the Work to be performed by Trade Contractor under the Trade Contract. Trade Contractor assumes toward the Construction Manager and the Owner all the obligations that the Construction Manager assumes toward the Owner in the Owner Contract with respect to the Work to be performed by Trade Contractor under the Trade Contract. Construction Manager shall have the benefit of all rights, redress and remedies against Trade Contractor that Owner has

against Construction Manager under the Owner Contract. Notwithstanding the foregoing, the payment and dispute resolution provisions contained in the Owner Contract are specifically excluded from the Contract Documents.

#### 2.2 Duty to Review Contract Documents

Trade Contractor shall carefully study and compare the Contract Documents and notify Construction Manager in writing of any error, inconsistency, omission or ambiguity prior to executing any affected Work. The Trade Contractor shall notify the Construction Manager in writing within three (3) business days of the Trade Contractor's discovery of any error, inconsistencies or omissions in the Contract Documents. Trade Contractor shall not proceed with the Work or phase of the Work affected by such document error until Trade Contractor has notified Construction Manager and has, in turn, received appropriate written instructions or clarifications from Construction Manager. Construction Manager's determination of the Trade Contract requirements in view of the error, inconsistency, omission or ambiguity shall be final and Trade Contractor shall perform the Work consistent with that determination, subject to dispute resolution in this Trade Contract. Trade Contractor shall be liable for any added costs or damage resulting from its performance of any Work involving an error, inconsistency, omission or ambiguity in the Contract Documents that has not been reported to Construction Manager, including any re-performance and related costs of correction as well as any additional costs incurred by the Construction Manager. Nothing in this paragraph shall relieve the Trade Contractor of responsibility for its own errors, inconsistencies and omissions.

# 2.3 Contract Documents Interpreted Cohesively

The Contract Documents are intended to be read as a whole, and any Work required by one part and not mentioned in another (e.g., item shown in drawing and not mentioned in the specifications, or mentioned in the specifications and not shown in drawing), shall be executed to the same extent as though required by all. The addition, omission or incorrect placement of a word or character in one part of the Trade Contract shall not change the intent of the Trade Contract as a whole, and shall not constitute the basis for a claim by the Trade Contractor for an increase in the Trade Contract Price or an extension of time within which to perform and complete the Work.

# 2.4 Highest Quality Prevails

In the event of a conflict between one or more provisions of the Contract Documents, the provision imposing the more demanding term, condition, duty or standard of performance, or the greater limitation on the nature and type of relief or damages allowed to Trade Contractor, shall control. A conflict exists in the Contract Documents when the same subject matter is addressed by two or more provisions of the Contract Documents in a manner that cannot be reconciled to give effect to all provisions. In the various parts of the Contract Documents where reference is made to applicable codes and standards, the Work shall, except as otherwise specified, conform to the latest issue of the referenced code or standard in effect at the time the Work is performed.

#### 3. TIME OF PERFORMANCE AND COMPLETION

#### 3.1 Project Schedule

The Construction Manager will develop the Project Schedule that will schedule and coordinate the times required for each area of work on the Project, including the Work. Trade Contractor shall participate and cooperate with Construction Manager in scheduling the times and sequences required to perform Trade Contractor Work, and Trade Contractor agrees to perform its Work in accordance with the Project Schedule, as it may be revised and amended from time to time by Construction Manager. Trade Contractor further agrees that it shall comply with the Bid document Construction Schedule and requirements set forth in the contract documents, including, without limitation, specification 00 31 13 Project Schedule and Phasing,

#### 3.2 Duty to Diligently Maintain Schedule

Except as otherwise provided elsewhere in the Contract Documents, Trade Contractor shall commence the Work in accordance with the Project Schedule immediately upon receipt of verbal or written notice to proceed from Construction Manager. Trade Contractor shall diligently and continuously prosecute its Work or any portion thereof in an efficient fashion and at a rate so as not to cause delay in the progress of the work of Construction Manager, Owner, or their other contractors. Trade Contractor shall maintain and update on at least a monthly basis (or more frequently if requested) a resource loaded, (and cost loaded if requested) critical path method schedule for the Trade Contractor's Work, which depicts Trade Contractor's Work activities with logic ties for preceding/restraining work, duration, crew size, (and cost if requested.)

#### 3.3 Failure to Maintain Schedule

Trade Contractor acknowledges that the dates required in the Project Schedule for the performance and completion of the Work are essential conditions of the Trade Contract and agrees that Trade Contractor's failure to perform and complete the

Work consistent with such dates shall constitute a material violation of the Trade Contract. Trade Contractor represents that it has taken into consideration and made allowances for all hindrances and delays incident to its Work as provided herein.

# 3.4 Duty to Coordinate with Project Schedule

In support of the Project Schedule, Trade Contractor shall, as a condition precedent to Construction Manager's obligation to process Trade Contractor's first estimate for payment, furnish Construction Manager with an itemized breakdown of Trade Contractor's Work, which shall include the anticipated sequence of the Work and durations in terms of days and man-hours for the work activities necessary to complete the Work in the time required to support the Project Schedule. Trade Contractor represents that it shall: (i) prepare documents that are feasible and realistic for the planning, scheduling and coordination of the Work, and (ii) prepare schedules, updates, revisions and reports that accurately reflect Trade Contractor's reasonable expectations as to the sequence of activities, duration of activities, productivity or efficiency, projected and actual completion of any Work item or activity, and delays or problems expected or encountered and specified float time, including as necessary, accounting for any direction provided by Construction Manager as set forth herein.

#### 3.5 Right of Construction Manager to Dictate Schedule

Construction Manager shall be entitled to decide the time, order and priority for performance of the various portions of Trade Contractor's Work to the extent necessary, in Construction Manager's judgment, to assure Construction Manager's compliance with the scheduling requirements imposed on Construction Manager under the Owner Contract, and to direct the performance of the Work accordingly. Trade Contractor shall not be entitled to an adjustment of the Trade Contract Price or an extension of time in connection with any such direction by Construction Manager as the Trade Contractor shall anticipate and provide for such activities in the Trade Contract Price and agreed time for performance.

#### 3.6 Duty to Recover Schedule Delays

If Construction Manager determines that Trade Contractor has fallen behind in the progress of the Work or is in danger of falling behind at its then current rate of progress, or is responsible for any Project Schedule delays, Construction Manager may direct Trade Contractor on written notice to take the steps Construction Manager deems necessary to improve the rate of progress of the Work, including requiring Trade Contractor to increase its labor force, number of shifts and/or overtime operations, days of work, or to provide additional equipment or materials. Trade Contractor shall work overtime, Saturdays and Sundays at the direction of the Construction Manager without additional cost to the Construction Manager if in the judgment of the Construction Manager such overtime and Saturday and Sunday work is necessary due to delays caused by and within the control of the Trade Contractor. Within forty-eight (48) hours of such written notice from Construction Manager, Trade Contractor shall submit for Construction Manager's approval a recovery plan composed of a schedule and a safety assessment to demonstrate the manner by which Trade Contractor will implement the required steps to attain the required rate of progress while maintaining an injury free environment. Trade Contractor will implement the recovery plan immediately upon Construction Manager's approval. If Construction Manager determines that Trade Contractor's plan will not attain the required rate of progress, Construction Manager may, in its sole discretion and without further notice: (1) direct the Trade Contractor to take the steps Construction Manager directs in that regard and perform the Work accordingly, all without additional cost to the Construction Manager; or (2) perform the Work as Construction Manager deems necessary to attain the required rate of progress. Construction Manager may deduct from any payment due Trade Contractor or collect directly from Trade Contractor on demand all damages incurred or suffered by Construction Manager in connection with Trade Contractor's delay in the progress of the Work or to the Project Schedule, including any damages assessed against Construction Manager under the Owner Contract.

# 3.7 Right of Construction Manager to Inspect and Review Work

Trade Contractor shall at all times provide Construction Manager, Owner, the Architect and their authorized representatives safe and sufficient facilities and access to review or inspect the Work on the Project site and, upon request, at Trade Contractor's and its Trade Contractor-subcontractor's offsite facilities where any Work is being performed. Construction Manager shall have no obligation to review or inspect Trade Contractor's Work, and any such review or inspection shall not relieve Trade Contractor of its obligations under this Trade Contract. Construction Manager, along with the Owner and Architect, shall determine the requirements of the Contract Documents in connection with the Work and whether the Work has been performed and completed in accordance with those requirements. These determinations shall be final and Trade Contractor shall perform the Work consistent with them, subject to dispute resolution provisions set forth herein.

# 3.8 Rejected Work

Construction Manager, Owner or the Architect may reject any Work performed or equipment, materials, supplies or other items furnished by Trade Contractor that are determined not to comply with the requirements of the Contract Documents. Within twenty-four (24) hours after receiving Construction Manager's notice rejecting any Work performed or equipment, materials, supplies or other items furnished, Trade Contractor shall take down the rejected Work and remove the rejected equipment, materials, supplies or other items from the Project site. Trade Contractor shall promptly re-perform any rejected Work and replace any rejected equipment, materials, supplies or other items as necessary to comply with the requirements of the Contract Documents. All costs associated with re-performing rejected Work and replacing rejected equipment, materials, supplies or other items including, without limitation, any costs incurred to correct any work of Construction Manager, Owner or their other contractors as required in connection with any rejected Work, shall be borne by the Trade Contractor without any increase in the Trade Contract Price or time for performance of the Work.

#### 3.9 Supply Priority

In the event of a partial failure of the Trade Contractor's sources of supply of the equipment, materials, supplies or other items to be furnished under the Contract Documents, whether due to allocation or otherwise, the Trade Contractor shall make all reasonable efforts to fully meet its obligations under this Trade Contract prior to making any allocations among the Trade Contractor's other customers.

#### 3.10 Completion and Acceptance

The Work will be deemed substantially and finally complete in accordance with the manner set forth in the Owner Contract, or earlier date agreed by Construction Manager in a written notice to Trade Contractor. Trade Contractor shall give written notice to Construction Manager upon considering its Work substantially complete, and shall provide to Construction Manager a punch list of remaining items to be performed to achieve final completion. Trade Contractor shall revise the punch list to include any additional items identified by Construction Manager and shall perform the punch list Work as directed by Construction Manager. Construction Manager may temporarily take possession of and use any part of the Trade Contractor's Work at any time prior to final completion of all the Work. The use or acceptance of part of the Work by Construction Manager as provided herein shall not relieve Trade Contractor of any of its responsibilities under the Trade Contract, nor shall it be construed to deem the Work substantially complete.

#### 4. PROGRESS PAYMENTS

#### 4.1 Schedule of Values

Within fifteen (15) days of the execution of this Trade Contract Agreement, Trade Contractor shall submit for Construction Manager's approval Trade Contractor's itemized schedule of values that allocates the Trade Contract Price to the various portions of the Work. The schedule of values shall be in the form and supported by data to substantiate its accuracy as required by the Contract Documents, or as Construction Manager may reasonably require. Upon acceptance by Construction Manager, Trade Contractor will use the schedule of values as the basis for its periodic applications for payment. If it is later determined that the schedule of values is unbalanced, the Trade Contractor shall revise and resubmit the schedule of values for Construction Manager's approval.

#### 4.2 Payment Applications

Unless otherwise set forth by Construction Manager, on or before the earlier of the 25th day of each month, or five (5) days prior to the date, if any, in the Owner Contract for the submission of payment applications, Trade Contractor shall deliver to the Construction Manager, in the form and manner determined by the Construction Manager, a detailed statement showing value of work completed during the previous month utilizing the approved schedule of values, along with all substantiating data and information required by the Contract Documents or as reasonably requested by Construction Manager. The amount on each payment application shall be calculated based on the percentage of Work completed by Trade Contractor to the date of the application as approved by the Construction Manager, Owner and/or Architect. The amount of the payment shall be the sum of the proportionate value of completed Work based on Trade Contractor's approved schedule of values; less the following amounts:

- (1) retainage as set forth in the Owner Contract;
- (2) an additional 2% retainage pursuant to Section 8.2;
- (3) all previous payments;
  - (4) all charges for materials and services furnished by Construction Manager to Trade Contractor; and
- (5) any other charges and deductions as provided for in the Trade Contract.

# 4.3 Unit Price Work

Where this Trade Contract Agreement anticipates that the Work shall be paid for at an agreed rate per unit of Work in place, then the Trade Contractor agrees that any unit prices stated herein shall represent payment for the work covered including Trade Contractor's overhead and profit and that the Owner, Architect/Engineer or Construction Manager may make a final and binding determination of the Work to be paid. All quantities stated herein are approximate. Actual payment quantities are subject to field verification by Owner and/or Construction Manager and acceptance of required documentation, and may vary significantly from original estimated quantities, and quantity variation will not be reason to renegotiate a unit price, unless required by Owner. It is Trade Contractor's responsibility to coordinate and verify units installed with the Owner's representative and provide such verification with each monthly payment application.

# **4.4 Payment for Stored Materials**

Requests for payment for materials not incorporated in the Work but delivered to and accepted by Construction Manager and suitably stored (on or off the Project site), may be made, if at all, in accordance with the Contract Documents. Trade Contractor-subcontractor invoices itemizing respective quantities and unit costs of such stored material shall accompany all requests for payments for stored materials. At its option, Construction Manager may make payment for stored material by joint check to Trade Contractor and the applicable Trade Contractor-subcontractor and require as a condition precedent to payment for stored materials that a bill of sale, any necessary Uniform Commercial Code documentation and/or proof of proper insurance be furnished from Trade Contractor and the applicable Trade Contractor-subcontractor. Materials accepted

by Construction Manager and stored off site must be at a bonded warehouse, unless stored at the Trade Contractor's premises with Construction Manager's approval. All such stored materials shall be fully insured, and segregated from other material identifiable with a clearly marked "Property of O&G Industries, Inc." label. Notwithstanding anything to the contrary set forth herein, Trade Contractor shall comply with the requirements for Stored Materials set forth in **Exhibit D**, attached hereto.

#### **4.5 Payment Timing**

If approved by Owner and Construction Manager, Construction Manager shall pay the net amount due to Trade Contractor within twenty-five (25) days after Owner pays the corresponding amount to Construction Manager under the Owner Contract. Trade Contractor expressly agrees that payment by Owner to Construction Manager for any Work performed by Trade Contractor is an express condition precedent to any payment by Construction Manager to Trade Contractor and that Construction Manager is under no obligation until and unless the Construction Manager has been paid by Owner. Payment by the Owner is also an express condition precedent to the liability of any surety on any payment bond furnished on behalf of Construction Manager as principal. The payment provisions of this Agreement are subject to the condition that the Construction Manager receive, in good funds from the Owner, progress payments in at least the amounts payable to the Trade Contractor on this Project for work performed by Trade Contractor. The Trade Contractor expressly accepts the risk that it will not be paid for work performed by it if the Construction Manager, for whatever reason, is not paid by the Owner for such work. Further, Trade Contractor agrees to provide Construction Manager with a duly executed "Interim Lien/Bond Waiver and Release" in the form annexed as Exhibit E as condition precedent to receipt of any progress payments.

# 4.6 Right to Withhold on Unverified Contractor

If Trade Contractor is a Unverified Contractor as defined in Connecticut General Statutes (C.G.S.) §12-430(7)(A)(iv), any amounts that constitute a hold back under C.G.S. §12-430(7)(D)(i), as required by said section, shall be deemed payments under this Trade Contract. Construction Manager shall withhold five percent (5%) of the total Trade Contract price from any non-resident Trade Contractor and shall remit such sum to the Connecticut Department of Revenue Services within thirty (30) days after completion of the Trade Contract. This withholding shall be in addition to any other rights to retention or withholding as may be set forth in the Trade Contract. Construction Manager may be relieved of this withholding obligation if the non-resident Trade Contractor provides a Resident Contractor or Verified Contractor Status Certification to the Construction Manager issued by the Department of Revenue Services. Notwithstanding anything to the contrary set forth herein, Trade Contractor shall comply with the requirements set forth in Exhibit C, attached hereto.

# 4.7 Right to Withhold and Set-off

Construction Manager may withhold the whole or any part of any payment to Trade Contractor to such extent as Construction Manager reasonably deems necessary to protect it from loss as a result of:

- (1) incomplete, defective or damaged Work not remedied;
- (2) Construction Manager backcharges;
- (3) claims filed or reasonable evidence indicating probable filing of claims, including lien claims, involving or arising out of Trade Contractor's Work;
- (4) damage to Construction Manager's, Owner's or their respective other contractors' work;
- (5) failure of Trade Contractor to make payments when due to Trade Contractor-subcontractors;
- (6) reasonable insecurity regarding Trade Contractor's intention or ability to continue with the proper and timely performance of the Work;
- (7) failure of the Trade Contractor to perform or comply with any of its obligations under the Contract Documents;
- (8) expenses arising from frivolous claims against Construction Manager; or
- (9) amounts due from Trade Contractor to Construction Manager for any other debt owed by Trade Contractor to Construction Manager.

No payment shall be required to be made which will reduce the contract balance below a sum which, in the reasonable opinion of the Construction Manager, will be adequate to fully cover the cost of completion and possible corrective work.

# **4.8 Payment to Trade Contractor Held in Trust**

Trade Contractor shall promptly pay for all labor, services, equipment, materials, supplies and other items acquired, performed, furnished or used in connection with the performance of the Work covered by payments received from Construction Manager, and shall furnish evidence satisfactory to verify compliance with this requirement when requested by Construction Manager. All funds paid to Trade Contractor in connection with the Project constitute funds held in trust by Trade Contractor. Trade Contractor agrees to apply first to the payment of the following:

- (1) taxes owed by Trade Contractor based on labor, services, equipment, materials supplies and other items acquired, performed, furnished or used in connection with the performance of the Work;
- (2) Trade Contractor bond and insurance premiums;
- (3) Trade Contractor's labor, including without limitation benefits; and
- (4) Trade Contractor-subcontractors and any applicable Trade Contractor-subcontractor benefit funds.

# 4.9 Tax Obligations

Trade Contractor agrees to pay all taxes, fees and contributions on or measured by the income, gross receipts or assets of Trade Contractor or any of its Trade Contractor-subcontractors and all taxes, fees and contributions on or measured by employees or other labor costs of Trade Contractor or any of its Trade Contractor-subcontractors, including without limitation all payroll or employment compensation tax, social security tax or similar taxes for Trade Contractor or any of its Trade Contractor-subcontractor's employees. Trade Contractor further agrees to pay all sales and use taxes, and all import, export and other customs duties, charges, levies and fees imposed or incurred in connection with the shipping and delivery of any equipment, materials, supplies or other items required for the Work to the Project site. In the event that Construction Manager should pay or be required to pay any of the foregoing items or any portion thereof, Construction Manager may deduct the amount from the Trade Contract balance or invoice Trade Contractor therefor. Trade Contractor shall pay any such Construction Manager invoice in full within five (5) days of receipt

#### 4.10 Trade Contractor's Payment to Trade Contractor-subcontractors

Prior to submitting its first payment application, Trade Contractor shall provide Construction Manager with a statement identifying the name, address and telephone number of each known Trade Contractor-subcontractor. Trade Contractor shall update its statement with each monthly estimate for payment as required to identify any new Trade Contractor-subcontractors and any name, address or telephone number changes for existing Trade Contractor-subcontractors. Trade Contractor shall pay its Trade Contractor-subcontractors and material suppliers within fifteen (15) days of payment by the Construction Manager to the Trade Contractor for such labor performed or such materials furnished to the Project by such Trade Contractor-subcontractors or materialmen. Construction Manager may, in its sole discretion make payment for any portion of Trade Contractor's Work by joint check to Trade Contractor and the applicable Trade Contractor-subcontractor or benefit fund to which Trade Contractor has an outstanding obligation. Any payments made by Construction Manager by joint check as provided herein shall be deemed to have been made directly to Trade Contractor. Nothing in this Section shall act to create a contractual relationship between the Construction Manager and the Trade Contractor's subcontractors or materialmen, or other third party, but is solely for the benefit of and protection of the Construction Manager, and such subcontractors or materialmen or other third party shall have no cause or claim against the Construction Manager under or pursuant to this Trade Contract.

#### 4.11 Payment not Acceptance or Waiver

A progress payment made by Construction Manager is not intended nor shall be construed as evidence that Trade Contractor has satisfied its obligations in connection with all or part of the Work covered by such payment. Construction Manager shall not by virtue of having made any such payment be deemed to have accepted any Work not meeting the requirements of the Trade Contract or to have waived any claims against Trade Contractor in connection therewith. All payments are provisional and any overpayment by Construction Manager to Trade Contractor shall be deemed to be a mistake of fact and shall be promptly repaid to Construction Manager upon demand. The acceptance by Trade Contractor of each progress payment from Construction Manager shall constitute a waiver and release by Trade Contractor of all claims of any kind against the Construction Manager as full payment for all Work performed and all claims of any kind up to the date of Trade Contractor's estimate for payment against which payment was made and accepted, excluding only Trade Contractor's entitlement to retainage withheld in connection with such payment, and all claims expressly reserved by Trade Contractor prior to such payment by strict compliance with the Notice requirements in this Trade Contract.

#### 5. FINAL PAYMENT

# **5.1 Final Payment Application**

Trade Contractor shall submit its final payment application when it has completed all of the Work, including punch list items, in accordance with all requirements of the Trade Contract as approved by the Construction Manager and Owner and/or Architect. Trade Contractor's final payment application shall include all substantiating data and information required by the Contract Documents or as reasonably requested by Construction Manager. Trade Contractor's final payment application shall show the Work as one hundred percent (100%) complete and shall be calculated in the same manner as Trade Contractor's periodic progress payments under this Trade Contract, provided that retention shall not be deducted to arrive at the net amount due. If approved by Owner and Construction Manager, Construction Manager shall pay the net amount due to Trade Contractor within twenty-five (25) days after Owner pays the corresponding amount to Construction Manager under the Owner Contract, provided all conditions precedent to final payment under the Contract Documents, including the following, have been met:

- (1) any conditions precedent in the Owner Contract to Trade Contractor's entitlement to final payment have been satisfied;
- 2) Trade Contractor's surety, if any, has consented in writing to the making of final payment;
- (3) Trade Contractor has provided Construction Manager with a statement that it has completed the Work and performed all other obligations as required under the Trade Contract through the date of its final estimate for payment;
- (4) Trade Contractor has provided Construction Manager with a statement that it has paid all federal, state, county and municipal taxes, duties and other amounts imposed by Applicable Law upon any labor,

- services, equipment, materials, supplies or other items acquired, performed, furnished or used in connection with Trade Contractor's performance of the Work, including, but not limited to, sales, use, gross receipts, excise, unemployment, and personal property taxes;
- (5) Trade Contractor has provided Construction Manager all as-built drawings, certifications, maintenance manuals, operating instructions, statement of estimates, reports and other final submittals; software; written guarantees and warranties; and bonds required to be provided by Trade Contractor under the Trade Contract; and
- (6) Trade Contractor has provided a duly executed "Final Lien/Bond Waiver, Release and Indemnity Agreement" in the form annexed as **Exhibit E** (Construction Manager may require a final waiver and release of liens and claims from Trade Contractor-subcontractors).

#### 5.2 Payment from Owner Express Condition Precedent to Payment

Trade Contractor expressly agrees that payment by Owner to Construction Manager for all Work performed by Trade Contractor is an express condition precedent to final payment by Construction Manager to Trade Contractor and that Construction Manager is under no obligation until and unless the Construction Manager has been paid by Owner. Payment by the Owner is also an express condition precedent to the liability of any surety on any payment bond furnished on behalf of Construction Manager as principal. The payment provisions of this Agreement are subject to the condition that the Construction Manager receive, in good funds from the Owner, payments in at least the amounts payable to the Trade Contractor as its final payment. The Trade Contractor expressly accepts the risk that it will not be paid for work performed by it if the Construction Manager, for whatever reason, is not paid by the Owner for such work.

# 5.3 Acceptance of Final Payment is a Waiver and Release

Trade Contractor's acceptance of final payment from Construction Manager shall constitute a final waiver and release of all liens and claims by Trade Contractor against the Construction Manager and Owner arising out of or relating to the Trade Contract.

# 6. <u>LABOR AND SUPERVISION</u>

#### 6.1 Skilled Labor Force

Trade Contractor shall engage a sufficient number of skilled workers to perform the Work promptly, diligently, and in accordance with the requirements of the Trade Contract. If requested by Construction Manager, Trade Contractor shall provide Construction Manager with copies of its policies regarding the furnishing of labor including copies of all wage agreements, working rules, and regulations, if applicable, affecting the Work. Trade Contractor warrants that it is now, and will continue to be, in full compliance with the Immigration Reform and Control Act of 1986 (IRAC), specifically including all of its I-9 employer verification provisions. Trade Contractor warrants that it will continue to properly train its staff regarding the execution and retention of these I-9 employment verification forms. Trade Contractor warrants that it has an I-9 verification policy which it implements throughout the company. Further, Trade Contractor agrees to indemnify and defend Construction Manager and Owner for any legal fees, public relations costs, work stoppages, and any damages resulting from Trade Contractor's employment of any unauthorized workers.

# 6.2 Technical Training and Commissioning

To the extent required by the Owner Contract, Trade Contractor shall provide all technical personnel required to startup, test, commission and operate any equipment and to test and use any material, supplies or other items used or supplied by Trade Contract in connection with the Work and to instruct Construction Manager's and Owner's personnel in the operation and maintenance of any such equipment, materials, supplies or other items. Trade Contractor shall also maintain records relative to qualifications of its employees including, without limitation, licenses and certifications concerning the Work.

#### 6.3 Supervisory Personnel

Trade Contractor shall engage a sufficient number of competent supervisory personnel as are necessary to perform the Work in accordance with the requirements of the Trade Contract. Trade Contractor shall further have a competent superintendent continuously on the Project site during work hours and readily available on call. The superintendent shall be fully acquainted with the Work and shall have the authority to administer the Trade Contract on Trade Contractor's behalf and shall not be changed except with the consent of Construction Manager, which consent shall not be unreasonably withheld.

#### 6.4 Labor Harmony

Trade Contractor shall comply with any superintendence or project management obligations imposed upon Construction Manager under the Owner Contract to the extent necessary to ensure Construction Manager's compliance with such obligations to Owner. Trade Contractor shall be responsible for all labor relations matters relating to its performance of the Work and shall at all times maintain harmony among the personnel employed by it and its Trade Contractor-subcontractors in connection with the Project with those of Construction Manager, Construction Manager Construction Manager Owner and

their other contractors. Trade Contractor shall at all times use all reasonable efforts and judgment as a skilled and experienced contractor to adopt and implement policies and practices designed to avoid work stoppages, slowdowns, disputes and strikes. Trade Contractor shall notify Construction Manager as promptly as possible of any actual or potential labor dispute that may affect the Work. If a labor condition threatens the timely completion of any portion of the Work and Trade Contractor fails to give satisfactory assurance of its ability to complete the Work in a timely manner, or Trade Contractor fails to employ labor that is compatible and in harmony with other labor employed on the Project, or Trade Contractor fails to continue to perform the Work without interruption or delay during a strike, picket, walkout, or other work stoppage or slowdown caused by a labor dispute, Construction Manager may, at its option, terminate Trade Contractor's right to proceed with Work for default or employ workmen to perform the affected Work and backcharge Trade Contractor the cost thereof.

# 6.5 Removal of Employee

If Construction Manager notifies Trade Contractor in writing that any employee or agent of Trade Contractor or one of its Trade Contractor-subcontractors is incompetent, disorderly, or otherwise unsatisfactory, such person shall immediately be removed, at Trade Contractor's cost, from the Work and shall not thereafter be employed in the performance of the Work.

#### 7. TRADE CONTRACTOR'S EMPLOYEES/LABOR RELATIONS

# 7.1 Employee Records

The Trade Contractor will keep individual earning records for each of its employees for each day during which any employee is engaged in performing work covered by this Contract and will report, pay and otherwise discharge the duties and responsibilities imposed by law and regulation for, including but not limited to, unemployment, withholding, union contributions, Social Security and Medicare responsibilities. Without creating any duty to do so, it is agreed the Construction Manager may withhold during any calendar quarter so much of the contract price as the Construction Manager may deem reasonably necessary to pay said obligations and to keep the required records. The Construction Manager is further authorized by the Trade Contractor to make payment to such governmental entities, unions and other applicable third parties upon a reasonable showing that such monies are due and owing to them.

#### 7.2 Collective Bargaining Agreements

The Trade Contractor shall adhere to and comply with any and all agreements with the Union having jurisdiction over its employees, if applicable, insofar as such agreements pertain to the deductions or contributions for welfare and other fringe benefits. Trade Contractor shall do whatever is necessary in the progress of its work to assure harmonious labor relations at the project and to prevent strikes or other labor disputes. Trade Contractor shall employ only such labor as, to Construction Manager's satisfaction, will work in harmony on the job and shall not use materials or employ means which may cause strikes or other labor disputes.

#### 7.3 Indemnity for Labor Violations

Trade Contractor shall indemnify and defend Construction Manager against any liability, claim, loss, damage or expense resulting in any way directly or indirectly, from its failure to comply with the requirements of this article, including fees and costs incurred in enforcing this indemnity. Trade Contractor-Subcontractors shall comply with this section to the same extent and an express provision imposing such provisions on lower tier Subcontractors shall be included in their subcontracts.

# 8. <u>EQUAL EMPLOYMENT OPPORTUNITY</u>

#### 8.1 Non-Discrimination

In connection with the performance of Work, Trade Contractor expressly warrants that it shall not discriminate or permit discrimination against any employee or applicant for employment on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, sexual orientation, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Trade Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of in which the Project is located; and the Trade Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, sexual orientation, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Trade Contractor that such disability prevents performance of the work involved.

# 8.2 CHRO Compliance

Trade Contractor agrees to comply with each provision of sections 4a-60, 4a-60a, 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e, 46a-68f and 46a-86 of the Connecticut General Statutes. To the extent the Owner Contract requires a Set-Aside Plan, Construction Manager shall withhold an additional 2% retainage until Trade Contractor's Set-Aside Plan is approved by CHRO.

#### **8.2.1** Advertisements for Employment

Trade Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Trade Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission on Human Rights and Opportunities.

#### **8.2.2** Collective Bargaining

Trade Contractor agrees to provide each labor union or representative of workers with which Trade Contractor has a collective bargaining agreement or other contract or understanding and each Trade Contractor-subcontractor with which Trade Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment.

#### 8.2.3 Duty to Provide Information

Trade Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Trade Contractor as relate to the provisions of sections 4a-56, 46a-60 and 4a-60a of the Connecticut General Statutes.

# 8.2.4 Set-Aside Employment

Trade Contractor agrees and warrants that it will make good faith efforts to employ disadvantaged business, minority business, small business, and woman-owned business enterprises as Trade Contractor-subcontractors. Further and an addition to this general requirement, Trade Contractor agrees to comply with all Set-Aside requirements in the Owner Contract.

#### **8.2.5** Duty to Cooperate in Investigation

Trade Contractor shall permit access to its books, records, and accounts by representatives of Construction Manager or Owner for purposes of investigation to ascertain compliance with the provisions of this Section.

#### 8.2.6 Posting of Requirements

Trade Contractor agrees to post hereafter, in conspicuous places, available for employees and applicants for employment, notices, prepared by Trade Contractor, and approved by the government when required, setting forth the provision of this Section.

# 8.3 Failure to Comply

In the event of Trade Contractor's non-compliance with the equal opportunity provisions of this Trade Contract, the Trade Contractor's right to proceed may be terminated for default.

#### 8.4 Trade Contractor-Subcontractor Compliance

Trade Contractor shall include the provisions of this Section in every Sub-subcontract and purchase order. The requirements of this Section shall be in addition to any equal opportunity provisions of the Trade Contract Documents.

#### 9. ASSIGNMENT

#### 9.1 Restrictions on Assignment

Trade Contractor acknowledges and agrees that none of its rights or obligations under the Trade Contract may be assigned or delegated without the prior written consent of the Construction Manager. Any assignment or delegation by Trade Contractor of a right or obligation hereunder without Construction Manager's prior written consent shall be null and void and of no force or effect. Construction Manager shall have the right on written notice to Trade Contractor to assign this Trade Contract in whole or in part to Construction Manager's designee including without limitation, the Owner or its designee (including Owner's lender) if Owner terminates Construction Manager's performance under the Owner Contract for any reason or other circumstances exist under the Owner Contract requiring such assignment. Trade Contractor will cooperate with Construction Manager as required to effect any such assignment.

# 10. SUBMITTALS AND SUBSTITUTIONS

#### 10.1 Reporting of Submittals

Within ten (10) days after the date of this Trade Contract, Trade Contractor shall submit to Construction Manager a complete list of all submittals required to be furnished by Trade Contractor under the Trade Contract and their respective anticipated submittal dates. Thereafter, Trade Contractor shall furnish Construction Manager on a monthly basis (or more frequently if requested by Construction Manager), a progress report on the status of the submittals, including any delay or anticipated delay in their issuance, revision or completion as the case may be.

#### 10.2 Requirements for Submittals

Trade Contractor shall furnish all required shop drawings, cut sheets, samples, material lists, as-builts, data or other submittals for approval with the required number of copies prior to fabricating or ordering any equipment, material, supply or other item requiring an approved submittal. Submittal data shall be complete, submitted promptly and in such sequence as to ensure scheduled delivery of the applicable equipment, material, supply or other item and to cause no delay in the Work or in the activities of Construction Manager or its other contractors. All submittals, data, reports and other documents shall be in the English language.

#### 10.3 Revisions to Submittals

Trade Contractor shall specifically advise Construction Manager in writing when transmitting a revised shop drawing or other submittal of any revisions that are in addition to, or differ from, those requested by the Construction Manager or the Architect on prior versions of the submittal. If Trade Contractor does not provide written notice of such additional or different revisions to Construction Manager, Construction Manager's and/or Architect's approval of the submittal shall not include such additional or different revisions. Notwithstanding the foregoing, Trade Contractor acknowledges that the Project Schedule does not allow for the resubmission of shop drawings and other submittals and that Trade Contractor is required to ensure its initial submittals meet the requirements of the Contract Documents. Trade Contractor shall be liable for any added costs or damage resulting from its failure to furnish submittals when and as required by the Trade Contract, including any reperformance and related costs of correction and any additional costs incurred by the Construction Manager, Owner or their other contractors.

#### 10.4 Requirements for Substitutions

Trade Contractor shall not substitute any equipment, materials, supplies, specified by the Contract Documents, or any procedures or methods specified by the Contract Documents for performing the Work unless it first submits a written proposal to Construction Manager for substitution that complies with all applicable Trade Contract requirements and Construction Manager thereafter approves the substitution in writing. Trade Contractor acknowledges that unless expressly permitted by the Contract Documents, Trade Contractor shall not be entitled to substitute any such equipment, materials, supplies, or methods.

#### 10.5 Review of Submittals

Review or approval of any Trade Contractor submittal by Construction Manager, Owner or Architect, or any of their consultants, shall not relieve Trade Contractor of any of its obligations under the Trade Contract. When professional certification of performance or design criteria of equipment, materials, systems or other items is required to be furnished by Trade Contractor under the Trade Contract, Construction Manager shall be entitled to rely upon such certification and shall not be expected or required to make any independent examination with respect thereto.

#### 10.6 Coordination Drawings

If applicable to Trade Contractor's Work, Trade Contractor shall prepare coordination drawings showing exact alignment, physical location and other required details for those portions of its Work that must be coordinated with the work of Construction Manager, Owner or their other subcontractors and contractors, and shall participate in any related coordination efforts by Construction Manager. To the extent required by the Contract Documents or otherwise directed by Construction Manager, Trade Contractor shall cooperate and participate in the creation of a Building Information Model ("BIM") and any updates to such BIM.

# 10.7 As-Built Drawings

Trade Contractor shall maintain construction drawings and other data and documents at the Project site and update them each workday as required to accurately reflect the progress of the Work. Trade Contractor shall make such drawings, data and documents available for the Construction Manager's review at the Project site upon request, and at least on a monthly basis in connection with the Trade Contractor's estimates for payment. Trade Contractor shall furnish final as-built drawings to Construction Manager as part of its completion of the Work. Trade Contractor's compliance with this Section is a condition precedent to the Construction Manager's obligation to make interim progress payments and final payment to Trade Contractor.

#### 10.8 Right to Use Documents

To the extent not inconsistent with the Owner Contract, all submittals and other documents furnished by Trade Contractor under the Trade Contract, including any designs, drawings, specifications, calculations, sketches, models, reports, computer programs, computer discs, diskettes or tapes, charts, photographs and other documents, are instruments of Trade Contractor's service and all intellectual property rights in such documents shall belong to Trade Contractor; provided, however, Trade

Contractor hereby grants to Construction Manager and Owner a transferable, irrevocable and perpetual royalty-free license to retain and use all such documents for any purpose in connection with the Project. Trade Contractor warrants and represents that any submittal or other document furnished by Trade Contractor or any of its Trade Contractor-subcontractors do not infringe any patent, copyright, trademark or other intellectual property rights of any person or entity.

#### 11. PROTECTION OF PROPERTY

#### 11.1 Duty to Protect the Work

Trade Contractor shall protect the Work at all times prior to its acceptance by Owner, and comply with all requirements of the Contract Documents concerning protection of the Work Trade Contractor shall bear the risk of loss or any damage to the Work or a portion thereof prior to Owner's acceptance (regardless of the holder of title thereto), and Trade Contractor shall promptly replace, repair, restore or rebuild any such damaged Work so that it conforms to the requirements of the Trade Contract. If the damage is recognized by the insurer to be covered by a first party property insurance policy maintained by Owner or Construction Manager for the Project, Construction Manager will reimburse Trade Contractor its direct costs to replace, repair, restore or rebuild damaged Work to the extent of insurance proceeds Construction Manager actually receives for that work, less Construction Manager's cost to prepare and adjust the claim. Trade Contractor shall cooperate with Construction Manager and Owner in connection with the preparation and adjustment of any insurance claim for damage to the Work. Under no circumstances will Construction Manager or Owner be required to take any legal action to pursue coverage for damage to the Work in the event the insurer fails or refuses to recognize the existence or applicability of coverage for such damage. If requested by Trade Contractor, Construction Manager shall assign and shall request that the Owner assign to Trade Contractor its rights in connection with any such coverage issues, but only to the extent thereof.

# 11.2 Duty to Protect Property of Owner

Trade Contractor shall at all times protect the Project, Project site and the work and property of Owner, Construction Manager and their other subcontractors and contractors on the Project site from any damage arising out of its operations. Trade Contractor shall be responsible for any such damage and Construction Manager shall be entitled to backcharge Trade Contractor the amount of any deductible payable under any first party property insurance maintained by Construction Manager or Owner for the Project in connection with such damage. Trade Contractor shall at its expense promptly replace, repair, restore or rebuild any damage to the Project, Project site and the work and property of Owner, Construction Manager and their other contractors on the Project site arising out of its operations if so directed by Construction Manager. If the damage is recognized by the insurer to be covered by a first party property insurance policy maintained by Owner or Construction Manager for the Project, Construction Manager will reimburse Trade Contractor its direct costs to replace, repair, restore or rebuild to the extent of insurance proceeds Construction Manager actually receives for that work, less Construction Manager's cost to prepare and adjust the claim. Trade Contractor shall cooperate with Construction Manager and Owner in connection with the preparation and adjustment of any insurance claim for damage to the Work. Under no circumstances will Construction Manager or Owner be required to take any legal action to pursue coverage for damage to the Project, Project site and the work and property of Owner, Construction Manager and the other contractors on the Project site in the event the insurer fails or refuses to recognize the existence or applicability of coverage for such damage. If requested by Trade Contractor, Construction Manager shall assign and shall request that the Owner assign to Trade Contractor its rights in connection with any such coverage issues, but only to the extent thereof.

#### 11.3 Duty to Protect Property of Third-Parties

In addition to the foregoing, Trade Contractor shall at all times take all necessary precautions to protect all third party property from any damage arising out of its operations, including the property of adjacent landowners, utilities, roads, bridges, waterways and railroads. If any such third party property is damaged as a result of Trade Contractor's operations, Trade Contractor shall promptly replace, repair, restore or rebuild it at its expense.

#### 11.4 Duty to Replace Damaged Items

Unless otherwise expressly agreed, all equipment, material, supplies and other items furnished by Trade Contractor and incorporated into the Work shall be new, unused, of first-rate quality, suitable for use in the Work and in strict conformity with the requirements of the Trade Contract. Trade Contractor shall at all times cover and protect from damage and theft all equipment, materials, supplies and other items that are to be used in the performance of, or incorporated into, the Work at the Project. Trade Contractor is solely responsible for and shall bear the risk of loss for all equipment, materials, supplies and other items stored by it at the Project site (regardless of the holder of title thereto), and Trade Contractor shall replace any shortages thereof at its expense. If any damage or theft is recognized by the insurer to be covered by a first party property insurance policy maintained by Owner or Construction Manager for the Project, Construction Manager will reimburse Trade Contractor its direct costs to replace damaged or stolen equipment, materials, supplies or other items to the extent of

insurance proceeds Construction Manager actually receives for that replacement, less Construction Manager's cost to prepare and adjust the claim. Trade Contractor shall cooperate with Construction Manager and Owner in connection with the preparation and adjustment of any insurance claim for any damage or theft. Under no circumstances will Construction Manager or Owner be required to take any legal action to pursue coverage for any damaged or stolen equipment, materials, supplies or other items in the event the insurer fails or refuses to recognize the existence or applicability of coverage for the damage or loss in question. If requested by Trade Contractor, Construction Manager shall assign and shall request that the Owner assign to Trade Contractor its rights in connection with any such coverage issues, but only to the extent thereof.

#### 12. MATERIALS AND EQUIPMENT TO BE INCORPORATED INTO PROJECT

# 12.1 Material and Equipment On-Site

Title to any materials and/or equipment to be incorporated into the Project stored by the Trade Contractor on site shall automatically vest in the Construction Manager notwithstanding the fact that all or a portion of said materials or equipment have not been paid for by the Construction Manager. This provision does not remove from the Construction Manager the obligation to pay for said materials pursuant to this Trade Contract, but does provide that title vests in the Construction Manager and that neither the Trade Contractor nor third parties may remove said materials without the express written permission of the Construction Manager. This provision does not alter the responsibility for safekeeping of said materials and/or equipment, nor constitute an "acceptance" of said materials or equipment by the Construction Manager as being in conformance with the Trade Contract. Protecting all work, material and equipment stored on or off site is the responsibility of the Trade Contractor.

# 12.2 Material and Equipment Stored Off-Site

Any materials or equipment to be incorporated in the Project, stored off site by the Trade Contractor whether or not paid for in whole or in part by the Construction Manager, shall be segregated and clearly identified as not being part of the inventory or assets of the Trade Contractor. An appropriate UCC filing will be executed upon request of the Construction Manager wherein the Construction Manager's title and security interest is recognized. Permission is given by the Trade Contractor to the Construction Manager to relocate any and all materials or equipment being incorporated into the Project, whether stored on or off site and/or whether paid for or not by the Construction Manager. The obligation to pay for said materials and/or equipment shall remain as set forth in the Trade Contract.

#### 12.3 Title Vested Onto Construction Manager

Title to the Work, or portions thereof, shall pass to Construction Manager upon the occurrence of the earliest of the following events, as applicable: a) when such Work or portion is delivered to the Construction Manager or the Project Site pursuant to the Trade Contract; b) when Trade Contractor has been paid any sum to which it may become entitled in respect to such Work or portion; c) when such Work or portion is identifiable to the Trade Contract; or d) when the Certificate of Final Completion for all Work is issued by Construction Manager on behalf of the Owner and/or Architect. All equipment, materials, supplies and other items to which Construction Manager has title shall not be removed from the Project site without Construction Manager's prior written consent

# 13. CLEAN UP

# 13.1 Duty to Keep Site Clean

Proper housekeeping is an essential component of creating and maintaining an injury free environment. Trade Contractor shall observe proper housekeeping controls for construction debris, waste materials and rubbish arising from its operations and shall cleanup and remove, on a daily basis (or shorter interval if required for safety or if directed by Construction Manager), all such items from the Project site, unless, by specific written agreement with the Construction Manager, the Trade Contractor is given permission to use the Construction Manager's waste disposal dumpster or the like. Notwithstanding such written agreement, the Trade Contractor warrants and represents that no hazardous substances shall be placed in the Construction Manager's waste stream and, in the event a hazardous substance or substances are placed in the Construction Manager's waste stream by the Trade Contractor, the Trade Contractor shall indemnify, defend and save harmless the Construction Manager from any and all suits (including cost of defense) damages, injuries and losses without limitation, arising out of or connected with said Trade Contractor's depositing, knowingly or unknowingly, hazardous substances in Construction Manager's waste stream. If Construction Manager permits Trade Contractor temporarily to store debris, waste materials or rubbish at a designated location on or near the Project site, Trade Contractor shall ensure that the items are at all times stored safely and shall remove them from the designated location immediately following Construction Manager's direction that it do so. Fire exits, corridors, ladder ways, doorways and exit paths in general shall be clear and open to pedestrian and handicapped access traffic at all times, specifically including nights and weekends. As part of the

completion of its Work and as a condition precedent to final payment, Trade Contractor shall perform a final cleaning to remove all stains, splatter and dirt from its Work and to remove any remaining construction debris, waste materials and rubbish arising from its operations from the Project site. If Trade Contractor fails to observe proper housekeeping within twenty-four (24) hours of Construction Manager's written notice (or shorter time if necessary) to properly correct a deficiency which compromises the maintenance of an injury free environment, Construction Manager may properly clean up and remove any such construction debris, waste materials or rubbish by the most expeditious means available and charge Trade Contractor for the costs incurred. Notwithstanding anything to the contrary set forth herein, Trade Contractor shall comply with the requirements set forth in the contract documents, including, without limitation, specification 01 74 13 Project Cleanliness, attached hereto.

# 13.2 Construction Manager's Right to Clean Up

Construction Manager reserves the right, upon twenty-four (24) hours written notice to all responsible subcontractors, to clean-up one or more areas of the Project site and remove unidentifiable construction debris, waste materials and rubbish from the area. Construction Manager shall backcharge the costs incurred for this work on a pro-rata basis to each subcontractor working in the affected area.

# 14. SAFETY COMPLIANCE

#### 14.1 Duty to Cooperate

Trade Contractor acknowledges that the safety of persons and property on and off the Project site in connection with performance of the Work is of prime importance to Construction Manager and Owner, and Trade Contractor shall cooperate with Construction Manager and Owner in efforts to prevent injuries to persons and property and to comply with all applicable safety rules and regulations to create and maintain an injury free environment.

# 14.2 Trade Contractor Responsible for Safety of Work

Trade Contractor agrees that the prevention of accidents to workers engaged in the Work under the Trade Contract is solely its responsibility. Trade Contractor specifically agrees to take appropriate precautions to assure the safety of all persons, including, but not limited to, its own employees, materialmen and Trade Contractor-subcontractors, whose safety might otherwise be jeopardized by any and all peculiar, unreasonable risks of physical harm or by any other risk of harm relating to or arising out of the work. Trade Contractor shall comply with all applicable safety laws and regulations and with any and all safety standards established during the progress of the work by the Construction Manager. Trade Contractor shall establish and implement a safety program for its work. Trade Contractor shall submit its safety program for review by Construction Manager. Any review of this Trade Contractor's safety program by Construction Manager shall not be deemed to release Trade Contractor or in any way diminish its Trade Contractor's liability by way of indemnity or otherwise, as assumed by it under this subcontract.

#### 14.3 Trade Contractor's Safety Program

Trade Contractor shall be responsible for safety precautions and training programs and shall take all actions necessary to provide for the safety of persons and property on or off the project site in connection with the performance of the Work. The Construction Manager makes no representation with respect to the physical conditions or safety of the Project Site. The Trade Contractor shall, at its own expense, preserve and protect from injury its employees engaged in the performance of the Work and all property and persons which may be affected by its operations in performing the Work. The prevention of accidents to workers engaged in the Work and others affected by the Work is the sole responsibility of the Trade Contractor. Trade Contractor shall comply with all Trade Contract requirements relating to safety, including as set forth in **Exhibit B** and the Owner Contract, and all requirements under Applicable Law relating to safety, including the Williams-Steiger Occupational Safety and Health Act of 1970, and any amendments thereto. Trade Contractor shall immediately submit copies of all accidents or injury reports to Construction Manager, and monthly tabulations of injuries and man hours expended in a format acceptable to Construction Manager

# 14.4. Compliance with Environmental Requirements

Trade Contractor shall comply with all environmental requirements set forth in the Trade Contract and Applicable Law relating to the protection or preservation of the environment from hazardous material or waste, toxic substance, pollution or contamination or the discharge or release of, or exposure to, materials (including energy, odors, noise, soil, dust, etc.) into the environment. Trade Contractor shall not under any circumstance apply to or enter into negotiations with any governmental authority or agency for acceptance of variations from or revisions to air, water or noise pollution or similar environmental laws or regulations relating to the Trade Contract or the performance thereof; without Construction Manager's prior written approval.

# 14.5 Duty to Correct Safety Violations

When so ordered, Trade Contractor shall stop any part of the work which Construction Manager deems unsafe until corrective measures satisfactory to Construction Manager have been taken. Should Trade Contractor neglect to adopt such corrective measures, Construction Manager may do so and deduct the cost from payments due to Trade Contractor. Construction Manager's failure to take corrective measures on behalf of the Trade Contractor shall in no way be deemed to release Trade Contractor, or in any way diminish Trade Contractor's liability by way of indemnity or otherwise as assumed by Trade Contractor under this Contract. Trade Contractor shall indemnify, defend and hold harmless Construction Manager, Owner and their respective officers, directors, agents and employees from any costs, expenses or liability (including attorneys' fees, fines or penalties) resulting from failure of Trade Contractor to comply with the aforesaid obligations, laws, regulations and codes.

# 15. BONDS AND PERFORMANCE INSURANCE

#### 15.1 Payment and Performance Bonds

If bonds are required by the Trade Contract, Trade Contractor shall furnish separate performance and payment bonds to secure its obligations under the Trade Contract, each with a penal amount equal to one hundred percent (100%) of the Trade Contract Price. The bonds shall be written on the forms attached as **Exhibit G.** Trade Contractor shall pay the premium for the bonds and the cost thereof is included in the Trade Contract Price. Unless more stringent requirements are imposed by the Owner Contract, all bonds issued by Trade Contractor shall be issued by a surety acceptable to Construction Manager that is listed in the most current Federal Register listing of approved surety companies (Federal Register, Vol. 55, Department of Treasury Circular 570) with an AM. Best Rating of "A-" or better, and is authorized to issue the bonds in the state where the Project is located.

#### 15.2 Performance Insurance

In lieu of requiring Trade Contractor to provide payment and performance bonds, Construction Manager, at its sole option, may secure Trade Contractor's obligations under the Trade Contract by obtaining subcontract performance insurance, to insure Construction Manager against a Trade Contractor default. Such insurance shall be for the exclusive benefit of Construction Manager and the existence of such insurance coverage shall not in any way limit or restrict any of Construction Manager's rights or remedies in the event of a Trade Contractor default, nor shall it in any manner inure to the benefit of, or provide any rights or remedies to, Trade Contractor or any of its Trade Contractor-subcontractors or any of their respective employees or agents. If Construction Manager elects to secure Trade Contractor's obligations under the Trade Contract through such insurance, Trade Contractor shall comply with Construction Manager's qualification procedures for such insurance, including providing documentation and information required by the subcontract performance insurer involving financial, technical, management and other matters relating to Trade Contractor and its operations. If Trade Contractor fails to qualify for such subcontract performance insurance coverage, Construction Manager may elect to require Trade Contractor furnish performance and payment bonds to secure Trade Contractor's obligations under the Trade Contract, and Trade Contractor shall provide those bonds in the manner and time specified by Construction Manager and otherwise in accordance with this Section.

#### 15.3 Obligation to Issue Bonds or Enroll in Performance Insurance Before Commencing Work

If bonds or subcontract performance insurance coverage are required for Trade Contractor, Trade Contractor shall not commence performance of the Work before it has furnished the required performance and payment bonds or qualified for and been enrolled in the subcontract performance insurance program, as applicable. If Trade Contractor commences performance of the Work in violation of this Section, Trade Contractor shall be deemed to have done so at its own risk and shall not be entitled to payment until the bonds are furnished to Construction Manager or Trade Contractor is qualified for and enrolled in the subcontract performance insurance program, it being understood and agreed that Trade Contractor's compliance with the applicable bond or subcontract performance insurance requirements is a condition precedent to Construction Manager's obligation to pay Trade Contractor for Work performed.

# 16. <u>INSURANCE</u>

Trade Contractor shall strictly comply with all of Construction Manager's standard insurance requirements set forth in **Exhibit F** to the Trade Contract.

# 17. **GUARANTEE**

# 17.1 Warranty and Guarantees

Trade Contractor warrants and guarantees that all Work (i) shall be free of defects in design, workmanship and material, (ii) shall be performed in accordance with the generally accepted industry codes and standards applicable to the Work, (iii) shall be performed in a good and workmanlike manner; and (iv) shall strictly conform to the requirements of the Trade Contract (including any warranties required of the Construction Manager under the Owner Contract to the extent applicable to the Work). Upon receipt of written notice of a defect or deficiency in the Work, Trade Contractor shall at Construction Manager's sole option and at no cost to Construction Manager, promptly repair, replace, or re-perform such defective or deficient Work so that it conforms to the requirements of the Trade Contract. Trade Contractor's obligation to repair, replace, or re-perform defective or deficient Work under this Section shall extend: (i) for the warranty or guarantee period(s)

specifically established in the Trade Contract; or, (ii) if no such warranty or guarantee period(s) has been established, for the warranty period established for Construction Manager's work under the Owner Contract.

### 17.2 Right to Take Credit to Trade Contract Price

If Construction Manager deems it inexpedient for Trade Contractor to repair, replace, or re-perform defective or deficient Work, Construction Manager may make a deduction from the Trade Contract Price in lieu of such repair, replacement and reperformance, as determined by Construction Manager. Trade Contractor shall provide information and execute documents as requested or required by Construction Manager to assign any Trade Contractor warranty or guarantee to Owner or another party.

#### 17.3 Duty to Require Trade Contractor-subcontractors to Provide Similar Guarantees

Trade Contractor shall require guarantees from its Trade Contractor-subcontractors similar to those provided by Trade Contractor under this Section. Trade Contractor's Sub-subcontractor's warranties and guarantees shall be expressly stated to be for the benefit of and be enforceable by Construction Manager and Owner and assignable to Construction Manager and Owner upon demand by Construction Manager.

#### 17.4 Right to Backcharge Trade Contractor

If Construction Manager notifies Trade Contractor at any time during the performance of the Work to correct defective or deficient Work, and Trade Contractor states, or by its actions, indicates that it is unable or unwilling to proceed with corrective action in a reasonable time, Construction Manager may upon notice to Trade Contractor accomplish the required corrective action by the most expeditious means available and back charge Trade Contractor for the costs incurred.

#### 17.5 Non-Waiver of Obligations

Nothing contained herein, and no warranty or guarantee period(s) specifically established in the Trade Contract shall be construed to establish a period of limitation on any of Trade Contractor's obligations or liability under the Trade Contract, other than Trade Contractor's obligation to repair, replace, or re-perform defective or deficient Work during the period in question as provided in this Section.

# 18. <u>LIENS</u>

#### 18.1 Lien Free Title to Work

To the fullest extent permitted by law, Trade Contractor warrants and guarantees free and clear title to the Work and all equipment, materials, supplies and others items supplied by Trade Contractor for incorporation into the Work shall pass to Construction Manager and Owner, and that the Work, the Project site and the Project and any and all interests and estates therein and any and all improvements and materials placed on the Project site by Trade Contractor or its Trade Contractor-subcontractors shall be free and clear of, all liens, claims, security interests and other encumbrances made by, through or under Trade Contractor or any of its Trade Contractor-subcontractors.

#### 18.2 Duty to Defend and Discharge Encumbrance

In the event of any nonconformity with the requirements of this Section, Trade Contractor shall promptly: (i) defend Construction Manager's and Owner's title to the Work, the Project site and Project and such interests, estates, improvements and materials, as the case may be; and (ii) remove and discharge any such lien, claim, security interest or other encumbrance by paying the claimant, by posting a bond or other instrument as required by Applicable Law, or by providing Construction Manager collateral that is satisfactory in form and substance to Construction Manager and Owner to fully indemnify, defend and hold harmless Construction Manager and Owner from and against any damages resulting from such encumbrance.

# 18.3 Construction Manager's Right to Withhold Payment

Construction Manager may withhold from any amount due or to become due to Trade Contractor an amount sufficient to remove and discharge such encumbrance until Trade Contractor has removed and discharged such encumbrance as required by this Section. If Trade Contractor has not removed and discharged a lien, claim, security interest or other encumbrance covered by this Section within ten (10) days after it has been made or filed, Construction Manager may cause the encumbrance to be removed and discharged with the moneys withheld. In such instances, all costs incurred by the Construction Manager in substituting a bond for the lien, including reasonable attorneys' fees, and any costs or expenses of the Owner will be borne by the Trade Contractor. Nothing contained herein shall prevent the Trade Contractor, and entry furnishing a bond, from resorting to court process in an effort to have the bond reduced in amount and/or the lien dissolved.

# 18.4 Duty to Identify Potential Lienors

Trade Contractor shall, as often as requested by Construction Manager, furnish a statement identifying each party that has furnished or is furnishing any services, labor, equipment, materials supplies or other items to Trade Contractor in connection with the Project, along with other pertinent information including such party's principal contact, address, phone number, the value of and the party's contract, the amount paid to date and the amount due or to become due thereunder. Construction Manager may also request Trade Contractor from time to time to obtain similar information from one or more of its Trade Contractor-subcontractors and Trade Contractor shall do so and provide it to Construction Manager within five (5) days of Construction Manager's written request. Construction Manager may alternatively request such information directly from one

or more Trade Contractor-subcontractor and Trade Contractor expressly consents to Construction Manager contacting its Trade Contractor-subcontractors for this purpose. Trade Contractor shall furnish Construction Manager within five (5) days of Construction Manager's written request evidence that Trade Contractor has paid all amounts incurred by the Trade Contractor for services, labor, equipment, materials supplies and other items used or furnished by Trade Contractor in connection with the Project, or other liability incurred by Trade Contractor for the purpose of performing the Work.

# 19. INDEMNITY

#### 19.1 Duty to Indemnify

In addition to any other defense, indemnity or hold harmless obligation imposed on Trade Contractor by the Trade Contract or Applicable Law, Trade Contractor shall, to the fullest extent permitted by law, indemnify, defend and hold harmless the Owner, Construction Manager, and their respective directors, officers, employees, parents and subsidiaries of any tier, representatives, agents, successors and assigns, and any and all representatives, agents, directors, officers, employees of any of the foregoing ("Indemnified Parties") from and against any and all losses, costs, expenses, damages, injuries, claims, demands, obligations, liabilities, judgments, fines, penalties, interest and causes of action, including without limitation administrative and legal costs and reasonable attorney's fees involving the following:

- (1) Injury or death to any person, or damage to or destruction of any property (including loss of use thereof), or any other damage or loss by whomsoever suffered resulting from or arising out of or in connection with the Work;
- (2) Any failure of the Trade Contractor or the Work to comply with the requirements of the Trade Contract;
- (3) Any claim, demand or lawsuit filed or made by anyone providing labor, materials or services to the Trade Contractor;
- (4) Any actual or alleged violation of Applicable Law by Trade Contractor or its Trade Contractor-subcontractors concerning the Work;
- (5) Any unwarranted lien, claim, security interest or other encumbrance made or filed against: (i) the Work, Project site and the Project; any and all interests and estates therein and any and all improvements and materials placed on the Project site by Trade Contractor or its Trade Contractor-subcontractors; or, (ii) any payment, performance, lien prevention, or lien discharge bond posted by any of the Indemnified Parties;
- (6) Any hazardous material or waste, toxic substance, pollution or contamination brought to or generated on the Project site by Trade Contractor or its Trade Contractor-subcontractor, or used, handled, transported, stored, removed, remediated, disturbed or disposed of by Trade Contractor or its Trade Contractor-subcontractor; and
- (7) Any actual or alleged infringements of any patent, trademark, copyright or other intellectual property or proprietary right by Trade Contractor, its Trade Contractor-subcontractor or the Work furnished by Trade Contractor ("IP Infringement");

The foregoing obligations of Trade Contractor shall not be affected or limited in any way by any insurance required of or provided to Trade Contractor under the Trade Contract. If a temporary restraining order or preliminary injunction is granted in any proceeding involving a claim, demand or cause of action for an IP Infringement, Trade Contractor shall make every reasonable effort at its expense to secure the suspension of the restraining order or injunction by giving a satisfactory bond or otherwise. If any portion of the Work is held in such proceeding to constitute an infringement and the use thereof is permanently enjoined, Trade Contractor shall at its expense promptly secure a license authorizing Construction Manager's and Owner's continued use of such Work or, if Trade Contractor is unable to secure such license, replace the affected Work or modify it so that it is non-infringing. Trade Contractor shall not be required to defend, indemnify and hold harmless any Indemnified Party for damages resulting, or to result from that Indemnified Party's sole negligence or intentional misconduct.

# 19.2 Limitation of Liability

In no event shall any of the Indemnified Parties be liable to Trade Contractor or any of its Trade Contractor-subcontractors, whether based on delay, contract, tort, negligence, warranty, indemnity, strict liability, error or omission or otherwise, for any consequential, special, incidental, indirect, exemplary, multiple or punitive damages or damages arising from or in connection with loss of use or loss of revenue or profit, actual or anticipated or otherwise, and Trade Contractor hereby releases each of the Indemnified Parties from any such liability. Trade Contractor shall obtain similar releases from each of its Trade Contractor-subcontractors

# 20. DELAYS TO THE WORK

# 20.1 Liability for Trade Contractor Delays

Trade Contractor shall be liable to Construction Manager for any and all loss or damage Construction Manager sustains as a result of Trade Contractor's delay in the safe performance of the Work or delay to the Project attributable to Trade Contractor including, without limitation, any amounts due from Construction Manager to Owner under the Owner Contract such as liquidated damages. Trade Contractor acknowledges that any liquidated damages payable by it are reasonable and appropriate in light of the probable increased costs and other anticipated damage to Construction Manager in the event of the

performance failure by Trade Contractor in connection with which such damages become payable. Trade Contractor agrees to and does hereby waive any defense as to the validity or enforceability of any liquidated damages payable by it under the Trade Contract on the grounds that such damages are void as penalties or are not reasonably related to actual damages, whether the damages were specifically established by Construction Manager and Trade Contractor under the Trade Contract or were established by Construction Manager and Owner under the Owner Contract. Trade Contractor further agrees that Construction Manager shall be entitled to recover from Trade Contractor any damages Construction Manager incurs as a result of Trade Contractor's failure to discharge a Trade Contract obligation that exceeds any liquidated damages paid by Trade Contractor in connection with that failure.

#### 20.2 Trade Contractor's Remedy for Delays

In no event shall the Trade Contractor be entitled to any compensation or recovery of any damage in connection with any delay and/or disruption, including without limitation, consequential damages, lost opportunity cost, impact damages, acceleration damages, wage and material escalation damages, loss of efficiency, loss of productivity, out of sequence work and other delay or disruption damages. The full and complete compensation to, and sole and exclusive remedy of, Trade Contractor in the event of any delay, interference or other adverse impact to the Work shall be an extension of time for performance of the Work. Trade Contractor acknowledges that in agreeing to the Trade Contract Price it has assessed the potential impact of the limitations in this Section on its ability to recover additional compensation in connection with a Work delay or interference and agrees that these limitations will apply regardless of the accuracy of Trade Contractor's assessment or actual costs incurred by Trade Contractor. The delays, interferences or other adverse impacts to the Work contemplated in this section shall include, without limitation, any delay or disruption involving:

- (1) the commencement of all or part of the work,
- (2) hindrance or obstruction in the performance of the work,
- (3) failure of one or more Trade Contractor or Trade Contractor-subcontractors to perform,
- (4) "come-backs" or "go-backs" as a result of incomplete or defective work of other subcontractors or their subsubcontractors,
- (5) the Owner, the Owner's representative, the Construction Manager or other subcontractors, whether or not such delays and/or disruptions are foreseeable, contemplated, or uncontemplated, unless said delay is caused by acts of the Owner constituting active interference with the Trade Contractor's performance of the Work, and only to the extent such acts continue after the Trade Contractor furnishes the Owner with written notice of such interference,
- (6) change orders;
- (7) bankruptcy or insolvency of one or more Trade Contractors or Trade Contractor-subcontractors;
- (8) changes necessitated by changes in laws or regulations;
- (9) unavailability or shortage of building materials;
- (10) job site theft;
- (11) weather conditions; and
- (12) vandalism or natural disaster requiring reconstruction.

#### 20.3 Notice of Delays

Trade Contractor, within two (2) days of the time set forth in the Owner Contract for the Construction Manager to provide notice to the Owner, but in no event more than five (5) days after the observance of any delay, impact or disruption or acceleration caused by Owner, Construction Manager, other subcontractors, or Construction Manager's suppliers, shall notify Construction Manager, in writing, stating full details of the cause of the alleged delay, impact, disruption(s) or acceleration for which Owner is responsible, in sufficient time, so its claims may be timely processed against Owner. Trade Contractor's failure to assert a claim in the manner, and within the time provided for in this Section, constitutes a complete waiver of the claim.

#### 20.4 Non-Waiver of Rights

Permitting the Trade Contractor to continue to perform its Work after the agreed time for performance has expired shall not be construed as or constitute a waiver by Construction Manager of any claims for loss or damage it may have against Trade Contractor as a result of such delay.

#### 21. CHANGES AND IMPACTS

# 21.1 Changes to the Work

Construction Manager may, by written order (and without notice to Trade Contractor's sureties), make changes to the work to be performed by Trade Contractor within the scope of the Owner Contract or as required by the Owner. The changes made may increase, decrease or alter Trade Contractor's work. The Trade Contractor shall make no claim for extra or additional work unless the same shall be done in pursuance of a written change order executed by an executive officer of the Construction Manager. Unless directed by Construction Manager in writing to proceed immediately with a change, Trade Contractor shall submit a written request to Construction Manager for a Trade Contract adjustment as provided herein prior to proceeding with the extra or additional work.

# 21.2 Changes Not Involving the Owner

For any Construction Manager initiated change, Trade Contractor shall submit its written request for a change order within ten (10) days of receipt of Construction Manager's change notice, but in no event later than two (2) days prior to the expiration of the time period specified in the Owner's Contract for the submission of such a request. Trade Contractor's request shall include documentation sufficient to enable the Construction Manager to determine the factors necessitating the adjustment(s) being requested. If Construction Manager decides to proceed (or Trade Contractor has already proceeded with the written direction of Construction Manager) with the change and a Trade Contract adjustment is warranted, Construction Manager shall issue a written change order to Trade Contractor adjusting the Trade Contract either: (i) as requested by Trade Contractor; or, (ii) in the event the Construction Manager disagrees with Trade Contractor's statement as to the effect of the change, Construction Manager shall issue a change order to Trade Contractor on terms Construction Manager reasonably deems appropriate. Trade Contractor shall thereafter perform the Work in accordance with the change order, subject to dispute resolution under the Trade Contract. Trade Contractor shall have no right to suspend or delay the performance of its obligations under the Trade Contract while the Construction Manager is reviewing Trade Contractor's adjustment request or if Trade Contractor disagrees with the change order issued by Construction Manager.

#### 21.3 Changes Involving Owner

For any change initiated by, or otherwise involving the Owner or Architect, Trade Contractor shall submit its written request for a change order no later two (2) days prior to the expiration of the time period specified in the Owner's Contract for the submission of such a request and shall include all information required under the Owner Contract. Construction Manager shall process Trade Contractor's change order request in accordance with the change order process in the Owner Contract. Trade Contractor's entitlement to additional compensation or a time extension in connection with a change initiated by the Owner or Architect shall be limited to the cost and schedule adjustments approved by Owner for Trade Contractor's Work in Owner's change order to Construction Manager under the Owner Contract.

# 21.4 Pricing of Change Orders

Unless the Owner Contract requires different pricing, the amount of additional compensation paid to Trade Contractor shall be determined by one of the following methods at the sole discretion of the Construction Manager:

- (1) Lump sum price in an amount proposed by Trade Contractor (properly itemized and supported by sufficient substantiating data to permit evaluation) and accepted by Construction Manager;
- (2) Unit Prices or Alternates as set forth in this Trade Contract (if applicable); or
- (3) Time and material basis.

#### 21.4.1 Allowable Markups

Without regard to the method utilized by Construction Manager to price any change, in no event shall Trade Contractor's overhead and profit mark-up percentages on additional costs incurred in connection with changes and impacts to the Work for which Trade Contractor is entitled to a Trade Contract adjustment exceed the mark-ups allowed to Construction Manager for changes under the Owner Contract. Trade Contractor shall not apply a mark-up to any costs the Owner Contract provides are not subject to mark-up. Trade Contractor's overhead and profit markup for Work that does not involve Owner shall be limited to ten percent (10%).

#### 21.5 Documentation of Costs

If a change is performed by Trade Contractor on other than a lump sum basis, Trade Contractor shall furnish each day to Construction Manager certified copies of all time sheets, receiving and inspection reports and shall provide Construction Manager with such purchase orders, invoices, Trade Contractor-subcontractor quotes and other documents and records as may enable Construction Manager to verify, to its reasonable satisfaction, the costs or savings reasonably incurred by Trade Contractor in effecting the change. All labor, services, equipment, materials, supplies and other items provided by Trade Contractor on other than a lump sum basis shall be purchased at competitive market prices and reflect Trade Contractor's actual cost after rebates and discounts. Trade Contractor acknowledges and agrees that any request for an adjustment will be totally inclusive of all additional costs and time extensions related to the change, whether resulting from delays, inefficiencies, interferences or any other impact to Trade Contractor's performance of the Work. Trade Contractor's failure to request a cost or time adjustment in connection with a change shall constitute a representation by Trade Contractor that no such adjustment is required and shall constitute a waiver by Trade Contractor of its right to any such adjustment. Trade Contractor's failure to timely submit a proposed credit for deleted Work shall render Construction Manager's and/or Owner's or Architect's determination of the proper credit final and binding.

#### 21.6 Right of Construction Manager to Review Costs

Trade Contractor shall allow Construction Manager to review any data Construction Manager may reasonably request to assist the Construction Manager, Owner and/or Architect to determine the validity of a Trade Contract adjustment requested by Trade Contractor. Data that may be reviewed includes, but is not limited to: (i) Trade Contractor's payroll records for each employee working on the Project (which shall contain the employee's name, address, social security number, hourly wage, daily and weekly number of hours worked, gross wages earned, deductions made and actual wages paid); (ii) Trade Contractor's Project estimate(s) and supporting calculations; (iii) Trade Contractor's cost reports and supporting documentation, (iv) Trade Contractor work schedules and related documents; and (v) Trade Contractor-subcontractor related documents (which Construction Manager may obtain from Trade Contractor or directly from the Trade Contractor-subcontractor).

#### 21.7 Construction Change Directives

If Construction Manager and Trade Contractor do not agree as to the appropriate adjustment to the Trade Contract Price and/or Trade Contractor's time for performance in connection with a change, Construction Manager may issue a "directive" that directs Trade Contractor to proceed with the change and leaves the adjustment to the Trade Contractor Amount and/or Trade Contractor's time for performance open. Trade Contractor shall proceed with the change and provide Construction Manager the information and documents required herein in connection with changes performed on other than a lump sum basis to support its additional costs and information and documents to support its request for a time extension. When the change has been completed, Construction Manager shall determine the appropriate adjustment, or for claims resulting from the Owner or Architect, shall refer the matter to the Architect or Owner's representative to determine the appropriate adjustment to the Trade Contract Price and/or Trade Contractor's time for performance. Their decision shall be binding on Trade Contractor.

#### 21.8 Duty to Provide Timely Notice

Trade Contractor shall make all claims for additional compensation, and extensions of time due to acceleration, disruption or inefficiency or other adverse impacts to the Work or otherwise to Trade Contractor's performance under the Trade Contract within two (2) business days following the occurrence of the event giving rise to the claim and in such manner so as to permit the Construction Manager to satisfy the requirements of the Owner Contract for the submission of such claim. All such claims shall be supported by appropriate documentation and, in the case of requests for extensions of time, sufficient detail to demonstrate that the impact is to work activities on the critical path. If the Trade Contractor fails to submit a claim to the Construction Manager as required, then Trade Contractor's right to a Trade Contract adjustment relating to such claim shall be waived. Trade Contractor's timely compliance with the notice requirements herein shall be a condition precedent to Trade Contractor's entitlement to a Trade Contract adjustment and Trade Contractor waives and releases any claim for additional compensation or an extension of time in the event that Trade Contractor does not so comply.

# 21.9 Authority of Construction Manager's Employees

Notwithstanding anything to the contrary herein, Trade Contractor agrees and acknowledges that the functions and powers of the employees of the Construction Manager are strictly limited to the execution of this work hereunder, as defined by this Contract, and that they have no authority to make, permit or authorize any alteration, change or departure in or from the terms and provisions of this Contract or the plans and specifications, or to waive any right of the Construction Manager. The job superintendent and/or project manager shall have authority to make decisions pertaining to the execution of the work hereunder as the work progresses. Construction Manager's execution of time and material tickets or similar field documentation shall be for the sole purpose of validating the quantities of material and labor and shall not constitute evidence or an admission that Trade Contractor is or is not entitled to a change order for the work covered by such documents.

# 21.10 No Presumption of Validity

Nothing done or not done by Construction Manager or Owner shall be construed as an acknowledgment or acceptance of the accuracy or validity of any Trade Contract adjustment requested by Trade Contractor until a signed change order is issued to Trade Contractor by Construction Manager.

#### 21.11 Invalid Claims

In the event the Trade Contractor asserts any frivolous claim against Construction Manager (or submits a Trade Contractor adjustment request that has no substantial merit or that is based in whole or in part upon materially inaccurate assertions), Construction Manager shall be entitled to collect from Trade Contractor by offset or otherwise any and all costs and expenses (including but not limited to reasonable attorney's fees) incurred by Construction Manager in investigating, responding to, defending against and resolving such claim or request.

#### 22. TRADE CONTRACTOR DEFAULT

#### 22.1 Events of Default

If, in the reasonable opinion of Construction Manager, Trade Contractor at any time (1) refuses or fails to provide a sufficient number of properly skilled workmen or materials of the proper quality, or to make sufficient progress, in each case so as to endanger the timely or proper performance of the Work (2) fail in any respect to prosecute the Work according to the Project Schedule, (3) stop, delay, or interfere with the work of Construction Manager or any other builder or subcontractor, (4) fail to comply with all provisions of this Trade Contract Agreement or the Contract Documents as incorporated herein, (5) be adjudged bankrupt, or make a general assignment for the benefit of its creditors, (6) have a receiver appointed, (7) become insolvent or a debtor in reorganization proceedings, or (8) otherwise breaches any provision of the Trade Contract, then, after serving written notice and Trade Contractor's failure to fully and completely cure the default and provide reasonable evidence of such cure to Construction Manager within forty-eight (48) hours of receipt of Construction Manager's written notice, Construction Manager may, at its option and without voiding the other provisions of the Trade Contract, (i) take such steps as are necessary to overcome the condition, (ii) terminate Trade Contractor's right to proceed with all or part of the remaining Work, take possession of the terminated Work and any and all of Trade Contractor's materials, tools, appliances, equipment and other items at the Project site and finish the terminated Work by whatever method Construction Manager may deem expedient; or (iii) seek specific performance of Trade Contractor's obligations hereunder, it being agreed by Trade Contractor that specific Performance may be necessary to avoid irreparable harm to Construction Manager and/or Owner. In the event of an emergency affecting the safety of persons or property, the Construction Manager may proceed as above without notice.

### 22.2 Remedy for Default

In the event of termination for default, Construction Manager may, at its option, (1) enter the premises and take possession, for the purpose of completing the Work, of all materials of Trade Contractor, (2) require Trade Contractor to assign to Construction Manager any or all of its subcontracts or purchase orders involving the Project, and/or (3) complete the Work either by itself or through others, by whatever method Construction Manager may deem expedient.

#### 22.3 Termination for Default

In case of termination for default, Trade Contractor shall not be entitled to receive any further payment until the Work shall be fully completed and accepted by Owner. At such time, if the unpaid balance of Trade Contract Price to be paid shall exceed the expense incurred by Construction Manager plus an overhead fee of fifteen percent (15%) of the costs of finishing the Work payable to Construction Manager, such excess shall be paid by Construction Manager to Trade Contractor, provided Trade Contractor's Work has been finally completed and accepted by Owner, and Construction Manager actually receives payment from Owner for such Work. If such amount due to Construction Manager shall exceed such unpaid balance, then Trade Contractor shall pay Construction Manager the difference within five (5) business days following demand by Construction Manager. Trade Contractor shall pay all reasonable costs of collection, if any, including Construction Manager's attorney's fees. If it is determined Construction Manager wrongfully terminated Trade Contractor under this section, then the termination shall be deemed to be a termination for convenience, and the provisions for such termination shall apply.

#### 22.4 Other Remedies for Default

In the event the Construction Manager does not terminate for default, Construction Manager may take such steps as are necessary to overcome the condition including, without limitation, performing such work with its own forces or with a separate subcontractor. In which case, Construction Manager may deduct from amounts that are due or may become due to the Trade Contractor all costs incurred by Construction Manager including, without limitation, a fifteen percent (15%) markup. If such amount due to Construction Manager shall exceed such unpaid balance, then Trade Contractor shall pay Construction Manager the difference within five (5) business days following demand by Construction Manager. Trade Contractor shall pay all reasonable costs of collection, if any, including Construction Manager's attorney's fees.

# 22.5 Remedy Under Trade Contractor's Performance Bond or Other Guarantee

In the event Trade Contractor's performance under the Trade Contract is secured by a surety performance bond or other guarantee of performance, Construction Manager may, in the event of a Trade Contractor default, demand that Trade Contractor's surety or guarantor complete performance of the Work. In the event the surety or guarantor fails to perform and complete Trade Contractor's Work and other obligations in accordance with the Trade Contract and bond or guarantee (as applicable), Construction Manager may proceed to remedy Trade Contractor's default in accordance with this Section. To the extent Construction Manager's damages exceed the Trade Contract balance at time the Trade Contract is terminated,

Construction Manager shall be entitled to pursue its remedies against Trade Contractor's surety or guaranter for breach of its bond or guarantee obligations.

#### 22.6 Provisions in Trade Contract Survive Termination

The rights and remedies of the Construction Manager and obligations of the Trade Contractor relating to the dispute resolution provisions, the bonding and surety provisions, the lien provisions, the guarantee provisions and the indemnity provisions, and any other provision of the Trade Contract that either: (1) provides for limitation of or protection against liabilities between Construction Manager and Trade Contractor; or (2) expressly or by implication comes into or continues in force and effect after Trade Contractor's completion of the Work, shall survive termination of the Trade Contract, whether by default or for convenience, and Trade Contractor's completion of the Work.

#### 23. TERMINATION FOR CONVENIENCE

Construction Manager may upon written notice to Trade Contractor, without cause and without prejudice to any other right or remedy under this Agreement, at law or in equity, elect to terminate the remaining Work for Construction Manager's convenience. The termination shall be effective in the manner specified in Construction Manager's notice. Unless Construction Manager's notice directs otherwise, Trade Contractor shall immediately discontinue performance of the Work and the placing of orders for equipment, materials, supplies and other items and demobilize from the Project. Trade Contractor shall take the steps necessary to preserve and protect Work in progress and shall use its best efforts to mitigate its costs in connection with the termination. Construction Manager shall pay Trade Contractor a termination payment as Trade Contractor's sole and exclusive remedy in connection with Construction Manager's convenience termination. The termination payment shall be comprised of: (i) amounts invoiced and due for Work performed but not yet paid; (ii) payment for Work satisfactorily completed but not yet invoiced by Trade Contractor prior to the termination; (iii) retainage held by Construction Manager at the date of termination; and, (iv) all reasonable, actual termination costs incurred by Trade Contractor in terminating the Work (but excluding any and all costs and expenses incurred by Trade Contractor from and after the date of termination for those of its employees who are not directly performing required termination activities); provided, that if the termination was effected by Construction Manager due to the elimination or termination of work by Owner under the Owner Contract or other Owner action, or, as a result of the order of a court or public authority, then Trade Contractor's termination payment shall be limited to the amount paid by Owner to Construction Manager for the terminated Work under the Owner Contract, less Construction Manager's costs to obtain that amount from Owner. The Trade Contractor expressly accepts the risk that it will not be paid for work performed by it if the Construction Manager, for whatever reason, is not paid by the Owner for such work. In no event shall Trade Contractor be entitled to recover any profit or overhead on terminated Work. Trade Contractor's termination payment under this Section will constitute its final payment for the Work and will be processed and become due to Trade Contractor in accordance with the provisions in Section 5 herein.

# 24. CLAIMS INVOLVING OWNER

# 24.1 Recovery Limited to Amounts Received by Construction Manager

Notwithstanding anything contrary in this Trade Contract, Trade Contractor may recover damages for extra work, delays, interferences or other adverse impacts to the Work only to the extent the Owner is liable and limited to the cost Construction Manager actually receives from Owner compensation for such extra work, delays, interferences or other adverse impacts to the Work, subject to adjustments as provided herein. Construction Manager's liability to the Trade Contractor for any adverse impact to the Work or otherwise to Trade Contractor's performance under the Trade Contract attributable to the Owner, Architect/Engineer or their separate contractors shall be limited to the cost, schedule or other relief, if any, granted by and actually recovered from the Owner as set forth herein. Trade Contractor agrees to be bound to Construction Manager to the same extent that Construction Manager is bound to Owner, by the terms of the Contract Documents, and by any and all preliminary and final decisions, determinations or agreements made by or between Construction Manager, Architect/Engineer or Owner or so authorized in the Contract Documents or by the court or arbitrator designated in the Contract Documents whether or not Trade Contractor is a party to such agreement or proceeding. Construction Manager and Construction Manager's surety shall not be liable to Trade Contractor in excess of any sum actually received from Owner on behalf of Trade Contractor and Construction Manager shall only be required to pay Trade Contractor if, and only if, Owner pays Construction Manager, which is an express condition precedent to Construction Manager's duty to pay Trade Contractor. Trade Contractor agrees to toll its rights under the Construction Manager's bond and this Agreement until such time as the Construction Manager has exhausted its Owner related dispute provisions.

#### 24.2 Determination of Amounts

Construction Manager shall endeavor to request that the amount attributable to Trade Contractor's claim be identified separately in any change order, settlement, award or judgment. To the extent such change order, settlement, award, or judgment does not provide for a separately listed amount attributable to Trade Contractor's claim, the amount of such

recovery shall be limited to the proportionate share due Trade Contractor on the basis of the ratio of the Trade Contractor's claim to other claims that are asserted, provided the Trade Contractor's claims and other claims are substantially similar and reasonably justified as to merit and actual costs incurred as determined by Construction Manager. In all events, the amount due Trade Contractor shall be limited to the amount actually recovered by Construction Manager from Owner, and shall be adjusted to compensate Construction Manager for Trade Contractor's proportionate share of the expenses and attorney's fees incurred by Construction Manager in pursuing such claims.

#### 24.3 Presentation of Claims

Construction Manager may, at Construction Manager's option, (i) present to the Architect/Engineer, the Owner, or any court or arbitrator, in Construction Manager's name, or (ii) authorize Trade Contractor to present to the Architect/Engineer, the Owner, or any court or arbitrator in Construction Manager's name, all of Trade Contractor's claims, and to answer the claims of Architect/Engineer or the Owner involving Trade Contractor's Work. If such dispute is prosecuted or defended by Construction Manager, the Trade Contractor, at Trade Contractor's own expense, agrees to furnish all documents, statements, witnesses, and other information required by Construction Manager and to pay or reimburse Construction Manager for all costs incurred by Construction Manager in connection with the disputes including, without limitation, attorneys' fees and experts' and consultants' fees. In the event that any mediation, arbitration, litigation or settlement with the Owner results in a recovery by the Owner against the Construction Manager involving the Trade Contractor's Work, the Trade Contractor shall pay the Construction Manager its proportionate share of such recovery by the Owner against the Construction Manager, and pay the Construction Manager its proportionate share of the expenses and attorney's fees incurred in defending such claim(s).

# 24.4 Duty to Cooperate

Trade Contractor agrees to use its best efforts to make available to Construction Manager such documents, drawings and other materials and witnesses and information as are reasonably available to it to assist Construction Manager in any claim against Owner that relates to or concerns the Work.

#### 24.5 No Obligation to Pursue Claims

Notwithstanding anything to the contrary herein, Trade Contractor expressly acknowledges that Construction Manager is not obligated or required to pursue Trade Contractor claims as against Owner if Construction Manager, in its sole discretion, after review of Trade Contractor's claim, has deemed the claim to lack merit in whole or in part, or such claim is otherwise not permitted under any agreement between Construction Manager and Owner.

# 25. <u>DISPUTES</u>

#### 25.1 Construction Manager as Initial Decision Maker

Except as otherwise provided in the Trade Contract, Construction Manager shall initially decide all disputes arising out of the Trade Contract. Construction Manager shall reduce its decision to writing and furnish a copy thereof to Trade Contractor. Construction Manager's decision shall be final and conclusive unless Trade Contractor advises Construction Manager in writing within forty-eight (48) hours of receiving the decision of the basis for its disagreement with the decision. Trade Contractor agrees that if it does not contest the Construction Manager's decision within the time and in the manner required under this Section, Construction Manager's decision shall be final and conclusive and the Trade Contractor shall be deemed to have waived any right to contest the decision. Construction Manager decisions properly contested by Trade Contractor shall be resolved as provided herein.

# 25.2 Construction Manager's Right to Demand Arbitration

Claims and disputes between Construction Manager and Trade Contractor arising out of or in connection with the Trade Contract or the Work shall be resolved by litigation unless Construction Manager, at its sole option, advises Trade Contractor in writing prior to the institution of litigation with respect to a claim or dispute, or within thirty (30) days after either party has instituted litigation with respect to the claim or dispute that Construction Manager elects to have the claim or dispute resolved by arbitration. In such event, Trade Contractor shall be bound by Construction Manager's election and any litigation filed shall be stayed by stipulation of the parties pending the conclusion of the arbitration proceedings. The arbitration proceedings shall be conducted pursuant to the Construction Industry Arbitration Rules issued by the American Arbitration Association then in effect. The parties shall afford each other informal discovery consistent with the discovery provisions of the Federal Rules of Civil Procedure, including the production of all documents related to the claim or dispute at issue and the deposition of witnesses having knowledge of facts pertaining to the claim or dispute at issue.

# 25.3 Consolidation or Joinder

In the event Construction Manager is involved in a separate arbitration, litigation, mediation or other legal proceeding in which any aspect of the Trade Contractor's Work or entitlement to payment is at issue, or questions of law or fact common to the Trade Contractor's performance under the Trade Contract are involved; or, if complete relief cannot be afforded in such proceeding without the Trade Contractor's participation therein, Trade Contractor hereby consents, upon written demand by Construction Manager, to its consolidation or joinder in that proceeding to the applicability of any rules or procedures applicable to such proceeding; and hereby waives any objections to the location or forum in which the proceeding is pending. In the event Trade Contractor has initiated litigation against Construction Manager at the time Construction Manager's demand for consolidation or joinder is received, and that proceeding cannot be consolidated with the proceeding in which the Construction Manager is involved, Trade Contractor agrees to dismiss or, in the event dismissal would prejudice Trade Contractor's rights, stay the litigation.

#### 25.4 Duty to Continue Performance Pending Dispute Resolution

Trade Contractor acknowledges the importance of performing and completing the Work and its other obligations under the Trade Contract in a timely manner. Trade Contractor agrees that its rights in connection with any claim or dispute with Construction Manager in connection with the Trade Contract shall be determined as provided in this Section, and that it shall not be entitled to suspend or otherwise delay its performance and completion of the Work or the performance of its other obligations under the Trade Contract based on any alleged breach by Construction Manager or claim or dispute between the parties, regardless of whether such breach, claim or dispute is the subject of dispute resolution between Construction Manager and Trade Contractor.

#### 26. WAIVER OF NOTICE AND HEARING RELATIVE TO PREJUDGMENT REMEDIES

The Trade Contractor expressly waives its right to notice and hearing under Connecticut General Statutes §52-278a through §52-278g inclusive relative to prejudgment remedies, and agrees that the Construction Manager may issue a writ for a prejudgment remedy (attachment, garnishment) by its attorney without securing a Court Order.

#### 27. AUDIT AND RECORD RETENTION.

Trade Contractor's records related to the Project and the Trade Contract shall be subject to audit and shall be made available to Construction Manager for that purpose upon five (5) days prior written notice. To the extent the foregoing audit provisions are different than, or inconsistent with, any audit provisions found in the Owner Contract, the more stringent requirement shall control. Unless the Contract Documents or Applicable Law requires a longer period, Trade Contractor shall maintain its entire Project and Trade Contract related records, financial and otherwise, for a period of ten (10) years after the Construction Manager achieves final completion of its work at the Project.

#### 28. <u>CONFIDENTIALITY</u>

# **28.1 Duty to Keep Information Confidential**

Trade Contractor acknowledges and agrees that it will execute any confidentiality or nondisclosure agreements that may be reasonably required by the Construction Manager and/or Owner. Trade Contractor further acknowledges and agrees that Construction Manager may disclose certain information to Trade Contractor for purposes of the Work that Construction Manager and/or Owner considers to be confidential or proprietary or to constitute trade or business secrets (collectively "Confidential Information"). In the absence of more stringent requirements contained in the Owner Contract, when Construction Manager and/or Owner discloses any information designated as Confidential Information to Trade Contractor, Trade Contractor agrees that:

- (1) the Confidential Information shall be used solely for the purpose of performance under the Trade Contract and disclosed only to those of Trade Contractor's employees who have a need to know the information for that purpose;
- (2) it shall not disclose Confidential Information to any third party without Construction Manager's prior written consent;
- (3) it will take precautions to prevent the disclosure of the Confidential Information that are no less stringent than those employed to preserve the secrecy of its own confidential business information or trade secrets, and in no event less than reasonable precautions; and
- (4) upon completion of the Work it will return all documents containing Confidential Information to the Construction Manager and/or Owner without retaining any copies thereof, or if such Confidential Information is

contained in electronically stored documents, permanently delete such electronically stored Confidential Information.

#### 28.2 Duration/Remedies

Unless a longer period is established by the Contract Documents, the provisions of this Section shall remain in force for a period of five (5) years after Construction Manager's final completion of its work at the Project. Trade Contractor agrees that in the event of its breach or threatened breach of its obligations under this Section, Construction Manager shall be entitled to equitable relief in order to restrain any continued or threatened breach.

#### 29. MISCELLANEOUS

#### 29.1 Integrated Agreement

The Trade Contract represents the entire integrated agreement between the parties with respect to the Project and supersedes all prior negotiations, proposals, correspondence, representations or agreements, whether written or oral, express or implied. This Trade Contract may only be amended or modified in a change order or other writing signed by both Construction Manager and Trade Contractor.

#### 29.2 Choice of Law, Venue and Jury Waiver

This Trade Contract shall be governed by and construed in accordance with the laws of the state Connecticut, excluding the conflicts of laws principles thereof. For any action or proceeding involving claims and disputes between Construction Manager and Trade Contractor arising out of or in connection with the Trade Contract or the Work, Construction Manager and Trade Contractor expressly and unconditionally: (a) agree that the presiding federal or state court in the state of Connecticut shall have exclusive jurisdiction over the action or proceeding; and (b) WAIVE THE RIGHT TO A TRIAL BY JURY IN THE ACTION OR PROCEEDING IN ANY AND ALL DISPUTES OR CLAIMS ARISING OUT OF OR IN RELATION TO THIS AGREEMENT. If Construction Manager elects to resolve a claim or dispute by arbitration, the arbitration shall be venued in the state of Connecticut.

#### 29.3 Interpretation of Provisions

Construction Manager and Trade Contractor represent and warrant that they have had ample opportunity to review this Trade Contract and all documents referenced herein, and to consult with their respective attorney's. The Trade Contract shall be construed without regard to any presumption or other rule requiring construction or interpretation against the party who caused it to have been drafted.

#### 29.4 Execution of Trade Contract

The Trade Contract may be executed in counterparts, each of which will be considered an original.

#### 29.5 Notice

All notices required or permitted pursuant to this Trade Contract shall be in writing and sent to the parties at the addresses set forth on the Trade Contract Agreement. Written notice shall be deemed to have been duly served if delivered by registered or certified mail or by courier service providing proof of delivery to the business address for the intended recipient identified in this Trade Contract or, if none is identified, the last business address of the intended recipient known to the party giving notice. Written notices may also be deemed to have been duly served if delivered via first class U.S. mail, email, or facsimile, but the party utilizing such alternative means shall bear the burden of proving delivery (e.g., facsimile confirmation).

#### 29.6 Validity and Enforceability

The parties agree that if any provision of the Trade Contract is determined by a court to be unenforceable in whole or in part under Applicable Law, that determination shall not affect the validity and enforceability of the remainder of the Trade Contract and that only the provision (or part thereof) in question shall be deemed unenforceable. Accordingly, in the event that any one or more of the provisions of the Trade Contract shall be found to be contrary to public policy and unenforceable, the remaining provisions of this Trade Contract shall remain in full force and effect, and such term or provision shall be deemed stricken to the extent and in the jurisdictions necessary for compliance with Applicable Law.

#### 29.7 Construction Manager's Rights Not Waived

The failure of Construction Manager to insist upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

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#### 29.8 Remedies are Cumulative

The remedies provided to Construction Manager in the Trade Contract are cumulative and not exclusive and additional to any other remedies available to Construction Manager under Applicable Law.

#### 29.9 Headings are for Convenience Only

The headings in this Trade Contract have been inserted for convenience or reference only and shall not in any manner affect the construction, meaning or effect of anything contained herein nor govern the rights and liabilities of the parties.

#### 30. EXHIBITS

The following exhibits are incorporated into this Trade Contract as follows:

- Exhibit A Contract Documents
- Exhibit B General Safety and Health Procedural Regulations
- Exhibit C Certification of Resident or Verified Contractor
- Exhibit D Material and Equipment Stored Off-Site Billing Procedure
- Exhibit E Sample Interim and Final Lien Waiver
- Exhibit F Insurance Requirements
- Exhibit G Sample Performance and Payment Bond Forms

### EXHIBIT A CONTRACT DOCUMENTS

LIST OF CONTRACT DOCUMENTS TO BE INSERTED HERE

#### **EXHIBIT B**

#### GENERAL SAFETY AND HEALTH PROCEDURAL REGULATIONS

Each contractor/employer is responsible for the safety and health of its employees and for all other individuals affected by the work. Each contractor/employer is to provide line supervision that is knowledgeable of and capable of monitoring and enforcing continuous Safe Work Practices and ensuring continuous Regulatory Compliance.

#### **Contractor / Employer Responsibilities:**

No declaration, act or omission by O&G, Industries, Inc., or its representatives will be deemed to exempt, either wholly or in part, expressly or by implication, any Contractor/Employer or the Contractor/Employer's place of employment, from full compliance with the terms of any environmental, health or safety regulation(s) as stated by the Federal Government, the state government, the county or local city or other jurisdictions applicable to the Contractor/Employer's work. The Contractor/Employer is responsible for the action(s) and/or inaction(s) of its employees, lower tier contractor/employers, vendors, suppliers or guest(s). The contractor/employer is responsible for the safety of its employees and other individuals that may be associated with or exposed to the its work and to assure the continuous utilization of safe work habits and for continuous regulatory compliance.

O&G Industries Inc. is dedicated to providing a safe and injury free environment. O&G Industries Inc. expects Subcontractor management, supervision and workers to hold environmental health and safety as a top priority. O&G Industries Inc.'s health and safety requirements are contained herein and in O&G Industries Inc.'s Safety & Health Program for the project, which is hereby incorporated by reference into the Subcontract. Subcontractor understands its responsibility to maintain a safe and healthy working environment and Subcontractor and its Sub-subcontractors shall abide by the requirements contained in the Safety and Health Program. Subcontractors understand and agree that O&G may, at its discretion, amend, alter, add to or otherwise change the Safety & Health Program, and that Subcontractor is required to abide by any such changes. In addition, Subcontractor and its Sub-subcontractors shall, at no additional cost to O&G Industries Inc., comply with the following requirements:

#### **Regulatory Compliance:**

Subcontractor agrees that the prevention of accidents to workers, visitors, or the public present at or in the vicinity of the project is its responsibility. Subcontractor agrees to comply with all Federal, State, County and Municipal laws, ordinances, rules, regulations, codes, standards, orders and requirements concerning safety and health that are applicable to the Work, including, among others, the Federal Occupational Safety and Health Act of 1970 (OSHA), as amended, and all standards, rules, regulations and orders which have been and shall be adopted or issued thereunder, and with safety and health and environmental standards established by O&G Industries Inc. and the Owner. The most stringent of the aforementioned laws, ordinances, rules, regulations, codes, standards, orders and requirements shall prevail.

#### **Subcontractor Safety Representative:**

Prior to mobilization, Subcontractor shall designate in writing to O&G Industries Inc. a competent person that shall serve as the Subcontractor's project safety representative. This individual will be responsible and have the authority to ensure the Subcontractor's implementation, compliance with and enforcement of the O&G Safety and Health Program. Qualifications for the Subcontractor's project safety representative are provided in the O&G Safety and Health Program. O&G Industries Inc. reserves the right to require Subcontractor to replace its project safety representative if O&G Industries Inc. in its discretion determines the individual is not qualified, is ineffective or is not fulfilling all applicable safety and health responsibilities.

#### **Subcontractor Injuries and Incidents:**

Subcontractor shall notify O&G Industries Inc. of any incident or injury involving an employee of Subcontractor or one of its Subsubcontractors, visitor, or member of the public on the day of the injury or incident. Subcontractor shall complete the Incident Notification and Investigation form provided in the O&G SAFETY AND HEALTH PROGRAM and submit the completed form to O&G Industries Inc. within twenty-four (24) hours of the incident or injury. Subcontractor agrees that all injuries and incidents will be investigated and corrective action plans developed to ensure similar injuries or incidents do not occur, and that any discovered hazards are immediately abated to the satisfaction of O&G.

#### **Minimum Working Apparel:**

Subcontractor agrees that the minimum working apparel includes hardhat, class appropriate high visibility clothing, safety glasses and side shields meeting the current version of ANSI Standard Z87.1, shirt with three inch or longer sleeves, long pants and durable work boots. Refer to the O&G SAFETY AND HEALTH PROGRAM Personal Protection Equipment Section for more specific requirements.

#### Safety and Health Orientation, Training and Programs:

Subcontractor agrees that none of its or its Sub-subcontractors' management personnel, supervisory personnel or workers will begin work on the project without receiving a project specific health, safety and environmental orientation provided by or authorized by O&G Industries Inc. Subcontractor shall provide training documentation as required by all Federal, State, County and Municipal laws, ordinances, rules, regulations, codes, standards, orders and requirements concerning safety and health as that are applicable to the Work, including, among others, the Federal Occupational Safety and Health Act of 1970 (OSHA), as amended, and all standards, rules, regulations and orders which have been and shall be adopted or issued there under, and with safety, health and environmental standards established by O&G Industries Inc. and the Owner. The most stringent of the aforementioned laws, ordinances, rules, regulations, codes, standards, orders and requirements shall prevail.

#### **EXHIBIT B**

#### GENERAL SAFETY AND HEALTH PROCEDURAL REGULATIONS

#### **Housekeeping and Orderliness:**

Subcontractor agrees that all equipment, tools, materials and other apparatuses will be stored, stacked, placed, temporarily spotted or setup in such a manner as to maintain safe egress and a clean and orderly workplace. Subcontractor agrees to remove all debris and trash daily. Should O&G Industries Inc. deem the Subcontractor in nonconformance with these requirements, O&G Industries Inc. will direct to Subcontractor to take corrective action immediately. Should the Subcontractor neglect to take such corrective measures, O&G Industries Inc. may do so at the expense of Subcontractor and shall deduct the cost thereof from any payments due or to become due to Subcontractor.

#### Natural Gas Freeing, Purging, Leak Testing and Energizing of Piping:

All subcontractors and sub-subcontractors involved with filling installed natural gas piping, purging inert gases, purging gas fed equipment into/out of service and leak testing must adhere to all Federal, State, and local regulations pertaining to such work. Such as, but not limited to; NFPA 54 ANSI Z223.1, OSHA 1910, and the equipment standards like NFPA 85 or NFPA 86. Subcontractor agrees that such work must utilize a "purge burner" and "burn-off" method to reach local gas supplier % of combustible gas at each purge point, unless local gas supplier agrees upon other approved method. Subcontractor agrees that such work must be scheduled and performed when no other contractors, other than those involved in the procedures are on the projects premises. Subcontractor will develop and implement a written safety and health program for all activities involving natural gas freeing, purging, leak testing and gas energizing of piping that complies with all relevant portions of NFPA 54 and OSHA 1910.147. Subcontractor shall provide proper equipment for all steps of these processes and verify they are in manufacturer's recommended condition. Subcontractor agrees to train all current and new employees on the dangers of natural gas and provide O&G with proof of such training documentation upon request.

#### **Fall Prevention and Protection Policy:**

Subcontractor shall comply with the O&G Industries Inc. Fall Protection Policy, which requires in part that no worker exposed to a fall hazard of six (6) feet or greater will work without 100% fall protection. Subcontractor will take all practical measures to eliminate, prevent and control fall hazards of six (6) feet or more before resorting to a personal fall protection system. When personal fall protection is required, Subcontractor shall provide such proper equipment for this purpose and all necessary instruction and training in the care and use of the equipment, including refresher training. All training shall be documented and made available to O&G Industries Inc. upon request.

#### **Disciplinary Action:**

O&G Industries Inc. will issue a written notice to individuals who are observed violating the laws, ordinances, rules, regulations, codes, standards, orders and requirements noted under Regulatory Compliance above or in violation of O&G's Safety and Health Program. O&G project management may utilize a discipline plan involving monetary penalties imposed on the contractor/employer for instances of serious, intentional, or repeated non-compliance with all applicable environmental, health, safety and regulatory rules, regulations, standards or procedures, including housekeeping activities. Instances of non-compliance by a contractor/employer's employees (including inappropriate actions and/or a lack of appropriate actions) may result in verbal warning, documented non-compliance observation notice monetary penalty and/or removal from work site of the offending employee and/or field supervision.

#### Monetary Penalty:

- a. Non-Compliance \$50 to \$150 per occurrence
- b. Serious \$150 to \$500 per occurrence
- c. Potential for life threatening or serious bodily injury or property damage -\$500 to \$1,500

Any Subcontractor or Sub-subcontractor personnel who receive three (3) written violation notices within a one-year period may be removed from the project. O&G's management and supervision may exercise discretion when administering this discipline policy. Any violation viewed as life threatening, serious, flagrant, willful, or intentional may result in immediate suspension, removal from the project, and/or monetary penalties.

#### **Health and Safety Nonconformance:**

When ordered by O&G Industries Inc., Subcontractor shall stop any part of the Work that O&G Industries Inc. in its discretion deems unsafe or unhealthy until corrective measures satisfactory to O&G Industries Inc. have been taken. Subcontractor agrees that it shall not have or make any claim for damages growing out of such stoppages. Should Subcontractor neglect to take such corrective measures, O&G Industries Inc. may do so at the expense of the Subcontractor and deduct the cost thereof from any payments due or to become due to Subcontractor. Subcontractor acknowledges that it is the Subcontractor's responsibility to maintain a safe worksite and that failure on the part of O&G Industries Inc. to stop unsafe or unhealthy practices shall in no way relieve Subcontractor of its responsibility therefore, nor shall Subcontractor utilize any such failure on the part of O&G as a defense against O&G or any other party. Within twenty-four (24) hours of being ordered by O&G Industries Inc. to stop Work, Subcontractor will develop and submit to O&G Industries Inc. a written Corrective Action Plan for any unsafe or unhealthy practice(s) that are the subject of O&G Industries Inc.'s notice.

#### **EXHIBIT B**

#### GENERAL SAFETY AND HEALTH PROCEDURAL REGULATIONS

#### **Regulatory Inspections:**

If O&G Industries Inc. is fined by any regulatory inspection by a Federal, State, County or Municipal agency or body as a result of any act or omission of Subcontractor or one of its Sub-subcontractors, O&G Industries Inc. will deduct the amount thereof and associated costs from any payments due or to become due to Subcontractor.

#### **Prohibitive Articles:**

In order that a safe and productive work environment can be provided, Subcontractor and Sub-subcontractors will prohibit the use, possession, control, sale, purchase, transportation, and distribution of the following on O&G Industries Inc. projects:

- Illegal and illicit drugs including but not limited to marijuana, mood and mind altering substances, "look-alike" substances, designer and synthetic drugs, and certain inhalants and over-the-counter drugs
- Prescription drugs not prescribed by a physician
- Drug paraphernalia, equipment, and literature related to illegal drugs and substance use
- Alcohol products and beverages
- · Weapons, firearms, ammunition, explosives, and fireworks
- Radios, DVD/CD players, tape/cassette players, and MP3 players
- Any other item or substance restricted by law

#### **Illegal Acts:**

The theft, conversion, misappropriation, unauthorized removal, possession, or use of property or equipment belonging to O&G Industries Inc., Owner, Subcontractor, or other worker including but not limited to, materials, tools documents, and propriety information is prohibited.

#### **Searches:**

Subcontractor and Sub-subcontractors understand that O&G Industries Inc. may conduct reasonable unannounced searches of the work area and personal searches of workers and others on the project, including but not limited to, personal effects, vehicles, lockers, gang boxes, tool boxes, clothing, meal containers, and baggage. Searches will be performed by authorized personnel.

#### **Safety Planning:**

Prior to mobilization Subcontractor will provide O&G Industries Inc. with a written "Site Specific" Safety and Health Plan outlining the activities, hazards and controls Subcontractor will employ to mitigate hazards associated with Subcontractor's Work. Subcontractor and its Sub-subcontractors will also prepare Daily Job Safety Task Analysis (JSTA) per task or work activity on the form enclosed in O&G Industries, Inc.'s Health & Safety Manual. This daily JSTA shall outline the activities, hazards and controls associated with the Work and related activities that will be performed that day. Subcontractor and its Sub-subcontractors will review the Daily Job Safety Task Analysis with their employees at the start of each shift and as required throughout the shift and submit all JSTA forms to O&G Industries Inc.

#### **Hazard Communication:**

Prior to mobilizing, Subcontractor will provide O&G with Safety Data Sheets (SDS) for each hazardous material Subcontractor or one of its Sub-Contractors will bring onto the project site. Subcontractors must also provide O&G with proof of Hazardous Communication Training, including the new Globally Harmonized System (GHS) supplemental training for each worker designated to the specific project. Subcontractors recognizes its continuing obligation to provide SDS to O&G for all products brought onto the site and for appropriate training to address these products.

#### **Smoke and Vape Free Workplace:**

Smoking and/or vaping in any form is prohibited on O&G project sites. This includes the smoking and vaping of tobacco, synthetic nicotine, CBD, hemp, and cannabis. Subcontractor employees who violate this policy will be subject to disciplinary action up to and including immediate removal from the project.

#### **EXHIBIT C**

### CERTIFICATION OF RESIDENT OR VERIFIED CONTRACTOR STATUS AND NOTICE OF HOLD BACK REQUIREMENT APPLICABLE PAYMENTS TO UNVERIFIED CONTRACTORS

By checking the appropriate box below, the Subcontractor certifies that it:

CHDCONTL	RACTOR:
The Subcont	ractor acknowledges receipt of a copy of this document.
determined then in that e	tion of the General Contractor's waiver of the verification requirement of resident contractor status, if it is ultimately hat the Subcontractor is not a resident contractor for purposes of Connecticut General Statute § 12-430(7)(A)(ii), event, the Subcontractor shall save the General Contractor harmless and indemnify the General Contractor for all uses incurred by the General Contractor, including attorney fees, that result from that determination.
	Every prime or general contractor who is either a resident contractor or a verified contractor and doing business with an unverified contractor shall hold back an amount equal to five percent of such payments otherwise required to be made to such subcontractor until such subcontractor furnishes such contractor with a certificate of compliance authorizing the full or partial release of the amount held back from the payments to such subcontractor.
	NOTICE GIVEN UNDER CONNECTICUT GENERAL STATUTE § 12-430(7)(D)(i):
	<b>IS</b> a " <b>verified contractor</b> " within the meaning of Connecticut General Statute Section 12-430(7)(A)(iii), and has provided evidence of this status by providing a certificate issued by the Connecticut Department of Revenue Services under Connecticut General Statute § 12-430(7)(I).
	<b>IS</b> a <b>"resident contractor"</b> within the meaning of Connecticut General Statute Section 12-430(7)(A)(ii), and unless waived by the General Contractor and subject to the terms set forth below, has provided a verification of this status by providing a certificate issued by the Connecticut Department of Revenue Services under Connecticut General Statute § 12-430(7)(L).

#### EXHIBIT "D" - MATERIAL AND EQUIPMENT STORED OFF-SITE BILLING PROCEDURE

The following must be provided in order for O & G Industries, Inc. to consider payment for material and equipment stored off the project site:

Copies of all <u>invoices from suppliers</u> showing the total value of the material that is being stored off site.

An <u>Insurance Certificate</u> from the trade contractor's agent showing full value of items plus 10%. The certificate must state specifically what the material is and where it is stored.

An executed Security Agreement (copy attached).

An executed Bill of Sale for the stored items (copy attached).

 $\underline{\text{UCC1 Form}}$  must be filled out (copy attached) and mailed with fee to the Secretary of State. A copy should be returned to  $\underline{O}$  &  $\underline{G}$  Industries, Inc.

Billing of overhead and profit on off-site stored material is not allowed. Overhead and profit can be billed when material/equipment has been delivered to the site.

When the above have been compiled, submit them to the O & G Industries, Inc. Contract Administrator with the completed AIA requisition.

A physical inspection of the Stored Materials must be arranged with the O & G Industries, Inc. Project Manager.

If you have any further questions regarding off-site Stored Materials, please contact O & G's Contract Administrator at (860) 496-4215.

#### **EXHIBIT D**

#### MATERIALS AND EQUIPMENT STORED OFF THE PROJECT SITE



#### SECRETARY OF THE STATE OF CONNECTICUT

MAILING ADDRESS: COMMERCIAL RECORDING DIVISION, CONNECTICUT SECRETARY OF THE STATE, P.O. BOX 150470, HARTFORD, CT 06115-0470

DELIVERY ADDRESS: COMMERCIAL RECORDING DIVISION, CONNECTICUT SECRETARY OF THE STATE, 30 TRINITY STREET, HARTFORD, CT 06106
PHONE: 860-509-6002 WEBSITE: <a href="https://www.concord-sots.ct.gov">www.concord-sots.ct.gov</a>

### STATE OF CONNECTICUT UCC-1 FINANCING STATEMENT

USE INK. COMPLETE ALL SECTIONS. PRINT OR TYPE. ATTACH 81/2 X 11 SHEETS IF NECESSARY.

FILIN	G PARTY (CONFIRMATION V	VILL BE SENT TO TI	HIS ADDRESS):	FILING FEE: \$50
	OMER ID:			MAKE CHECKS PAYABLE TO "SECRETARY OF THE STATE"
NAME	<b>≣</b> :			OF THE STATE
ADDR	RESS:			
CITY:				
STAT	E:	ZIP:		
EMAIL	L:			
	BTOR'S EXACT FULL LEG	AL NAME - INSER	RT ONLY ONE DEBTOR NAME (1A OR 1B)	) - DO NOT ABBREVIATE OR
COIVIB	1A. ORGANIZATION'S NA	ME		
OR	1B. INDIVIDUAL'S			
	SURNAME			
	FIRST PERSONAL NAME		MIDDLE	SUFFIX
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CITY:				
STAT	E:	ZIP:	COUNTRY:	
2. AD	DITIONAL DEBTOR'S EXA	CT FULL LEGAL	NAME - INSERT ONLY ONE DEBTOR N	NAME (2A OR 2B) - DO NOT
ABBRI	EVIATE OR COMBINE NAMES  2A. ORGANIZATION'S NA	ME		
	ZA. ONGANIZATION 5 NA	IVIC		
OR	2B. INDIVIDUAL'S			
	SURNAME			
	FIRST PERSONAL NAME		MIDDLE	SUFFIX
ac M	AILING ADDRESS:		MIDDLL	501117
ADDR				
ADDI	iLOO.			
CITY:				
STAT		ZIP:	COUNTRY:	

#### **EXHIBIT D**

	CURED PARTY NA Y NAME (3A OR 3B)	AME (OR NAME OF ASSIGN	EE OF ASSIGNOR S/P) - IN	ISERT ONLY ONE SECUR	ED
	3A. ORGANIZATI	ON'S NAME			
OR					
On	3B. INDIVIDUAL'S	6			
	SURNAME				
	FIRST PERSONA	L NAME	MIDDLE		SUFFIX
3C. M.	AILING ADDRESS	:			
ADDR	RESS:				
CITY:					
STATI		ZIP:	COUNTRY:		
4. THI	S FINANCING STA	ATEMENT COVERS THE FO	LLOWING COLLATERAL:		
		LICABLE AND CHECK ONL			A TRUST (SEE UCC 1AD,
	13 AND INSTRUC	•	NISTERED BY A DECEND	ENT'S PERSONAL REP	RESENTATIVE.
		LICABLE AND CHECK ONL			
	c-Finance Transac		ebtor is a Transmitting Util	ity	
1		GNATION (if applicable):	_	_	_
	ee / Lessor	Consignee / Consigne	or Seller / Buyer	Bailee / Bailor	Licensee / Licensor
8. OP	TIONAL FILER RE	FERENCE DATA:			

#### **EXHIBIT D**

#### MATERIALS AND EQUIPMENT STORED OFF THE PROJECT SITE

Instructions for Connecticut UCC Financing Statement (Form UCC-1)

#### INSTRUCTIONS

Please type or print this form. Be sure it is completely legible. Read all Instructions, especially Instruction 1; correct Debtor name is crucial. Follow Instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your Legal Advisor. Filing office cannot give legal advice.

Do not insert anything in the open space in the upper portion of this form; it is reserved for filling office use.

When properly completed, send Filing Office Copy, with required fee, to filing office.

If you need to use attachments, use 81/2 x 11 inch sheets and put at the tope of sheet the name of the first Debtor, formatted exactly as it appears in item 2 of this form; you are encouraged to use the UCC Financing Statement Addendum.

- 1. Debtor name: Enter only one Debtor name in item 1, an organization's name (1a) or an individual's name (1b). Enter Debtor's exact full legal name. Do not abbreviate.
- 1a. Organization Debtor. "Organization" means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a Partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g., corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.
- 1b. Individual Debtor. " Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use prefixes (Mr., Mrs., Ms.). Use suffix box for titles or lineage (jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs John Smith). enter individual Debtor's family name (surname) in Surname box, first given name in First Personal Name box, and all additional given names in Middle Name box. For both organization and individual Debtors: Don't use Debtors trade name, DBA, AKA, FKA, Division name etc. in place or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended.)
- 1c. An address is always required for the Debtor named in 1a or 1b.
- If an additional Debtor is included, complete item 2. To include further additional Debtors, or one or more additional Secured Parties, attach either Addendum (Form UCC1Ad) of other additional page(s), using correct name format. Follow Instruction 1 for determining and formatting additional names.
- 3. Enter information for Secured Party or Total Assignee. If there is more than one Secured Party, see Instruction 2.
- 4. Use item 4 to indicate the collateral covered by this Financing Statement. If space in item 4 is insufficient, put the entire collateral description or continuation of the collateral description on either Addendum (Form UCC1Ad) or the other attached additional page(s).
- If Debtor is a trust or a trustee acting with respect to property held in trust or is a decedent's estate, check the appropriate box.
- 6. If Debtor is a transmitting utility, check the appropriate box. If filed in connection with a public finance transaction, check the appropriate box.
- 7. If the filer desires (at filer's option) to use titles of lessee and lessor, or consignee and consignor, or seller and buyer (in the case of accounts or chattel paper), or bailee and bailor instead of Debtor and Secured Party, check the appropriate box in item 5.
- 8. This item is optional and is for filer's use only.

#### **EXHIBIT D**

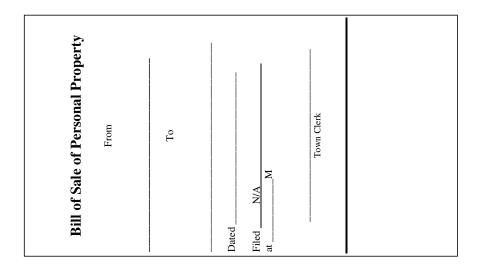
OFFICE OF THE SECRETARY OF THE STATE
MAILING ADDRESS: COMMERCIAL RECORDING DIVISION CONNECTICUT SECRETARY OF THE STATE P.O. BOX 150470 HARTFORD, CT 06115-0470
DELIVERY ADDRESS: COMMERCIAL RECORDING DIVISION CONNECTICUT SECRETARY OF THE STATE 30 TRINITY STREET HARTFORD, CT 06106
PHONE:860-509-6002
WEBSITE: www.concord-sots.ct.gov

#### **EXHIBIT D**

	Know All	Men by These Presents,	
ГНАТ			
of		he County of ed the Seller, for the consideration of	and State of
received to fi	ull satisfaction of		Dollars,
do hereby bargain,	sell, transfer and convey	hereinafter called unto the said Purchases the following arti	,
successors, executors , the said Seller for	agree with the said Purch		ase and behoof. And s to the said Purchaser,
Signed this	day of	, 20	
Witnessed by:			
STATE OF CONNEC	CTICUT, } } ss. }	20	
COUNTY OF	,		
Personally Ap Signer(s) of the foreg		nowledged the same to be free act and dee	ed, before me.

#### **EXHIBIT D**

STATE OF CONNE	CTICUT, }			
	} ss.		20	
COUNTY OF	}			
	On th	nis day of	20	, before
me		, the undersigned offic		
	(name of signing nota		- ,	
personally appeared	, ,	who acknowledged	himself/herself to	
1 · · · · · J · 11 · · · · · -	(name of signing office			
be the		, a corporation, and t	that he/she as such	
	(title of official)			
	, being	g authorized so to do, executed the	foregoing instrument f	or
(title of officia	1)			
the purpose therein co	ontained, by signing the	name of the corporation by himself	/herself as	
(title of official	al)			
In W	itness Whereof I hereunt	o set my hand and official seal.		
	N	Public/Commissioner of Superior Court		



#### **EXHIBIT D**

#### MATERIALS AND EQUIPMENT STORED OFF THE PROJECT SITE

SECURITY AGREEMENT (Chattel Mortgage)

THIS AGREEMENT, made the day of 20 under the laws of the state of

BETWEEN herein called the Debtor

whose business address is (if none, write "none")

and whose residence address is

and herein called the secured Party

whose address is

WITNESSETH:

REPAIRS

INSURANCE

To secure the payment of an indebtedness in the amount of \$

with interest, payable as follows:

as evidenced by a note or notes of even date herewith, and also to secure any other indebtedness or liability of the Debtor to the Secured Party direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including all future advances or loans which may be made at the option of the Secured Party, (all hereinafter called the "obligations") Debtor hereby grants and conveys to the Secured Party a security interest in, and mortgages to the Secured Party,

- (a) the property described in the Schedule herein which the Debtor represents will be used primarily
  - ☐ for personal, family or household purposes
  - □ in farming operations
  - □ in business or other use
- (b) all property, goods and chattels of the same classes as those scheduled, acquired by the Debtor subsequent to the execution of this agreement and prior to its termination. (If the property described in the Schedule is for personal, family or household purposes then no security attaches under this section (b) unless the debtor acquires rights in them within 10 days after the Secured Party gives value.)
- (c) all proceeds thereof, if any,
- d) all substitutions, replacements and accessions thereto (the foregoing (a), (b), (c) and (d) hereinafter call the collateral).
  - 1. DEBTOR WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

PAYMENT 1a. To pay and perform all of the obligations secured by this agreement according to their terms.

DEFEND 1b To defend the title to the collateral against all persons and against all claims and demands whatsoever, which collateral, except TITLE for security interest granted hereby, is lawfully owned by the Debtor and is now free and clear of any and all liens, security interests, claims, charges, encumbrances, taxes and assessments except as may be set forth in the schedule.

ASSURANCE 1c On demand of the secured party to do the following; furnish further assurance of title, execute any written agreement or do any other acts necessary to effectuate the purposes and provisions of this agreement, execute any instrument or statement required by law or otherwise in order to perfect, continue or terminate the security interest of the Secured Party in the collateral and pay all costs of filing in connection therewith.

POSSESSION 1d To retain possession of the collateral during the existence of this agreement and not to sell, exchange, assign, loan, deliver, lease, mortgage or otherwise dispose of same without the written consent of the Secured Party.

LOCATION 1e To keep the collateral at the location specified in the schedule and not to remove same (except in the usual course of business for temporary periods) without he prior written consent of the Secured Party.

LIENS 1f To keep the collateral free and clear of all liens, charges, encumbrances, taxes and assessments.

TAXES  $1g \quad \text{To pay, when due, all taxes, assessments and license fees relating to the collateral.} \\$ 

1h To keep the collateral, at Debtor's own cost and expense, in good repair and condition and not to misuse, abuse, waste or allow to deteriorate except for normal wear and tear and to make same available for inspection by the Secured Party at all reasonable times.

1i To keep the collateral insured against loss by fire (including extended coverage), theft and other hazards as the Secured Party may require and to obtain collision insurance if applicable. Policies shall be in such form and amounts and with such companies as the Secured Party may designate. Policies shall be obtained from responsible insurers authorized to do business in this state. Certificates of Insurance or policies, payable to the respective parties as their interest may appear, shall be deposited with the Secured Party who is authorized, but under no duty, to obtain such insurance upon failure of the Debtor to do so. Debtor shall give immediate written notice to the Secured Party and to insurers of loss or damage to the collateral and shall promptly file proofs of loss with insurers. Debtor hereby appoints the Secured Party the attorney for the Debtor in obtaining, adjusting and cancelling any such insurance and endorsing settlement drafts and hereby assigns to the Secured Party all sums which may become payable under such insurance, including return premiums and dividends, as additional security for the indebtedness.

#### **EXHIBIT D**

#### MATERIALS AND EQUIPMENT STORED OFF THE PROJECT SITE

1j If this agreement is security for a loan to be used to pay a part or all of the purchase price of the collateral; to use the proceeds of the loan to pay the purchase price, filing fees and insurance premiums. The Secured Party however, may pay the proceeds directly to the seller of the collateral.

CHANGE OF ADDRESS 1k To immediately notify the Secured Party in writing of any change in or discontinuance of Debtor's place or places of business and/or

AFFIXED TO REALTY 11 That if the collateral has been attached to or is to be attached to real estate, a description of the real estate and the name and address of the record owner is set forth in the schedule herein; if the said collateral is attached to real estate prior to the perfection of the security interest granted hereby, Debtor will on demand of the Secured Party furnish the latter with a disclaimer or disclaimers, signed by all persons having an interest in the real estate, of any interest in the collateral which is prior to Secured Party's interest.

2. GENERAL PROVISIONS

NOTES

2a. Notes, if any, executed in connection with this agreement, are separate instruments and may be negotiated by Secured Party without releasing Debtor, the collateral, or any guarantor or co-maker. Debtor consents to any extension of time of payment. If there be more than one Debtor, guarantor or co-maker of this agreement or of notes secured hereby, the obligation of all shall be primary, joint and several.

NON-WAIVER

2b Waiver of or acquiescence in any default by the Debtor, or failure of the Secured Party to insist upon strict performance by the Debtor any warranties or agreements in this security agreement, shall not constitute a waiver of any subsequent or other default or failure.

NOTICES

2c Notices to either party shall be in writing and shall be delivered personally or by mail addressed to the party at the address herein set forth or otherwise designated in writing.

LAW APPLICABLE 2d The Uniform Commercial Code shall govern the rights, duties and remedies of the parties and any provisions herein declared invalid under any law shall not invalidate any other provision or this agreement.

APPLICABLE DEFAULT

2e The following shall constitute a default by Debtor:

non-payment

Failure to pay the principal or any installment of principal or of interest on the indebtedness or any notes when due.

violation

Failure by Debtor to comply with or perform any provision of this agreement.

misrepresentation

False or misleading representations or warranties made or given by Debtor in connection with this agreement.

levy

Subjection of the collateral to levy of execution or other judicial process.

insolvency

Commencement of any insolvency proceeding by or against the Debtor or of any guarantor of or surety for the Debtor's obligations.

death

Death of the Debtor or of any Guarantor of or surety for the Debtor's obligations.

impairment of security Any reduction in the value of the collateral or any act of the Debtor which imperils the prospect of full performance or satisfaction of the Debtor's obligations herein.

REMEDIES ON DEFAULT acceleration 2f Upon any default of the Debtor and at the option of the Secured Party, the obligations secured by this agreement shall immediately become due and payable in full without notice or demand and the Secured Party shall have all the rights, remedies and privileges with respect to repossession, retention and sale of the collateral and disposition of the proceeds as are accorded to a Secured Party by the applicable sections of the Uniform Commercial Code respecting "Default," in effect as of the date of this Security Agreement.

Attorneys' fees

Upon any default, the Secured Party's reasonable attorneys' fees and the legal and other expenses for pursuing, searching for, receiving, taking, keeping, storing, advertising, and selling the collateral shall be chargeable to the Debtor.

deficiency

The Debtor shall remain liable for any deficiency resulting from a sale of the collateral and shall pay any such deficiency forthwith on demand.

monies advanced If the Debtor shall default in the performance of any of the provision of this agreement on the Debtor's part to be performed, Secured Party may perform same for the Debtor's account and any monies expended in so doing shall be chargeable with interest to the Debtor and added to the indebtedness secured hereby.

seizure assembling In conjunction with, addition to or substitution for those rights, Secured Party, at his discretion, may: (1) enter upon Debtor's premises peaceably by Secured Party's own means or with legal process and take possession of the collateral, or render it unusable, or dispose of the collateral on the Debtor's premises and the Debtor agrees not to resist or interfere; (2) require Debtor to assemble the collateral and make it available to the Secured Party at a place to be designated by the Secured Party, reasonably convenient to both parties (Debtor agrees that the

collateral notice of

Secured Party's address as set forth above is a place reasonably convenient for such assembling); (3) unless the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party will give Debtor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice will be met if such notice is mailed, postage prepaid, to the address of the Debtor shown above, at least three days before the time of sale or disposition.

2g Secured Party may assign this agreement and if assigned the assignee shall be entitled, upon notifying the Debtor, to performance of all of Debtor's obligations and agreements hereunder and the assignee shall be entitled to all of the rights and remedies of the Secured Party hereunder. Debtor will assert no claims or defenses Debtor may have against the Secured Party against the assignee.

FINANCING STATEMENT 2h The Secured Party is hereby authorized to file a Financing Statement

CAPTIONS

2i. The Captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this agreement nor the intent of any provision hereof.

#### **EXHIBIT D**

#### MATERIALS AND EQUIPMENT STORED OFF THE PROJECT SITE

The terms, warranties and agreements herein contained shall bind and insure to the benefit of the respective parties hereto, and their respective legal representative, successors and assigns.

The gender and number used in this agreement are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

This agreement may not be changed orally. IN WITNESS WHEREOF, the Parties have respectively signed and sealed these presents the day and year first above written.

SCHEDULE

Describe items of collateral, the address where each item will be located and describe any prior liens, etc., and the amounts due thereon. If items are crops of goods affixed or to be affixed to real estate describe the real estate and state the name and address of the owner of record thereof.

Location, etc.

The chief place of business of the Debtor, if other than stated in this agreement, is:

#### **EXHIBIT D**

#### MATERIALS AND EQUIPMENT STORED OFF THE PROJECT SITE

#### WAIVER BY LANDLORD AND/OROTHERS

The undersigned, being the owner, mortgagee, landlord and/or lessor of the Debtor's premises, and knowing that the Secured Party relies hereon, does hereby waive, relinquish and release to the Secured Party or any holder of the security agreement all right of levy or distraint for rent and all other claims and demands of every kind which the undersigned has or may have against the collateral, this waiver to continue until termination of the security

WITNESS the hand	l and seal of the undersigned this	day of	20 .	
Security Agreement (Chattel Mortgage)	2	Dated, 20		
•		•		

and, in the event of default, authorizes any holder hereof to proceed against the undersigned, for the full amount due including reasonable attorneys' fee and hereby waives presentment, demand, protest, notice of protest, notice of dishonor and any and all other notices or demand of whatever character to which the undersigned might otherwise be entitled. The undersigned further consents to any extension granted by any holder and waives notice thereof. If more than one guarantor, obligation of each shall be joint and several.

> WITNESS the hand and seal of the undersigned this 20 \_\_\_\_(L.S.) Residence \_\_\_ Business Address \_\_\_\_\_

> > Firm Name \_\_\_

### EXHIBIT E

INTERIM LIEN	I / BOND WAIVER	
STATE OF CONNECTICUT )		
COUNTY OF ) ss:		
Before me, the undersigned authority, personally appear		
me first duly sworn, deposes and says: That (s) he is the "ToCompany" ("Releasor"), that in such capacity (s) he		
and to bind Releasor to its terms. Releasor is a corpora individual proprietorship (circle applicable description).	ation, partnership, limited liability company,	
<u>Lien Waiver</u> : That Releasor, for and in consideration of Industries, Inc. ("Releasee"), does hereby waive, release		
and all claims, against any bond or payment surety pro-	vided by Releasee, and against the owner of	Initial
the project for labor, services, leases, equipment, and/oby the releasor, in connection with a construction proje		
in the State of Connecticut, for the period ending	("Release Date").	
The Releasor acknowledges that this payment constitute all materials and/or services provided in connection with		
Affirmation of Payment: That Releasor and the indivi-	dual signing on behalf of Releasor certify and	
represent that any and all of Releasor's workers union of Releasor's last invoice or application for payment have		
and Services furnished or provided by materialmen or s	subcontractors of Releasor in connection with	Initial
the Project through the date covered by Releasor's last paid in full. Releasor represents that all subcontractors		
any applicable taxes will be paid with ten (10) days of re	eceipt of payment by Releasor. Releasor and	
the individual signing on behalf of Releasor further reco representations and certifications contained herein in m		
Indemnification: That Releasor agrees to indemnify F		
any loss or damage sustained by Releasee, including a	ttorney's fees and court costs, and agrees to	
defend Releasee against any claim, at Releasor's sole subcontractors, employees, materialmen, union, or taxi		Initial
bond or payment surety provided by Releasee, relating	in any way to the Project, and that the rights	
contained in this agreement shall be in addition to and a Releasee in other contract documents relating to the Pr		
Affirmation of Insurance Coverage: The Releasor fu	rther represents that all insurance policies,	Initial
including all endorsements as required under the contra and that said insurance policies are not the subject of a		miliai
non renewal by the issuer of such policies.	my existing notice of intent to cancer of notice of	
If there are exceptions to the representations made in t	his decument such as reserved slaims, they must	t ha
detailed in writing in an attachment to this document or		
it must be physically attached to and referenced in this	document.	
Dated at, this	day of, 20	
Signed, sealed and delivered		
In the presence of:	« <b>ToCompany»</b> Releasor	
W.	Ву:	
Witness	Its:	

Commissioner of the Superior Court Notary Public

Duly Authorized

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_.

Witness

# EXHIBIT E FINAL LIEN / BOND WAIVER RELEASE AND INDEMNITY AGREEMENT

STATE OF CONNECTICUT	)			
COUNTY OF	) ss: )			
Before me, the unders me first duly sworn, depose (Releasor), that (s)he is familia authorized to execute this docu	es and says: ar with the facts	That (s)he, is herein stated, a	the	who, being by of «ToCompany» is
That Releasor, for and Inc. (Releasee), does hereby any bond or payment surety and/or materials furnished by t «ProjectName» (Project), locat	waive, release, provided by R he Releasor,	and discharge a eleasee, and ag in connection	ny and all rights to any li ainst the Owner of the F on with a construction	Project for services, labor
That Releasor acknown services provided in connection work provided after the signing	n with the Proj	ect, including, wi	thout limitation, any and	t for all materials and/or all punchlist, or corrective
That Releasor and the all of Releasors workers, unior services and/or materials furni the truth of the representation document.	n obligations, if shed in connec	any, Subcontraction with the Pro	tors, and Materialman, ha ject. They further recogni	ze Releasee is relying on
Releasor agrees to in sustained by Releasee, includiction, at Releasor's sole expertition, against Releasee, or against Project, and that the rights condition of the rights of Releasee in oth	ling attorney's ense, made by gainst any bond tained in this A	fees and court of any of the Relead or payment sure agreement shall be	costs and agrees to defe sor's Subcontractors, Emety provided by Releasee, e in addition to and not in	nployees, Materialman, or relating in any way to the
If Releasor maintains Claims" dated, signed and attawas asserted and the amount waiver of that claim.	ched to this do	ocument which Li	st must set forth the natu	
Other than claims specall claims, causes of action, ari				hereby releases any and the Owner.
Dated at	, this	day of	, 20	_·
Signed, Sealed and Delivered In the presence of:				
·			Company» asor	
Witness				
Witness		Its:	/ Authorized	
Sworn to and subscribed befor	e me this	·		<u>.</u>
		Commiss Notary Pu	oner of Superior Court	

### EXHIBIT F INSURANCE REQUREMENTS

#### COODINATE LIMITS WITH CONTRACT GENERAL CONDITIONS

1 The Trade Contractor shall purchase insurance from an insurance company or companies rated A- or better by A.M. Best Companies lawfully authorized to do business in the state where the project is located. A sample Certificate of Insurance may be furnished to the Trade Contractor. The insurance provisions set forth below are minimum requirements. In the event Contract Documents specify additional coverages and/or amounts of coverage than those set forth below and pertaining to the Trade Contractor's work, then the Trade Contractor shall provide the coverages and/or amounts in accordance with the Contract Documents. Such insurance will protect the Trade Contractor from claims which may arise out of or result from the Trade Contractor's operations under the Subcontract and for which the Trade Contractor may be legally liable, whether such operations be by the Trade Contractor or by a subtrade contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Trade Contractor, and any subtrade contractors engaged by the Trade Contractor, shall obtain the following insurance:

- 1.1 Workers Compensation Insurance. For all work performed pursuant to this Subcontract, Trade Contractor shall maintain Workers' Compensation Insurance, including coverage for all executive officers, sole proprietors and partners, and other similar employee benefits in the amounts required by all applicable statutes, laws, regulations or acts. Such Workers' Compensation Insurance must list on Item 3A. of the policy Information Page "Part One of the policy applies to the Workers' Compensation Law of the state where the project is located" and provide a Waiver of Subrogation endorsement (NCCI form WC 00 03 13 or its equivalent) that prohibits the insurance company from enforcing subrogation and recovery rights against the Owner, O&G, and their respective officers and employees. If work is to be performed over or adjacent to navigable waterways, the Workers' Compensation Insurance shall contain the United States Longshore and Harbor Workers' Act Endorsement (NCCI Form WC 00 01 06 or its equivalent).
- 1.2 Employers' liability insurance for damages because of bodily injury, occupational sickness or disease, or death of the Trade Contractor's employees. Such insurance shall be written with coverage of \$1,000,000 each accident /\$1,000,000 disease policy limits and \$1,000,000 per disease per each employee. A waiver of subrogation endorsement that prohibits the insurance company from enforcing subrogation and recovery rights against the Owner, O&G, and their respective officers and employees, shall be included;
- **1.3** Commercial general liability insurance written on an "occurrence" basis for damages because of bodily injury, property damage, personal and advertising injury arising out of the Work shall include coverage for:
  - All operations and premises of the Trade Contractor;
  - All products and completed operations of the Trade Contractor;
  - All liability and/or responsibility assumed by the Trade Contractor in the Contract Documents.
  - Explosion, collapse and underground (XCU) hazards;
  - The Owner and O&G as an additional insured;
  - Defense expenses paid in addition to the policy limits;
  - Contractual Liability Railroad (ISO Form CG 24 17 or its equivalent) if Work is within 50 feet of railroad property.

Additional insured coverage shall be provided to the Owner, O&G, and their respective officers and employees, and shall be for both on-going operations via ISO Form CG 2010 (July 2004 Edition or its equivalent) and products and completed operations via ISO Forms CG 2037 (July 2004 Edition or its equivalent). Coverage shall be provided on primary basis with no contribution by the Owner's or O&G's liability insurance. All additional insured endorsements shall be submitted for review and acceptance by O&G.

If additional insured status for the Owner, O&G, and their respective officers and employees is not reasonably available for products and completed operations via ISO form CG 2037 (July 2004 Edition date or its equivalent), O&G may, at its sole discretion, waive such requirement.

Commercial General Liability insurance purchased by the Trade Contractor shall provide the following minimum limits of liability and all coverages shall be maintained during and for at least ten (10) years after final completion of the Subcontract and at all times thereafter when Trade Contractor may be erecting, removing or

### EXHIBIT F INSURANCE REQUREMENTS

replacing defective work or performing Project work and at all times shall include coverage for Owner and O&G as additional insured as required:

\$1,000,000 Each Occurrence Limit;

\$1,000,000 Personal & Advertising Injury - Per Person or Organization Limit

\$2,000,000 General Aggregate Limit -Per Project Basis

\$2,000,000 Products-Completed Operations Aggregate Limit

- 1.4 Automobile Liability insurance for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of any motor vehicle and/or trailer that the Trade Contractor owns, hires, leases or borrows or any motor vehicle used on behalf of the Trade Contractor. Automobile liability insurance shall provide coverage for "any auto- Symbol 1" or alternatively "owned autos, non-owned autos, and hired autos Symbols 2, 8, 9." Automobile Liability insurance shall also include:
  - Any equipment that is subject to a compulsory or financial responsibility law or motor vehicle insurance law in the state in which the equipment is principally garaged;
  - Pollution liability Broadened Coverage for Covered Autos CA 99 48 (09 02) or its equivalent;
  - Owner and O&G as additional insured via ISO Form CA 20 48 or its equivalent;
  - All liability and/or responsibility assumed by the Trade Contractor in the Contract Documents.
  - Contractual Liability Railroad (ISO Form CA 20 70 or its equivalent) if Work is within 50 feet of railroad property.

Such coverage shall provide minimum limits of \$1,000,000 Each Accident - Combined Single Limit and shall be maintained for the life of the Subcontract and at all times thereafter when Trade Contractor may be erecting, removing or replacing defective work or performing Project work.

**1.5** Umbrella Liability insurance for damages because of bodily injury, property damage, personal and advertising injury with, at minimum, the same terms and conditions as the Employers' Liability, Commercial General Liability, and Automobile Liability insurance required by the Subcontract and arising out of the Work.

Umbrella Liability insurance shall include the Owner, O&G, their respective officers and employees, as additional insureds on a primary basis with no contribution by the Owner's or O&G's liability insurance. If additional insured status on a primary and non-contributory basis for the Owner and O&G is not reasonably available, O&G may, at its sole discretion, waive such requirement for the Umbrella Liability insurance.

Umbrella Liability insurance shall be written as excess of Trade Contractor's Employers' Liability, Commercial General Liability and Automobile Liability Insurance and also shall be written to drop down and provide primary insurance, including coverage for defense, for the Trade Contractor in the event that an aggregate limit has been exhausted.

Such insurance purchased by the Trade Contractor shall provide the following minimum limits of liability and shall be maintained during and for at least three years after final completion of the Subcontract and at all times thereafter when Trade Contractor may be erecting, removing or replacing defective work or performing Project work and at all times shall include coverage for Owner and O&G as additional insured as required:

\$5,000,000 Each Occurrence \$5,000,000 General Aggregate Limit \$5,000,000 Products-Completed Operations Aggregate Limit

1.6 Trade Contractor's Pollution Liability insurance if the Work involves the handling, abatement, cleanup or removal of any pollutants or hazardous material, including but not limited to asbestos, PCBs, contaminated soils, and lead-based paint. The requirement of the Trade Contractor to purchase Trade Contractor's Pollution Liability insurance is at the sole discretion of the O&G.

Trade Contractor's Pollution Liability insurance shall be written with minimum limits of \$5,000,000 each claim and \$5,000,000 aggregate, and shall include:

### EXHIBIT F INSURANCE REQUREMENTS

- Products and completed operations coverage;
- Premises and Operations
- Owner and O&G as additional insureds;
- All liability assumed by the Trade Contractor in the Contract Documents;

If such insurance is required and purchased by the Trade Contractor, minimum limits of liability shall be maintained during and for at least ten (10) years after final completion of the Subcontract and at all times thereafter when the Trade Contractor may be erecting, removing or replacing defective work or performing Project work and at all times shall include coverage for Owner and O&G as additional insured as required.

- 1.7 Trade Contractors who are performing engineering or other design services in connection with their work shall obtain Professional Liability insurance issued by an insurance company acceptable to O&G having minimum limits of \$2,000,000 for each claim and \$2,000,000 annual aggregate. Such insurance shall not have a deductible in excess of \$50,000 and shall remain in full force and effect from the date hereof until the Substantial Completion Date and for a period of ten (10) years thereafter.
- 1.8 If any of the foregoing insurance is written with a deductible or self-insured retention, Trade Contractor shall disclose the specifics of such arrangements to O&G and is subject to O&G's approval. Further, a Trade Contractor who is self-insured for any of the foregoing insurance shall disclose the self-insurance arrangements to O&G and is subject to O&G's approval. Approval of such insurance or self-insurance is at O&G's sole discretion. Copies of insurance policies shall be furnished upon request.
- **1.9** All Risk Equipment Insurance shall be provided by all Trade Contractors utilizing a crane or other equipment in connection with the performance of the Work and insured to the full value of equipment.
- 1.10 Unless otherwise provided, Trade Contractor shall purchase Installation Floater insurance protecting Trade Contractor's insurable interest in all materials, equipment, fittings, accessories, wiring and supports and like items until same have been permanently installed in the Project. The Installation Floater insurance shall provide coverage for such property while at the Project site, while in transit and while temporarily stored at a location other than the Project site.
- 2 The following terms and conditions are applicable to all insurance described above (unless specifically noted otherwise):
- **2.1** O&G, Owner, any such other entities as may be reasonably requested, and any of their respective officers, agents, servants, or employees, and affiliates, parents and subsidiaries shall be named as additional insureds under the policies of insurance maintained by the Trade Contractor (with the exception of Workers Compensation and Professional Liability insurance), whether during the performance of the Work or any time thereafter, that may in any respect be applicable to matters, claims or suits arising out of or related to this Contract, and Trade Contractor will submit with the certificate of insurance copies of an endorsement on ISO Form C.G. 20 10 11 85 or equivalent by which all parties required to be listed by Trade Contractor as an additional insured are deemed so listed. In the event that the law of the state in which the project is located (or other applicable law) limits the additional insured coverage requires of Trade Contractor, then Trade Contractor shall be required to obtain additional insured coverage to the fullest extent of coverage and limits allowed by applicable law and this Contract shall be read to conform to such law.
- **2.2** It is expressly agreed and understood by and between Trade Contractor and O&G that all insurance, whether issued on a primary or excess basis, afforded the additional insureds shall be primary insurance to any other insurance available to the additional insureds and that any other insurance carried by the additional insureds shall be excess of all other insurance carried by the Trade Contractor and shall not contribute with the Trade Contractor's insurance.
- **2.3** Prior to commencing the Work, Trade Contractor shall submit Certificates of insurance and supporting additional insured endorsements, acceptable to O&G, including any additional coverages and/or amounts of coverage specified in the Contract Documents. These certificates and the insurance policies required by Paragraph 1 of this Exhibit to the Trade Contract shall contain a provision that coverages afforded under the policies will not be

### EXHIBIT F INSURANCE REQUREMENTS

canceled or allowed to expire or be materially changed until at least 30 days' prior written notice (10 days' prior written notice for reason of non-payment) has been given to O&G. If any of the foregoing insurance coverages are required to remain in force after final completion of this Contract, additional certificates evidencing continuation of such coverage shall be submitted to O&G annually. Attached hereto is a sample certificate.

- **2.4** Trade Contractor agrees that the amount of insurance available to O&G and the additional insureds shall be for the full amount of the loss up to policy limits of liability and shall not be limited to the minimum requirements of this Subcontract.
- **2.5** To the extent permitted by law, Trade Contractor hereby waives all rights of recovery from O&G, the Owner and any other entities added as additional insureds, including but not limited to rights of subrogation, with respect any matter, claim or suit that is to be covered by insurance to be maintained by Trade Contractor pursuant to the Contract Documents. All insurance policies required pursuant to this Exhibit to the Trade Contract shall be endorsed to prohibit the insurance company from enforcing subrogation and recovery rights.
- 2.6 Trade Contractor shall advise O&G of the amount of any Deductible or Self-Insured Retention that exists on any policies of insurance on the face of the certificates provided. Likewise, a Trade Contractor who is self-insured for any of the foregoing insurance shall disclose the self-insurance arrangements to O&G. Approval of any such deductible, self-insured retention or self-insurance is at O&G's sole discretion. If approved by O&G, Trade Contractor shall be solely responsible for and agrees to pay and/or reimburse O&G, as the case may be, for any such deductible, self-insured retention or self-insurance.
- **2.7** Upon request, Trade Contractor shall furnish copies of any of the insurance policies required in this Exhibit to this Trade Contract. Receipt of copies of insurance policies or certificates of insurance does not waive O&G's right to enforce any terms of this Contract.
- **2.8** Trade Contractor shall require all its subtrade contractors to provide the same insurance as required of the Trade Contractor in this Exhibit, including adding the Owner and O&G as additional insured where required. As to the insurance required of its subtrade contractor, the Trade Contractor agrees to obtain from the subtrade contractor's insurance company (or authorized agent) certificates of insurance as evidence of the required insurance, including the provision that all policies will not be canceled or allowed to expire or be materially changed until at least 30 days' prior written notice (10 days' prior written notice for reason of non-payment) has been given to O&G. Such certificates of insurance shall be filed with and acceptable to O&G prior to the execution of this Contract.
- 2.9 Information concerning reduction of limits due to claims paid under the **General Aggregate or the Products and Completed Operations Aggregate**, or both, shall be furnished by the Trade Contractor to O&G with reasonable promptness in accordance with the Trade Contractor's information and belief.
- **2.10** Failure of Trade Contractor to provide the insurance set forth in this Exhibit or any proof of insurance as herein described may, at the option of O&G result in this Contract being terminated for cause, or in lieu of such action O&G at its option shall have the right to maintain all said insurance for and in the name of the Trade Contractor and Trade Contractor agrees to pay for the cost thereof and O&G may deduct such cost from monies otherwise due the Trade Contractor.
- **2.11** If, in O&G's discretion, O&G is concerned that any insurance company selected by Trade Contractor has, at any time, faced diminished financial strength or that the insurance company may no longer provide the same level of financial strength (such as a decline in an A. M. Best, Standard and Poor's or Moody's rating), O&G may require that Trade Contractor provide replacement insurance coverage through an insurance company satisfactory to O&G.
- **3** Unless expressly stated otherwise, Builder's Risk Property insurance will <u>NOT</u> be provided by the Owner or O&G.
- **3.1** If provided, Builder's Risk insurance shall be purchased in a company or companies lawfully authorized to do business in the state where the project is located and be written on a builder's risk "all risk" or equivalent policy form in the amount of this Contract, plus the value of subsequent Contract modifications and cost

### EXHIBIT F INSURANCE REQUREMENTS

of materials supplied or installed by others, excluding Trade Contractor's tools and equipment, comprising total value for the entire Project at the site on a replacement cost basis. Such property insurance shall be maintained, unless otherwise provided in this Contract or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 5 of the Trade Contract or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph, whichever is later. This insurance shall include interests of the Owner, O&G, the Trade Contractor and subtrade contractors in the Project. If O&G provides the Builder's Risk Property insurance, the deductible shall be the responsibility of the affected Trade Contractor. If the Owner provides the Builder's Risk Property insurance and the Owner/O&G Contract provides that O&G is responsible for the deductible, the affected Trade Contractor shall, nevertheless, be responsible to O&G for that portion of the deductible attributable to the Trade Contractor.

- **3.2** Regardless of the existence of Builder's Risk Property Insurance, Trade Contractor shall be responsible for any loss, damage, injury and/or loss of use of any of its tools or equipment.
- **3.3** Builder's Risk Property insurance shall be on an "all-risk" or equivalent policy form and shall include insurance against the perils of fire (with extended coverage) and physical loss or damage including, theft, earthquake, flood, testing and startup, and limited debris removal, and shall cover reasonable compensation for Architect's and Trade Contractor's services and expenses required as a result of such insured loss.
- 3.4 Waivers of Subrogation. The Owner, O&G and Trade Contractor waive all rights against (1) each other and any of their subtrade contractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described herein, if any, and any of their subtrade contractors, subtrade contractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by Builder's Risk Property insurance obtained pursuant to this Paragraph 3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by O&G as fiduciary. The Owner, O&G, or Trade Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors, if any, and the Trade Contractors, subtrade contractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of such rights shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
- **3.5** A loss insured under the Builder's Risk Property insurance described herein shall be adjusted by the Owner or O&G as the case may be as fiduciary and made payable to the Owner or O&G as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Trade Contractor shall pay subtrade contractors their just shares of insurance proceeds received by the Trade Contractor, and by appropriate agreements, written where legally required for validity, shall require subtrade contractors to make payments to their sub-subtrade contractors in similar manner.
- **3.6** Equipment Breakdown Coverage. The Owner or O&G shall have the option to purchase and maintain equipment breakdown insurance required by this Contract or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, O&G, Trade Contractors, and subtrade contractors in the Work, and the Owner and O&G shall be named insureds.
- 3.7 If Builder's Risk Property insurance is provided, partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and O&G shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.
- **3.8** In the event that Builder's Risk Property Insurance is not being furnished, Trade Contractor shall purchase Installation Floater insurance protecting Trade Contractor's insurable interest in all materials, equipment, fittings, accessories, wiring and supports and like items until same have been permanently installed in the Project. The Installation Floater insurance shall provide coverage for such property while at the Project site, while in transit and while temporarily stored at a location other than the Project site.



#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYY)

10/17/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Subcontractor's Agent Name and Address	CONTACT NAME: PHONE (A/C, No, Ext):	F	FAX (A/C, No):
		E-MAIL ADDRESS:		
			AFFORDING COVERAGE	NAIC #
		INSURER A: AM Best Ra	ited A-, VII or better	r
INSURED	Subcontractor's Name and Address	INSURER B: AM Best Ra	ited A-, VII or bettei	r
	Subcontractor's Name and Address	INSURER C: AM Best Ra	ited A-, VII or better	r
		INSURER D: AM Best Ra	ited A-, VII or bettei	r
		INSURER E: AM Best Ra	ited A-, VII or better	r
		INSURER F: AM Best Ra	ited A-, VII or better	r

CERTIFICATE NUMBER: COVERAGES REVISION NUMBER: THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,

E	EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD) YP	LIMIT	rs
	GENERAL LIABILITY	Х	Х	Endorsement Forms:		EACH OCCURRENCE	\$1,000,000
	COMMERCIAL GENERAL LIABILITY	, ,	`	CG 20 10 07 04		DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
	CLAIMS-MADE ✓ OCCUR			CG 20 37 07 04 CG 24 04 05 09 (or carrier		MED EXP (Any one person)	\$ 5,000
				equivalent)		PERSONAL & ADV INJURY	\$ 1,000,000
				CG 20 01 04 13 (or carrier equivalent)		GENERAL AGGREGATE	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:			No XCU Exclusions		PRODUCTS - COMP/OP AGG	\$2,000,000
	POLICY PRO- JECT LOC			CG 24 17 10 01			\$
	AUTOMOBILE LIABILITY	Х	x	CA 99 48 10 13		COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	ANY AUTO	, ,	CA 20 48 02 99 (or an equivalent) CA 04 44 10 13 (or arrier et allent)	<b>▶ ▼</b>	BODILY INJURY (Per person)	\$	
	ALL OWNED SCHEDULED AUTOS			CA 04 50 11 16 (Searrier equit ant)		BODILY INJURY (Per accident)	\$
	HIRED AUTOS NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
							\$
	✓ UMBRELLA LIAB ✓ OCCUR	x	x	Follow form for unlying General		EACH OCCURRENCE	\$3,000,000
	EXCESS LIAB CLAIMS-MADE			Liability, Av. Liabil , and Employers bility (Conject excludent)		AGGREGATE	\$3,000,000
	DED RETENTION\$			Sills) (G. G. Silladini,			\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			00 t 13 (or carrier equivalent)		WC STATU- TORY LIMITS OTH- ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE	N/A		INCLUDES EXEC. OFFICERS, SOLE		E.L. EACH ACCIDENT	\$500,000
	(Mandatory in NH)			CI AS 3A STATE		E.L. DISEASE - EA EMPLOYEE	\$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	\$ 500,000
	PROFESSIONAL			IF WORK INCLUDES DESIGN		EACH OCC./AGG. \$2,00	00,000/\$2,000,000
	POLLUTION LIABILITY INSURANCE	Х	X	IF WORK INCLUDES HAZ MAT		EACH OCC./AGG. \$5,00	00,000/\$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Project: Naugatuck Industrial Park #3 Elm Street, Naugatuck, CT 06770.

The Borough of Naugatuck, the State of Connecticut and O&G Industries, Inc. are additional insureds under the General Liability, Auto Liability, Umbrella and Excess Liability and Pollution Liability policies on a primary and non-contributory basis. Eachpolicy must be endorsed to provide 30 days' notice of cancellation to O&G Industries, Inc. All policies should also include a Waiver of Subrogation. Umbrella/Excess Liability follows form over underlying.

CERTIFICATE HOLDER	CANCELLATION
O&G Industries, Inc. 112 Wall Street Torrington, CT 06780	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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ACORD 25 (2010/05)

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**POLICY NUMBER:** 

COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

### Name Of Additional Insured Person(s) Or Organization(s):

The Borough of Naugatuck, the State of Connecticut and O&G Industries, Inc.

**Location(s) Of Covered Operations** 

Project: Naugatuck Industrial Park #3 Elm Street Naugatuck, UT 02, 70

Information required to complete this Schedule, if Schown bove will be shown in the Declarations.

- A. Section II Who Is An Insured is amende to include as an additional insured the person(s) organization(s) shown in the Schedille, "Ut only with respect to liability for "bodily injury" projectly damage" or "personal and advertising anjury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - **2.** The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**POLICY NUMBER:** 

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Additional Insured Person(s)
Or Organization(s):

Location And Description Of Completed Operations

The Borough of Naugatuck, The State of Connecticut and O&G Industries, Inc. Project:Naugatuck Industrial Park #3 Elm Street Naugatuck, CF-6770

Information required to complete this Sche if n shown above, will be shown in the Declarations.

Section II – Who Is An Insured is ame ded to include as an additional insured to persist or organization(s) shown in the Sche ulest only with respect to liability for "bodily injury" or property damage" caused, in whole or in part, so your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY CG 24 04 05 09

# WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Person Or Organization:	
The Borough of Naugatuck, the State of Connecticut and O&G Indu	ustries, Inc.
	in the Destaurtions
Information required to complete this Schedule, if not sh	nown above, will sharp in the Declarations.
The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:	
We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.	10.

COMMERCIAL GENERAL LIABILITY CG 20 01 04 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

#### **Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured. POLICY NUMBER: COMMERCIAL AUTO
CA 20 48 02 99

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### **DESIGNATED INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM GARAGE COVERAGE FORM MOTOR CARRIER COVERAGE FORM TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Cox ersign d By:
Named Insured:	(Authorized Representative)
	HEDOLE
Name of Person(s) or Organization(s): The Borough of Naugatuck and O&G Industries, Ir a.	

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

CA 20 48 02 99

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POLICY NUMBER: COMMERCIAL AUTO
CA 04 44 10 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

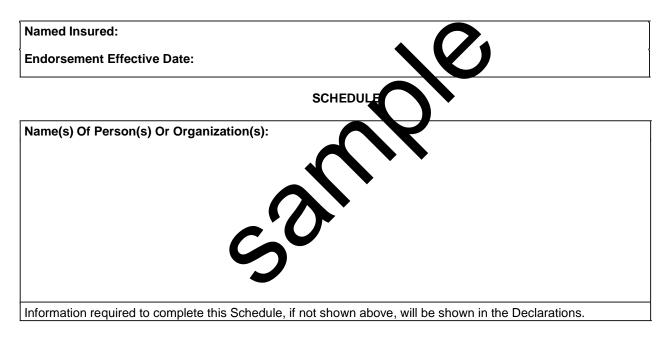
# WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM BUSINESS AUTO COVERAGE FORM MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.



The Transfer Of Rights Of Recovery Against Others To Us condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM GARAGE COVERAGE FORM MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The following is added to the **Other Insurance** Condition in the Business Auto and Garage Coverage Forms and the **Other Insurance - Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured ur set such other insurance; and

2. You have agreed in writing in a contract or agreement that this insurance would be prime y and would not seek contribution from any offer insurance available to such

COMMERCIAL AUTO CA 99 48 03 06

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### POLLUTION LIABILITY – BROADENED COVERAGE FOR COVERED AUTOS – BUSINESS AUTO, MOTOR CARRIER AND TRUCKERS COVERAGE FORMS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM MOTOR CARRIER COVERAGE FORM TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

#### A. Liability Coverage is changed as follows:

- Paragraph a. of the Pollution Exclusion applies only to liability assumed under a contract or agreement.
- With respect to the coverage afforded by Paragraph A.1. above, Exclusion B.6. Care, Custody Or Control does not apply.

#### **B.** Changes In Definitions

For the purposes of this endorsement, Paragraph **D.** of the **Definitions** Section is replaced by th following:

- D. "Covered pollution cost or expense" meany cost or expense arising out of:
  - 1. Any request, demand, order or status ry regulatory requirement that my insuladifor others test for, monitor, clean permove, contain, treat, detoxify or heatralize, or in any way respond to, or assess the effects of "pollutants"; or
  - 2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

"Covered pollution cost or expense" does not include art st or expense arising out of the actual, dieger or threatened discharge, dispersal see a se, maration, release or escape of "political".

A fore the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

b. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraphs **a.** and **b.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

WC 00 03 13

(Ed. 4-84)

#### WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule



This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Insured	Effective Policy No.	Endorsement No. Premium
Insurance Company	Countersigned by	

WC 00 03 13 (Ed. 4-84) POLICY NUMBER: BAP 4421560-03

COMMERCIAL AUTO CA 20 70 10 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# COVERAGE FOR CERTAIN OPERATIONS IN CONNECTION WITH RAILROADS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM BUSINESS AUTO COVERAGE FORM MOTOR CARRIERS COVERAGE FORM

With respect to coverage provided under this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: O & G INDUSTRIES INC
Endorsement Effective Date:

#### SCHEDUL

Scheduled Railroad	Designated Job Site
ANY PERSON OR ORGANIZATION REQUERED	ALL PREMISES
BY WRITTEN CONTRACT OR AGREEMENT.	▼
_ '	

With respect to the use of a covered "auto" in operations for or affecting a railroad designated in the Schedule at a Designated Job Site, the two exceptions

contained in the definition of "insured contract" relating to construction or demolition operations performed within 50 feet of a railroad do not apply.

CA 20 70 10 13

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

#### 1. GENERAL

A. Prior to the Construction Manager signing the contract agreement, he will require the trade contractor(s) to furnish <u>separate</u> performance and payment bonds covering the faithful performance of the trade contract agreement.

The performance bond and the payment bond shall each be made out in one hundred percent (100%) of the guaranteed maximum contract amount.

B. The Performance Bond and the Labor and Material Bond (Payment Bond) shall each be on the forms enclosed in this section.

The bonds shall be signed by an official of the bonding company and shall be accompanied by the bonding agent's written power of attorney.

Provide three (3) copies each of the bonds and the power of attorney in order that one (1) copy of each may be attached to each copy of the contract agreement.

- C. The Contractor(s) shall include in his proposal amount the total premiums for the performance and payment bonds.
- D. The Bonds will be executed by a Surety Company or Companies with an AM Best Rating of A-VII or better that are authorized to do business in the State of Connecticut and who are acceptable to the Construction Manager. The cost of these Bonds is to be paid for by the contractor and included in his bid.

## **Performance Bond**

CONTRACTOR (a/k/a Trade Contractor): (Name & Address):	SURETY (Name, Principal Place of Business, Address and address to which notices are to be sent if different from principal place of business:
OWNER (Name & Address):	CONSTRUCTION MANAGER:
	O & G Industries, Inc. 112 Wall Street Torrington, CT 06790-5416
CONSTRUCTION CONTRACT Date:	
Amount:	
Project:	
Bond:	
Date	
Amount:	

- 1. The Contractor and the Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Construction Manager and the Owner for the performance of the Construction Contract hereinbefore referred to which is incorporated herein by reference.
- 2. No change, extension of time, alteration or addition to terms of the Construction Contract for the work to be performed thereunder or the specification accompanying the same shall in any way affect the obligations assumed under this Bond and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract or to the work or to the specifications. The Surety also waives its right to terminate the bond in the event of bankruptcy by the Contractor.
- The condition of this obligation is such that if the Contractor promptly and faithfully

- performs all the covenants and conditions of the Construction Contract on its part including during any warranty and guaranty period, then the obligation under this Bond shall be void.
- 4. The Surety's obligation under this Bond shall arise after the Construction Manager has declared the Contractor in default for failure to perform its contractual obligations. The Contractor's filing of a petition of bankruptcy, voluntary or involuntary, is an event of default on the bond regardless of whether a formal declaration of Contractor default has been sent:
  - 4.1 The Construction Manager has notified the Contractor and the Surety by mail postage prepaid at the address shown above that the Construction Manager is considering declaring the Contractor in default and has requested and attempted to arrange a conference with the

- Contractor and the Surety to be held no later than ten days after the mailing of such notice to discuss the methods of performing the contract.
- 4.2 The Construction Manager has declared the Contractor in default for failure to perform its contractual obligations. Such default shall not be declared earlier than fourteen days after the notice referred to in 4.1 has been sent.
- 4.3 The Construction Manager has agreed to pay the balance of the Contract Price, if any, to the Surety in accordance with the terms of the Contract or to a Contractor selected to perform the Construction Contract in accordance with the terms of such contract.
- Upon the occurrence of the conditions set forth in Paragraph 4, the Surety shall, within twenty (20) days, take one of the following actions:
  - 5.1 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors or;
  - 5.2 Arrange for a contract to be prepared for execution by the Construction Manager and the Contractor selected by the Surety with the Construction Manager's concurrence to be secured with performance and payment bonds equivalent to the bonds issued on the Construction Contract and to pay the Construction Manager the amount of damages as described in Paragraph 8 in excess of the balance of the Contract Price incurred by the Construction Manager resulting from the Contractor's default;
- The Surety may waive its right to perform or obtain a new Contractor and within twenty days of default of the Contractor:
  - 6.1 Tender payment to the Construction Manager for the amount which it may be liable to the Construction Manager for or;

- 6.2 Deny liability in whole or in part and notify the Construction Manager within said twenty days citing the reasons therefor.
- 7. If the Surety does not proceed as provided in Paragraph 5 or 6, the Surety shall be deemed in default and the Construction Manager shall be entitled to enforce any remedy available to it. If the Construction Manager refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice, the Construction Manager shall be entitled to enforce any remedy available to the Construction Manager.
- 8. If the Surety elects to act under Subparagraph 5.1 or 5.2 above, then the responsibilities of the Surety to the Construction Manager shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Construction Manager to the Surety shall not be greater than those of the Construction Manager under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Construction Manager of the balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
  - 8.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract:
  - 8.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and additional legal, design professional and delay costs resulting from the Surety's failure to perform its obligations as set forth in this Bond; and
  - 8.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor to the Construction

Manager and the Owner. The cost of Supplemental Forces as provided for in the Construction Contract shall not be in lieu of liquidated damages.

- 9. The Construction Manager's right, if exercised, under the Construction Contract to supplement the construction forces of the Contractor shall continue post default of the Contractor or until the Surety acts under 5.1, 5.2, 6.1 or 6.2 and the reasonable cost thereof shall be a deduct from the Construction Contract balance.
- 10. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the State of Connecticut and shall be instituted within the applicable statute of limitations for contract actions after Contractor defaults or within the applicable statutes of limitations for contract actions after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first.
- 11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.

- 12. No right of action shall accrue on this bond to any person or entity other than the Construction Manager, the Owner or their heirs, executives, administrators, successors or assigns. The Construction Manager retains the right of setoff of any obligations of the Contractor to the Construction Manager or to any business entity in which the Construction Manager has a controlling interest.
- 13. In the event that the surety assumes the contract or obtains a bid or bids for the completion of the contract, the surety shall ensure that the contractor chosen to complete the contract is prequalified pursuant to section 4a-100 of the Connecticut General Statutes in the requisite classification and has the aggregate work capacity rating and single project limit necessary to complete the contract.

CONTRACTOR	(Corporate Seal if applicable)	SURETY Company:	(Corporate Seal)
Signature:		Signature:	
Name and Title:		Name and Title:	

## **Payment Bond**

CONTRACTOR : (Name & Address):	SURETY (Name, Principal Place of Business, Address and address to which notices are to be sent if different from principal place of business:
OWNER (Name & Address):	CONSTRUCTION MANAGER:
	O & G Industries, Inc. 112 Wall Street Torrington, CT 06790-5416
CONSTRUCTION CONTRACT Date:	
Amount:	
Project:	
Bond:	
Date:	
Amount:	

- The Contractor and the Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Construction Manager and the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract hereinbefore referred to which is incorporated herein by reference.
- 2. No change, extension of time, alteration or addition to terms of the Construction Contract for the work to be performed thereunder or the specification accompanying the same shall in any way affect the obligations assumed under this Bond and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract or to the work or to the specifications.
- With respect to the Construction Manager and Owner, this obligation shall be null and

void if the Contractor:

- 3.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
- 3.2 Defends, indemnifies and holds harmless the Construction Manager and Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract., provided the Construction Manager or Owner has promptly notified the Contractor and the Surety of any claims, demands, liens or suits and tendered defense of such claims, demands liens or suits to the Contractor and the Surety and

provided there is no Owner default.

- With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
- 5. The Surety shall have no obligation to Claimants under this Bond until:
  - 5.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety, and sent a copy, or notice thereof, to the Construction Manager and Owner stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claims.
  - 5.2 Claimants who do not have a direct contract with the Contractor.
    - .1 Have furnished written notice to the Contractor and sent a copy, or notice thereof to the Construction Manager and the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating. with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
    - .2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

- 3 Not having been paid within the above 30 days, have sent a written notice to the Surety and sent a copy, or notice thereof, to the Construction Manager and the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
- 6. If a notice required by Paragraph 5 is given by the Owner or Construction Manager to the Contractor or to the Surety, that is sufficient compliance.
- 7. When the Claimant has satisfied the conditions of Paragraph 5, the Surety shall promptly and at the Surety's expense take the following actions:
  - 7.1 Send an answer to the Claimant, with a copy to the Owner and the Construction Manager, within 60 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 7.2 Pay or arrange for payment of any undisputed amounts.
  - 7.3 The Surety's failure to discharge its obligations under this Section 7 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a claim. However. if the Surety fails to discharge its obligations under this Section 7, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs to recover any sums found to be due and owing to the Claimant.
- 8. The Surety's total obligation shall not exceed the amount of this Bond and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

- 9. Amounts owed by the Construction Manager or by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Construction Manager and Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond subject to the Owner's priority to use the funds for the completion of the work.
- 10. The Surety shall not be liable to the Construction Manager and Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Construction Manager and Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notice on behalf of, or otherwise have obligations under this Bond.
- Any proceeding, legal or equitable, under the Bond, must be instituted in a court of competent jurisdiction in Connecticut within two years after Claimant ceased providing materials or equipment or services to the Project.
- 12. Notice to the Surety, Construction Manager, Owner or the Contractor shall be mailed or delivered to the address shown above. Actual receipt of notice by Surety, Construction Manager, Owner or Contractor, however, accomplished, shall be sufficient compliance as of the date received at the address shown above.
- 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 15. **DEFINITION**

- 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. Included within the definition, Claimant is the Construction Manager to the extent it has furnished labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include, without limitation. in the terms "labor, materials or equipment" that part of water. gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract. architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor. materials or equipment were furnished. In addition, the Surety shall be obligated to include in the payment of the Bond any interest, costs, or attorney's fees imposed on the Contractor under the provisions CGS 42-158(o) to which act specific reference is made.
- 15.2 Construction Contract: The agreement between the Construction Manager and the Contractor, identified above, including all Contract Documents and changes thereto.

# EXHIBIT G SAMPLE PERFORMANCE AND PAYMENT BOND FORMS

In witness whereof the Contractor and Surety have executed this Bond on, 20 .				
CONTRACTOR(Corporate Seal if applicable)	SURETY (Corporate Seal) Company:			
Signature:	Signature:			
Name and Title:	Name and Title			



## Standard Form of Agreement Between Owner and Construction Marnager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price

AGREEMENT made as of the 2nd day of January in the year 2024 (In words, indicate day, month, and year.)

## **BETWEEN** the Owner:

(Name, legal status, address, and other information)

Borough of Naugatuck 229 Church Street Naugatuck, CT 06770

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

> O&G Industries, Inc. 112 Wall Street Torrington, CT 06790

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

> Naugatuck Industrial Park #3 Elm Street Naugatuck, CT 06770

## The Civil Engineer:

(Name, legal status, address, and other information)

Civil 1 43 Sherman Hill Rd, Suite D-101 Woodbury, CT 06798

The Soil Management/Licensed Environmental Professional (LEP) Woodard & Curran Middlesex Corporate Center, 213 Court Street, 4th Floor Middletown, CT 06457

### **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.

AIA Document A201™-2017. General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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(1514492217)

The Owner and Construction Manager agree as follows.

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#### **EXHIBIT A INSURANCE AND BONDS**

#### 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.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.) NA

#### § 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.) NA

§ 1.1.3 The Owner's budget for the Contract Sum, as defined in Section 2.4:

(Provide total and, if known, a line item breakdown.)

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	§ 1.1.4 The (	Owner's anticipated design and construction milestone dates:
l	.1	Design phase milestone dates, if any: None
l	.2	Construction commencement date: None
l	.3	Substantial Completion date or dates, if not established in this Agreement under Section 3.3.1.3: None
ĺ	.4	Other milestone dates: None
ĺ		Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below: entify any requirements for fast-track scheduling or phased construction.) None
I		Owner's anticipated Sustainable Objective for the Project: entify and describe the Owner's Sustainable Objective for the Project, if any.) None
	incorporate A into this Agr E234TM-201 E234TM-201	he Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and AIA Document E234 <sup>TM</sup> –2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, eement to define the terms, conditions and services related to the Owner's Sustainable Objective. If 9 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed 9 into the agreements with the consultants and contractors performing services or Work in any way ith the Sustainable Objective. None
I	§ 1.1.7 Other (Identify spec	r Project information: cial characteristics or needs of the Project not provided elsewhere.) NA
I	§ 1.1.8 The (List name, d	Owner identifies the following representative in accordance with Section 4.2: address, and other contact information.) Civil 1
I	Manager's s	persons or entities, in addition to the Owner's representative, who are required to review the Construction ubmittals to the Owner are as follows:  Indicated and other contact information.) Civil 1
	§ 1.1.10 The	Owner shall retain the following consultants and contractors:
tnit.	"AIA," the AIA Lo 07/15/2024 unde	134 – 2019. Copyright © 1994, 2003, 2009, and 2019. All rights reserved, "The American Institute of Architects," "American Institute of Architects, ogo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 14:14:58 ET on or Order No.3104238828 which expires on 08/09/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with a Documents of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.  (1514492217)

(1514492217)

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(List name, legal status, address, and other contact information.)

.1 Soil Management:

Woodard & Curran Middlesex Corporate Center, 213 Court Street, 4th Floor Middletown, CT 06457 Attn. Nick Hastings(LEP)

.2 Civil Engineer:

Civil 1

43 Sherman Hill Road, Suite D-101 Woodbury, CT 06798

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.) NA

§ 1.1.11 The Civil Engineer's representative:

(List name, address, and other contact information.)

Curt Jones, P.E. Civil 1 43 Sherman Hill Road, Suite D-101 Woodbury, CT 06798

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3: (List name, address, and other contact information.)

Joe Vetro O&G Industries, Inc. 112 Wall Street Torrington, CT 06790

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.) NA

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§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work: (List any Owner-specific requirements for subcontractor procurement.)

None

§ 1.1.15 Other Initial Information on which this Agreement is based: NA

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Contract Sum and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

## ARTICLE 2 GENERAL PROVISIONS

#### § 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's approval of the Control Estimate, the Contract Documents will also include the documents described in Section 3.2.2 and revisions prepared by the Civil Engineer and furnished by the Owner as described in Section 3.2.7. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

#### § 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Civil Engineer and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

#### § 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201<sup>TM</sup>-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

#### § 2.4 Contract Sum, Contract Time and Changes in the Work

The Contract Sum is the actual Cost of the Work as defined in Section 7.1.1 plus the Construction Manager's Fee as defined in Section 6.1. The Contract Time is the period of time, including authorized adjustments, allotted in the Contract

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User Notes:

Documents for Substantial Completion of the Work as certified by the Civil Engineer in accordance with Section 9.8 of AIA Document A201-2017. The Contract Time shall be measured from the date of commencement of the Work. Changes in the Work shall be governed by Article 7 of A201-2017.

#### ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1, The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Civil Engineer, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

#### § 3.1 Preconstruction Phase

#### § 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Civil Engineer shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Civil Engineer and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Civil Engineer may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

#### § 3.1.3 Consultation

- § 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Civil Engineer and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.
- § 3.1.3.2 The Construction Manager shall advise the Owner and the Civil Engineer on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Civil Engineer, consistent with the Project requirements, on constructability. availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Civil Engineer regarding professional services to be provided by the Construction Manager during the Construction Phase.
- § 3.1.3.3 The Construction Manager shall assist the Owner and Civil Engineer in establishing building information modeling and digital data protocols for the Project, using 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.

#### § 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Civil Engineer's review and the Owner's acceptance. The Construction Manager shall obtain the Civil Engineer's approval for the portion of the Project schedule relating to the performance of the Civil Engineer's services. The Project schedule shall coordinate and integrate the Construction Manager's services. the Civil Engineer's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Control Estimate; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

#### § 3.1.5 Phased Construction

The Construction Manager, in consultation with the Civil Engineer, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager

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shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

#### § 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Civil Engineer, the Construction Manager shall prepare, for the Civil Engineer's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Civil Engineer or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. The Construction Manager shall provide cost estimates for all phases of Naugatuck Industrial Park #3.

- § 3.1.6.2 As the Civil Engineer progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Civil Engineer, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Construction Manager submits a Control Estimate for the Work, pursuant to Section 3.2. The estimate shall be provided for the Civil Engineer's review and the Owner's approval. The Construction Manager shall inform the Owner and Civil Engineer in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.
- § 3.1.6.3 If the Civil Engineer is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Civil Engineer's cost estimates, the Construction Manager and the Civil Engineer shall work together to reconcile the cost estimates.
- § 3.1.7 As the Civil Engineer progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Civil Engineer and make recommendations regarding constructability and schedules, for the Civil Engineer's review and the Owner's approval.
- § 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Civil Engineer regarding equipment, materials, services, and temporary Project facilities.
- § 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.
- § 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234 TM\_2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### § 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

## § 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

The Construction Manager shall, in conjunction with the Civil Engineer, develop an overall bid package strategy and shall take all appropriate action necessary to maximize bidder interest in the Project. The Construction Manager shall include, in its planning and bid package strategy, local workforce development plans.

Since this Project is receiving public funds, the Construction Manager shall, in conformity with applicable law, publicly advertise bid packages. Upon receipt, the Construction Manager shall review and analyze each bid for conformity with the requirements of the bid package. Construction Manager shall then submit to the Owner a list of all responding bidders and their bids whether Construction Manager deems such bids in conformity with the requirements of the bid package or not. Bids which are, in the judgment of the Construction Manager, non-conforming with the requirements of the bid package shall be so noted. The Owner shall, in its sole discretion, determine which bids will be accepted.

Subsequent to the Owner's exclusive acceptance of the bids, the Owner will direct the Construction Manager to award contracts to each trade contractor using the contract form included in the bid package.

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§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

#### § 3.1.12 Procurement

The Construction Manager shall prepare, for the Civil Engineer's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the Owner's approval of the Control Estimate, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the Owner's approval of the Control Estimate, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

#### § 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

#### § 3.1.14 Other Preconstruction Phase Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document.

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.) None

#### § 3.2 Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Control Estimate for the Owner's and Civil Engineer's review, and the Owner's approval. The Control Estimate shall be the sum of the Construction Manager's estimate of the Cost of the Work and the Construction Manager's Fee. The Control Estimate shall be used to monitor actual costs and the timely performance of the Work. The Construction Manager shall update the Control Estimate with each Application for Payment as needed to reflect changes in the Work.

#### § 3.2.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 15, including all Modifications thereto;
- .2 a list of the assumptions made by the Construction Manager in the preparation of the Control Estimate, including assumptions under Section 3.2.4, to supplement the information provided by the Owner and contained in the Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems, and the Construction Manager's Fee;
- .4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequence and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment, and the Owner's occupancy requirements;
- .5 a date of Substantial Completion, if not established in accordance with Section 3.3.1.3; and
- .6 contingencies for further development of design and construction, as required by Section 3.2.4.
- § 3.2.3 The Construction Manager shall meet with the Owner and Civil Engineer to review the Control Estimate. In the event that the Owner or Civil Engineer discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Control Estimate. When the Control Estimate is approved by the Owner, the Owner shall acknowledge its approval in writing. The Owner's approval of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.
- § 3.2.4 To the extent that the Contract Documents are anticipated to require further development, the Control Estimate shall include the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

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- § 3.2.5 The Construction Manager shall develop and implement a detailed system of cost control that will provide the Owner and Civil Engineer with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Construction Manager's first Application for Payment and shall be revised and submitted with each Application for Payment.
- § 3.2.6 Prior to commencement of the Construction Phase, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, unless the Owner provides prior written authorization for such costs.
- § 3.2.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Civil Engineer of any inconsistencies between the Control Estimate and the revised Contract Documents.

#### § 3.3 Construction Phase

### § 3,3.1 General

- § 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.
- § 3.3.1.2 The Construction Phase shall commence upon the Owner's approval of the Control Estimate or, prior to acceptance of the Control Estimate, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to approval of the Control Estimate.

#### § 3.3.1.3 Substantial Completion

§ 3.3.1.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[	] Not later than ( ) calendar days from the date of commencement of the Work.
]	] By the following date:
]	X] By the date to be established in the Control Estimate and approved by the Owner.

§ 3.3.1.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

#### Portion of Work

#### **Substantial Completion Date**

§ 3.3.1.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section 3.3.1.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.7. NA

#### § 3.3.2 Administration

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- § 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Civil Engineer.
- § 3.3.2.2 Upon the Owner's approval of the Control Estimate, the Construction Manager shall prepare and submit to the Owner and Civil Engineer a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017.

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#### § 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as a greed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Civil Engineer, showing percentages of completion and other information required by the Owner.

#### § 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Civil Engineer, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner.

#### ARTICLE 4 OWNER'S RESPONSIBILITIES

## § 4.1 Information and Services Required of the Owner

- § 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.
- § 4.1.2 Prior to the Owner's approval of the Control Estimate, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After the Owner approves the Control Estimate, the Construction Manager may request such information as set forth in A201-2017, Section 2.2.
- § 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Civil Engineer. The Owner and the Civil Engineer, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.
- § 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.
- § 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.
- § 4.1.4.2 The Owner shall furnish surveys describing 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 inverts and depths. All the information on the survey shall be referenced to a Project benchmark.
- § 4.1.4.3 The Owner, when such services are requested, 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.
- § 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

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§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234<sup>TM.</sup> 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### § 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Civil Engineer does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. 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.

#### § 4.3 Civil Engineer

The Owner shall retain an Civil Engineer to provide services, duties and responsibilities as described in AIA Document B133<sup>TM</sup>\_2019, Standard Form of Agreement Between Owner and Civil Engineer, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Civil Engineer, and any further modifications to the Civil Engineer's scope of services in the agreement.

## ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

#### § 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager per the following hourly rates:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

The Construction Manager shall be reimbursed for General Conditions Costs to be agreed upon once the construction schedule is agreed upon.

Once the phasing is finalized during the

pre-construction phase, the Construction Manager reserves its right to adjust staffing requirements as necessary to properly supervise the work and protect the Owners' interests. Construction Manager shall include such additional staffing costs as part of the Cost of the Work when the Control Estimate is presented for approval.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

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

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See rates noted in section 5.1.1.

#### **Individual or Position**

#### Rate

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

#### § 5.2 Payments

- § 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.
- § 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid 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 Construction Manager.

  Current market rate.

## ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

#### § 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after approval of the Control Estimate. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

#### § 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

- § 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:
- § 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:
- § 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

## § 6.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.) To be determined and negotiated at a later date.

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**Units and Limitations** 

Price per Unit (\$0.00)

§ 6.1.7 Liquidated damages, if any:

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#### § 6.1.8 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

#### § 6.2 Changes in the Work

- § 6.2.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work, as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction. The Construction Manager shall incorporate all changes in the Work and Contract Time as separate entries in the Control Estimate.
- § 6.2.1.1 The Civil Engineer may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.
- § 6.2.2 Increased costs for the items set forth in Sections 7.1 through 7.7 that result from changes in the Work shall become part of the Cost of the Work, and the Construction Manager's Fee shall be adjusted as provided in Section 6.1.3.
- § 6.2.3 If the Construction Manager receives any Drawings, Specifications, interpretations or instructions from the Owner or Civil Engineer which are inconsistent with the Contract Documents, or encounters unanticipated conditions, any of which will result in a significant change in the Cost of the Work in comparison with the Control Estimate or the date of Substantial Completion, the Construction Manager shall promptly notify the Owner and Civil Engineer in writing and shall not proceed with the affected Work until the Construction Manager receives further written instructions from the Owner and Civil Engineer.
- § 6.2.4 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.
- § 6.2.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

#### § 7.1 Costs to Be Reimbursed

- § 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.
- § 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.
- § 7.1.3 Costs shall be at rates not higher than the standard paid at the place of the Project, except with prior approval of the Owner.

### § 7.2 Labor Costs

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- § 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.
- § 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

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- § 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work.
- § 7.2.3 Wages or salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.
- § 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining a greements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.
- § 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

#### § 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

## § 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

- § 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.
- § 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

## § 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

- § 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.
- § 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.
- § 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.
- § 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.
- § 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

#### § 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

Self-insurance for either full or partial amounts of the coverages or bonds required by the Contract Documents as follows:

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General Liability Insurance shall be reimbursed at the rate of
Compensation insurance costs are included in staff billed rates.

Payment and Performance Bonds shall be reimbursed at the rate of

of the Cost of the Work. Automobile and Workers'
of the Cost of the Work.

- § 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.
- § 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.
- § 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.
- § 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.
- § 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.
- § 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.
- § 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Civil Engineer as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee.
- § 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.
- § 7.6.7 Costs of document reproductions and delivery charges.
- § 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.
- § 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.
- § 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.
- § 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.
- § 7.7 Other Costs and Emergencies

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- § 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.
- § 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

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- § 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.
- § 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

#### § 7.8 Related Party Transactions

- § 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; and (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.
- § 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

#### § 7.9 Costs Not to Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 through 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 through 7.7; and
- .8 Costs for services incurred during the Preconstruction Phase.

### ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

- § 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.
- § 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

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#### ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Civil Engineer and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Civil Engineer and to object to any subcontractor or supplier. Any advice of the Civil Engineer, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

#### ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

#### § 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Civil Engineer by the Construction Manager, and Certificates for Payment issued by the Civil Engineer, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3 Provided that an Application for Payment is received by the Civil Engineer not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 28th day of the same month. If an Application for Payment is received by the Civil Engineer after the application date fixed above, payment of the amount certified shall be made by the Owner not later than 45 days after the Civil Engineer receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit the cost control information required in Section 3.2.5, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Civil Engineer to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

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- § 11.1.5 Applications for Payment shall show the Cost of the Work actually incurred by the Construction Manager through the end of the period covered by the Application for Payment and for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment.
- § 11.1.6 In accordance with AIA Document A201 -2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
- § 11.1.6.1 The amount of each progress payment shall first include:
  - 1 The Cost of the Work as described in Article 7;
  - .2 That portion of Construction Change Directives that the Civil Engineer determines, in the Civil Engineer's professional judgment, to be reasonably justified; and
  - .3 The Construction Manager's Fee computed upon the Cost of the Work described in the preceding Section 11.1.6.1.1 at the rate stated in Section 6.1.2; or if the Construction Manager's Fee is stated as a fixed sum in Section 6.1.2, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 11.1.6.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.
- § 11.1.6.2 The amount of each progress payment shall then be reduced by:
  - 1 The aggregate of any amounts previously paid by the Owner;
  - 2 The amount, if any, for Work that remains uncorrected and for which the Civil Engineer has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
  - .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
  - .4 For Work performed or defects discovered since the last payment application, any amount for which the Civil Engineer may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017;
  - .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
  - .6 Retainage withheld pursuant to Section 11.1.7.

#### § 11.1.7 Retainage

§ 11.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

5% exclusing those costs associated with the items listed in Section 11.1.7.1.1

### § 11.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Bond cost, CM Fee, Reimbursable Costs, General Liability Insurance and Insurance charges.

## § 11.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.7.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

To be determined at a later date.

§ 11.1.7.3 Except as may be set forth in this Section 11.1.7.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)Retainage shall not be withheld upon Substantial Completion of the Work.

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- § 11.1.8 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.
- § 11.1.9 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.
- § 11.1.10 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.
- § 11.1.11 In taking action on the Construction Manager's Applications for Payment the Civil Engineer shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Civil Engineer has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Civil Engineer has made exhaustive or continuous on-site inspections; or (3) that the Civil Engineer has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

### § 11.2 Final Payment

- § 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when
  - .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
  - .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
  - .3 a final Certificate for Payment has been issued by the Civil Engineer in accordance with Section 11.2.2.2.
- § 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Civil Engineer that it will not conduct an audit.
- § 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Civil Engineer.
- § 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Civil Engineer will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Civil Engineer's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Civil Engineer is not responsible for verifying the accuracy of the Construction Manager's final accounting.
- § 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Civil Engineer's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Civil Engineer's final Certificate for Payment.
- § 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Civil Engineer's final Certificate for Payment, or as follows:

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§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs described in Sections 7.1 through 7.7 and not excluded by Section 7.9 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment.

#### § 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. (Insert rate of interest agreed upon, if any.)

%

#### ARTICLE 12 DISPUTE RESOLUTION

#### § 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Office of the Mayor will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker. (If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Civil Engineer.)

## § 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows: (Check the appropriate box.)

[ X	]	Arbitration pursuant to Article 15 of AIA Document A201-2017
[ ]	!	Litigation in a court of competent jurisdiction
[ ]	l	Other: (Specify)

If the Owner and Construction Manager 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, Claims will be resolved by litigation in a court of competent jurisdiction.

#### ARTICLE 13 TERMINATION OR SUSPENSION

#### § 13.1 Termination Prior to Owner's Approval of the Control Estimate

§ 13.1.1 Prior to the Owner's approval of the Control Estimate, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201-2017.

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- § 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.
- § 13.1.3 In the event of termination of this Agreement pursuant to Section 13.1.1 after the commencement of the Construction Phase but prior to the Owner's approval of the Control Estimate, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.2:
  - Take the Cost of the Work incurred by the Construction Manager to the date of termination; .1
  - .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
  - Subtract the aggregate of previous payments made by the Owner for Construction Phase services.
- § 13.1.4 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.
- § 13.1.4.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

#### § 13.2 Termination or Suspension Following the Owner's Approval of the Control Estimate § 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201-2017.

#### § 13.2.2 Termination by the Owner for Cause

- § 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the Owner shall then only pay the Construction Manager an amount calculated as follows:
  - Take the Cost of the Work incurred by the Construction Manager to the date of termination;
  - .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
  - Subtract the aggregate of previous payments made by the Owner; and .3
  - Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017.
- § 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontract and other contractual rights of the Construction Manager, as the

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Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontract or purchase orders.

#### § 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

Cost of Work incurred by the Construction Manager to date plus the cost of the construction manager fee computed from the cost of the work (both complete and anticipated) subtract the aggregate of previous payments made by the Owner for construction phase services.

#### § 13.2.4 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017. In such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A201-2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.2.5 of this Agreement.

#### ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

#### § 14.2 Successors and Assigns

- § 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201-2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.
- § 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

#### § 14.3 Insurance and Bonds

#### § 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

- § 14.3.1.1 Commercial General Liability with policy limits of not less than (\$2,000,000) for each occurrence and (\$4,000,000) in the aggregate for bodily injury and property damage.
- § 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than (\$ 5,000,000 ) 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.
- § 14.3.1.3 The Construction Manager 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 that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, 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,

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§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than (\$ 2,000,000 ) each accident, (\$ 2,000,000 ) each employee, and (\$ 2,000,000 ) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$ 2,000,000 ) per claim and (\$ 2,000,000 ) in the aggregate.

#### § 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager 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 Construction Manager'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.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

#### § 14.3.2 Construction Phase

After the Owner approves the Control Estimate, the Owner and Construction Manager shall purchase and maintain insurance as set forth in AIA Document A134-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A134™ 2019 Exhibit A, and elsewhere in the Contract Documents.

#### § 14.4 Notice

Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203TM-2013, Building Information Modeling and Digital Data Exhibit, if completed, or otherwise as set forth

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 14.5 Other provisions:

#### ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- AIA Document A134TM\_2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed **Maximum Price**
- .2 AIA Document A134TM-2019, Exhibit A, Insurance and Bonds
- AIA Document A201TM 2017, General Conditions of the Contract for Construction .3
- AIA Document E203TM-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

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		(Insert the date of the	E203-2013 incorporated into t	his Agreemen	t.)		
	.5	Other Exhibits: (Check all boxes that a	apply.)				
		Constructor E	nt E234™–2019, Sustainable Edition, dated as indicated belo te of the E234-2019 incorpora	w:		ion Manager as	
		[ ] Supplementar	ry and other Conditions of the	Contract:			
		Document	Title		Date	Pages	
		forms, the Constructio requirements, and othe are not part of the Con	provides that the advertisemen n Manager's bid or proposal, er information furnished by the atract Documents unless enume atended to be part of the Contr	portions of Ac Owner in ant erated in this .	ddenda relatii icipation of re Agreement. A	ng to biddi <mark>n</mark> g or p eceiving bids or pi	proposal roposals,
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#### SECTION 00 61 13 - PERFORMANCE AND PAYMENT BONDS

#### 1. GENERAL

A. Prior to the Construction Manager signing the contract agreement, he will require the trade contractor(s) to furnish <u>separate</u> performance and payment bonds covering the faithful performance of the trade contract agreement.

The performance bond and the payment bond shall each be made out in one hundred percent (100%) of the guaranteed maximum contract amount.

B. The Performance Bond and the Labor and Material Bond (Payment Bond) shall each be on the forms enclosed in this section.

The bonds shall be signed by an official of the bonding company and shall be accompanied by the bonding agent's written power of attorney.

Provide two (2) copies each of the bonds and the power of attorney in order that one (1) copy of each may be attached to each copy of the contract agreement.

- C. The Contractor(s) shall include in his proposal amount the total premiums for the performance and payment bonds.
- D. The Bonds will be executed by a Surety Company or Companies with an AM Best Rating of A-VII or better that are authorized to do business in the State of Connecticut and who are acceptable to the Construction Manager. The cost of these Bonds is to be paid for by the contractor and included in his bid.

## **Performance Bond**

CONTRACTOR (a/k/a Trade Contractor): (Name & Address):	SURETY (Name, Principal Place of Business, Address and address to which notices are to be sent if different from principal place of business:
OWNER (Name & Address):	CONSTRUCTION MANAGER:
Borough of Naugatuck 229 Church Street Naugatuck, CT 06770	O & G Industries, Inc. 112 Wall Street Torrington, CT 06790-5416
CONSTRUCTION CONTRACT	
Date:	
Amount:	
Project:	
Bond:	
Date	
Amount:	

- The Contractor and the Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Construction Manager and the Owner for the performance of the Construction Contract hereinbefore referred to which is incorporated herein by reference.
- No change, extension of time, alteration or addition to terms of the Construction Contract for the work to be performed specification thereunder or the accompanying the same shall in any way affect the obligations assumed under this Bond and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract or to the work or to the specifications. The Surety also waives its right to terminate the bond in the event of bankruptcy by the Contractor.
- The condition of this obligation is such that if the Contractor promptly and faithfully performs all the covenants and conditions of the Construction Contract on its part including during any warranty and guaranty period, then the obligation under this Bond shall be void.
- 4. The Surety's obligation under this Bond shall arise after the Construction Manager has declared the Contractor in default for failure to perform its contractual obligations. The Contractor's filing of a petition of bankruptcy, voluntary or involuntary, is an event of default on the bond regardless of whether a formal declaration of Contractor default has been sent:
  - 4.1 The Construction Manager has notified the Contractor and the Surety by mail postage prepaid at the address shown above that the

Construction Manager is considering declaring the Contractor in default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held no later than ten days after the mailing of such notice to discuss the methods of performing the contract.

- 4.2 The Construction Manager has declared the Contractor in default for failure to perform its contractual obligations. Such default shall not be declared earlier than fourteen days after the notice referred to in 4.1 has been sent.
- 4.3 The Construction Manager has agreed to pay the balance of the Contract Price, if any, to the Surety in accordance with the terms of the Contract or to a Contractor selected to perform the Construction Contract in accordance with the terms of such contract.
- Upon the occurrence of the conditions set forth in Paragraph 4, the Surety shall, within twenty (20) days, take one of the following actions:
  - 5.1 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors or;
  - Arrange for a contract to be prepared 5.2 for execution by the Construction Manager and the Contractor selected by the Surety with the Construction Manager's concurrence to be secured with performance and payment bonds equivalent to the bonds issued on the Construction Contract and to pay the Construction Manager the amount of damages as described in Paragraph 8 in excess of the balance of the Contract Price incurred bν the Construction Manager resulting from the Contractor's default;
- 6. The Surety may waive its right to perform or obtain a new Contractor and within twenty days of default of the Contractor:

- 6.1 Tender payment to the Construction Manager for the amount which it may be liable to the Construction Manager for or:
- 6.2 Deny liability in whole or in part and notify the Construction Manager within said twenty days citing the reasons therefor.
- 7. If the Surety does not proceed as provided in Paragraph 5 or 6, the Surety shall be deemed in default and the Construction Manager shall be entitled to enforce any remedy available to it. If the Construction Manager refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice, the Construction Manager shall be entitled to enforce any remedy available to the Construction Manager.
- 8. If the Surety elects to act under Subparagraph 5.1 or 5.2 above, then the responsibilities of the Surety to the Construction Manager shall not be greater than those of the Contractor under the Construction Contract. and responsibilities of the Construction Manager to the Surety shall not be greater than those of the Construction Manager under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Construction Manager of the balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
  - 8.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 8.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and additional legal, design professional and delay costs resulting from the Surety's failure to perform its obligations as set forth in this Bond; and
  - 8.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed

performance or non-performance of the Contractor to the Construction Manager and the Owner. The cost of Supplemental Forces as provided for in the Construction Contract shall not be in lieu of liquidated damages.

- 9. The Construction Manager's right, if exercised, under the Construction Contract to supplement the construction forces of the Contractor shall continue post default of the Contractor or until the Surety acts under 5.1, 5.2, 6.1 or 6.2 and the reasonable cost thereof shall be a deduct from the Construction Contract balance.
- 10. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the State of Connecticut and shall be instituted within the applicable statute of limitations for contract actions after Contractor defaults or within the applicable statutes of limitations for contract actions after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first.
- 11. When this Bond has been furnished to comply with a statutory or other legal

- requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.
- 12. No right of action shall accrue on this bond to any person or entity other than the Construction Manager, the Owner or their heirs, executives, administrators, successors or assigns. The Construction Manager retains the right of setoff of any obligations of the Contractor to the Construction Manager or to any business entity in which the Construction Manager has a controlling interest.
- 13. In the event that the surety assumes the contract or obtains a bid or bids for the completion of the contract, the surety shall ensure that the contractor chosen to complete the contract is prequalified pursuant to section 4a-100 of the Connecticut General Statutes in the requisite classification and has the aggregate work capacity rating and single project limit necessary to complete the contract.

In witness whereof the Contractor and Surety have executed this Bond on, 20 .			
CONTRACTOR	(Corporate Seal if applicable)	SURETY Company:	(Corporate Seal)
Signature: Name and Title:		Signature:  Name and Title:	

# **Payment Bond**

CONTRACTOR: (Name & Address):	SURETY (Name, Principal Place of Business, Address and address to which notices are to be sent if different from principal place of business:
OWNER (Name & Address):	CONSTRUCTION MANAGER:
Borough of Naugatuck 229 Church Street Naugatuck, CT 06770	O & G Industries, Inc. 112 Wall Street Torrington, CT 06790-5416
CONSTRUCTION CONTRACT	
Date:	
Amount:	
Project:	
Bond:	
Date:	
Amount:	

- The Contractor and the Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Construction Manager and the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract hereinbefore referred to which is incorporated herein by reference.
- 2. No change, extension of time, alteration or addition to terms of the Construction Contract for the work to be performed thereunder or the specification accompanying the same shall in any way affect the obligations assumed under this Bond and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract or to the work or to the specifications.
- 3. With respect to the Construction Manager and Owner, this obligation shall be null and void if the Contractor:

- 3.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
- 3.2 Defends, indemnifies and holds harmless the Construction Manager and Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract., provided the Construction Manager or Owner has promptly notified the Contractor and the Surety of any claims, demands, liens or suits and tendered defense of such claims, demands liens or suits to the Contractor and the Surety and provided there is no Owner default.
- 4. With respect to Claimants, this obligation shall be null and void if the Contractor

- promptly makes payment, directly or indirectly for all sums due.
- 5. The Surety shall have no obligation to Claimants under this Bond until:
  - 5.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety, and sent a copy, or notice thereof, to the Construction Manager and Owner stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claims.
  - 5.2 Claimants who do not have a direct contract with the Contractor.
    - Have furnished written notice to the Contractor and sent a copy. notice thereof to Construction Manager and the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed: and
    - Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor bγ which the Contractor has indicated the claim will be paid directly or indirectly; and
    - .3 Not having been paid within the above 30 days, have sent a written notice to the Surety and sent a copy, or notice thereof, to the Construction Manager and the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

- 6. If a notice required by Paragraph 5 is given by the Owner or Construction Manager to the Contractor or to the Surety, that is sufficient compliance.
- 7. When the Claimant has satisfied the conditions of Paragraph 5, the Surety shall promptly and at the Surety's expense take the following actions:
  - 7.1 Send an answer to the Claimant, with a copy to the Owner and the Construction Manager, within 60 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 7.2 Pay or arrange for payment of any undisputed amounts.
  - 7.3 The Surety's failure to discharge its obligations under this Section 7 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a claim. However. if the Surety fails to discharge its obligations under this Section 7, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs to recover any sums found to be due and owing to the Claimant.
- 8. The Surety's total obligation shall not exceed the amount of this Bond and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- 9. Amounts owed by the Construction Manager or by the Owner to the Contractor under the Construction Contract shall be for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Construction Manager and Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond subject to the Owner's priority to use the funds for the completion of the work.

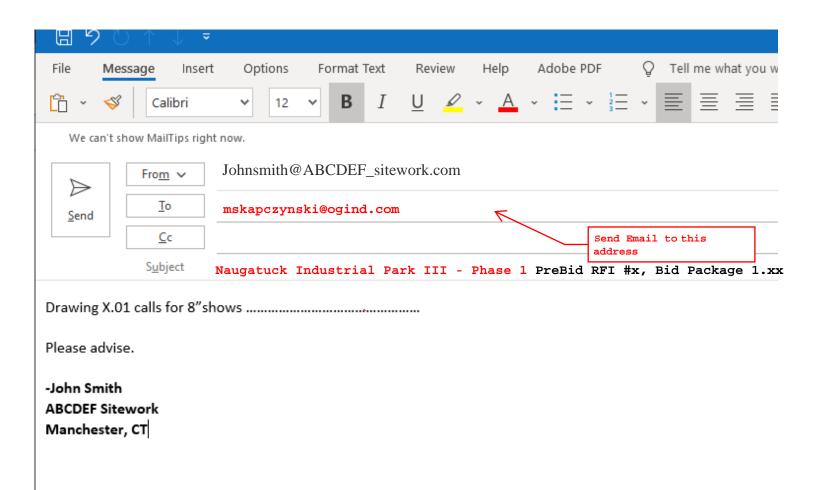
- 10. The Surety shall not be liable to the Construction Manager and Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Construction Manager and Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notice on behalf of, or otherwise have obligations under this Bond.
- Any proceeding, legal or equitable, under the Bond, must be instituted in a court of competent jurisdiction in Connecticut within two years after Claimant ceased providing materials or equipment or services to the Project.
- 12. Notice to the Surety, Construction Manager, Owner or the Contractor shall be mailed or delivered to the address shown above. Actual receipt of notice by Surety, Construction Manager, Owner or Contractor, however, accomplished, shall be sufficient compliance as of the date received at the address shown above.
- 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein.
- 14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### DEFINITION

- 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor. materials or equipment for use in the performance the of Contract. Included within the definition. Construction Claimant is the to the extent it has Manager labor. furnished materials equipment for use in the performance of the Contract. The intent of this Bond shall be to include, without limitation, in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract. architectural engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished. In addition, the Surety shall be obligated to include in the payment of the Bond any interest, costs, or attorney's fees imposed on the Contractor under the provisions CGS 42-158(o) to which act specific reference is made.
- 15.2 Construction Contract: The agreement between the Construction Manager and the Contractor, identified above, including all Contract Documents and changes thereto.

In witness whereof the Contractor and Surety have executed this Bond on, 20 .			
CONTRACTOR	(Corporate Seal if applicable)	SURETY Company:	(Corporate Seal)
Signature:		Signature:	

Prebid RFI's shall be submitted in the email format below (with correct heading) and must be received within ten (10) calendar days of the bid due date.



# General Conditions of the Contract for Construction

for the following PROJECT: Naugatuck Industrial Commons

(Name and location or address)

### THE OWNER:

Borough of Naugatuck 229 Church Street Naugatuck, CT 06770 (Name, legal status and address)

#### THE CIVIL ENGINEER:

Civil 1 43 Sherman Hill Rd., Suite D-101 Woodbury, CT 06798(Name, legal status and address)

# THE SOIL MANAGEMENT/LICENSED ENVIRONMENTAL PROFESSIONAL(LEP):

Woodard & Curran Middlesex Corporate Center, 213 Court Street, 4<sup>th</sup> Floor Middletown, CT 06457

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# **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.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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#### ARTICLE 1 GENERAL PROVISIONS

# § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Civil Engineer/Soil Management/LEP. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

# § 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Civil Engineer/Soil Management/LEP or the Civil Engineer/Soil Management/LEP's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Civil Engineer/Soil Management/LEP or the Civil Engineer/Soil Management/LEP's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Civil Engineer/Soil Management/LEP shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Civil Engineer/Soil Management/LEP's duties.

#### § 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

# § 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

# § 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

# § 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Civil Engineer/Soil Management/LEP and the Civil Engineer/Soil Management/LEP's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

# § 1.1.8 Initial Decision Maker

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The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

# § 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 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

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binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

- § 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.
- § 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- § 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

# § 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Civil Engineer/Soil Management/LEPs.

# § 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

# § 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

- § 1.5.1 The Civil Engineer/Soil Management/LEP and the Civil Engineer/Soil Management/LEP's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Civil Engineer/Soil Management/LEP's or Civil Engineer/Soil Management/LEP's consultants' reserved rights.
- § 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Civil Engineer/Soil Management/LEP, and the Civil Engineer/Soil Management/LEP's consultants.

# § 1.6 Notice

- § 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.
- § 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

# § 1.7 Digital Data Use and Transmission

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<sup>TM</sup>–2013, Building

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Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

# § 1.8 Building Information Models Use and Reliance

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<sup>TM</sup>\_2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202<sup>TM</sup>\_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.

#### ARTICLE 2 OWNER

# § 2.1 General

- § 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Civil Engineer/Soil Management/LEP does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.
- § 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

# § 2.2 Evidence of the Owner's Financial Arrangements

- § 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.
- § 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.
- § 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.
- § 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

#### § 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

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assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

- § 2.3.2 The Owner shall retain an Civil Engineer/Soil Management/LEP lawfully licensed to practice Civil Engineer/Soil Management/LEPing, or an entity lawfully practicing Civil Engineer/Soil Management/LEPing, in the jurisdiction where the Project is located. That person or entity is identified as the Civil Engineer/Soil Management/LEP in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- § 2.3.3 If the employment of the Civil Engineer/Soil Management/LEP terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Civil Engineer/Soil Management/LEP.
- § 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.
- § 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.
- § 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

# § 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

# § 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Civil Engineer/Soil Management/LEP and the Civil Engineer/Soil Management/LEP may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Civil Engineer/Soil Management/LEP's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Civil Engineer/Soil Management/LEP, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

#### ARTICLE 3 CONTRACTOR

# § 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Civil Engineer/Soil Management/LEP in the Civil Engineer/Soil Management/LEP's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

# § 3.2 Review of Contract Documents and Field Conditions by Contractor

- § 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.
- § 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Civil Engineer/Soil Management/LEP any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Civil Engineer/Soil Management/LEP may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.
- § 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Civil Engineer/Soil Management/LEP any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Civil Engineer/Soil Management/LEP may require.
- § 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Civil Engineer/Soil Management/LEP issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Civil Engineer/Soil Management/LEP for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

# § 3.3 Supervision and Construction Procedures

- § 3.3.1 The Contractor shall coordinate, provide general supervision over and direct the Work, using the Contractor's best skill and attention. The Contractor shall be responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Civil Engineer/Soil Management/LEP, and shall propose alternative means, methods, techniques, sequences, or procedures. The Civil Engineer/Soil Management/LEP shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Civil Engineer/Soil Management/LEP objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.
- § 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.
- § 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

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#### § 3.4 Labor and Materials

- § 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- § 3.4.2 Except in the case of minor changes in the Work approved by the Civil Engineer/Soil Management/LEP in accordance with Section 3.12.8 or ordered by the Civil Engineer/Soil Management/LEP in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Civil Engineer/Soil Management/LEP and in accordance with a Change Order or Construction Change Directive.
- § 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

#### § 3.5 Warranty

- § 3.5.1 The Contractor warrants to the Owner and Civil Engineer/Soil Management/LEP that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Civil Engineer/Soil Management/LEP, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- § 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

#### § 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

# § 3.7 Permits, Fees, Notices and Compliance with Laws

- § 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.
- § 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.
- § 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

# § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Civil Engineer/Soil Management/LEP before conditions are further disturbed and in no event later than 14 days after first observance of the conditions. The Civil Engineer/Soil Management/LEP will promptly investigate such conditions and, if the Civil Engineer/Soil Management/LEP determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part

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of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Civil Engineer/Soil Management/LEP determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Civil Engineer/Soil Management/LEP shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Civil Engineer/Soil Management/LEP's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Civil Engineer/Soil Management/LEP. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

# § 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

# § 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.
- § 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

#### § 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent Project Manager, superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The Project Manager and superintendent shall represent the Contractor, and communications given to the Project Manager and superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Civil Engineer/Soil Management/LEP of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Civil Engineer/Soil Management/LEP may notify the Contractor, stating whether the Owner or the Civil Engineer/Soil Management/LEP (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Civil Engineer/Soil Management/LEP to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed Project Manager or superintendent to whom the Owner or Civil Engineer/Soil Management/LEP has made reasonable and timely objection. The Contractor shall not change the Project Manager or superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

#### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Civil Engineer/Soil Management/LEP's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly

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progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

- § 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Civil Engineer/Soil Management/LEP's approval. The Civil Engineer/Soil Management/LEP's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Civil Engineer/Soil Management/LEP reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.
- § 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Civil Engineer/Soil Management/LEP.

# § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Civil Engineer/Soil Management/LEP and Owner, and delivered to the Civil Engineer/Soil Management/LEP for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

# § 3.12 Shop Drawings, Product Data and Samples

- § 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.
- § 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- § 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.
- § 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Civil Engineer/Soil Management/LEP is subject to the limitations of Section 4.2.7. Informational submittals upon which the Civil Engineer/Soil Management/LEP is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Civil Engineer/Soil Management/LEP without action.
- § 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Civil Engineer/Soil Management/LEP, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Civil Engineer/Soil Management/LEP or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.
- § 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Civil Engineer/Soil Management/LEP that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- § 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Civil Engineer/Soil Management/LEP.

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- § 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Civil Engineer/Soil Management/LEP's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Civil Engineer/Soil Management/LEP of such deviation at the time of submittal and (1) the Civil Engineer/Soil Management/LEP has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Civil Engineer/Soil Management/LEP's approval thereof.
- § 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Civil Engineer/Soil Management/LEP on previous submittals. In the absence of such notice, the Civil Engineer/Soil Management/LEP's approval of a resubmission shall not apply to such revisions.
- § 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of Civil Engineer/Soil Management/LEPing unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.
- § 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Civil Engineer/Soil Management/LEP will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Civil Engineer/Soil Management/LEP. The Owner and the Civil Engineer/Soil Management/LEP shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Civil Engineer/Soil Management/LEP have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Civil Engineer/Soil Management/LEP will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.
- § 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Civil Engineer/Soil Management/LEP at the time and in the form specified by the Civil Engineer/Soil Management/LEP.

# § 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

#### § 3.14 Cutting and Patching

- § 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.
- § 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

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# § 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

# § 3.16 Access to Work

The Contractor shall provide the Owner and Civil Engineer/Soil Management/LEP with access to the Work in preparation and progress wherever located.

# § 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Civil Engineer/Soil Management/LEP harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Civil Engineer/Soil Management/LEP. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Civil Engineer/Soil Management/LEP.

# § 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, its agents, servants and employees, Civil Engineer/Soil Management/LEP, Civil Engineer/Soil Management/LEP's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, its Subcontractor, anyone directly or indirectly employed by them for purposes of carrying out the Work, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, its Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### ARTICLE 4 CIVIL ENGINEER/SOIL MANAGEMENT/LEP

# § 4.1 General

§ 4.1.1 The Civil Engineer/Soil Management/LEP is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Civil Engineer/Soil Management/LEP as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Civil Engineer/Soil Management/LEP. Consent shall not be unreasonably withheld.

# § 4.2 Administration of the Contract

§ 4.2.1 The Civil Engineer/Soil Management/LEP will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Civil Engineer/Soil Management/LEP issues the final Certificate for Payment. The Civil Engineer/Soil Management/LEP will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

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§ 4.2.2 The Civil Engineer/Soil Management/LEP will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, 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 Civil Engineer/Soil Management/LEP will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Civil Engineer/Soil Management/LEP will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Civil Engineer/Soil Management/LEP will 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. The Civil Engineer/Soil Management/LEP will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Civil Engineer/Soil Management/LEP will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

# § 4.2.4 Communications

The Owner and Contractor shall include the Civil Engineer/Soil Management/LEP in all communications that relate to or affect the Civil Engineer/Soil Management/LEP's services or professional responsibilities. The Owner shall promptly notify the Civil Engineer/Soil Management/LEP of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Civil Engineer/Soil Management/LEP's consultants shall be through the Civil Engineer/Soil Management/LEP. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Civil Engineer/Soil Management/LEP's evaluations of the Contractor's Applications for Payment, the Civil Engineer/Soil Management/LEP will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Civil Engineer/Soil Management/LEP has authority to reject Work that does not conform to the Contract Documents. Whenever the Civil Engineer/Soil Management/LEP considers it necessary or advisable, the Civil Engineer/Soil Management/LEP will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Civil Engineer/Soil Management/LEP 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 Civil Engineer/Soil Management/LEP to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Civil Engineer/Soil Management/LEP will 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. The Civil Engineer/Soil Management/LEP's action will be taken in accordance with the submittal schedule approved by the Civil Engineer/Soil Management/LEP or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Civil Engineer/Soil Management/LEP's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Civil Engineer/Soil Management/LEP's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Civil Engineer/Soil Management/LEP's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Civil Engineer/Soil Management/LEP's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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- **§ 4.2.8** The Civil Engineer/Soil Management/LEP will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Civil Engineer/Soil Management/LEP will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.
- § 4.2.9 The Civil Engineer/Soil Management/LEP will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.
- § 4.2.10 If the Owner and Civil Engineer/Soil Management/LEP agree, the Civil Engineer/Soil Management/LEP will provide one or more Project representatives to assist in carrying out the Civil Engineer/Soil Management/LEP's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.
- § 4.2.11 The Civil Engineer/Soil Management/LEP will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Civil Engineer/Soil Management/LEP's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- § 4.2.12 Interpretations and decisions of the Civil Engineer/Soil Management/LEP will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Civil Engineer/Soil Management/LEP will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.
- **§ 4.2.13** The Civil Engineer/Soil Management/LEP's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.
- § 4.2.14 The Civil Engineer/Soil Management/LEP will review and respond to requests for information about the Contract Documents. The Civil Engineer/Soil Management/LEP's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Civil Engineer/Soil Management/LEP will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

# ARTICLE 5 SUBCONTRACTORS

# § 5.1 Definitions

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- § 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.
- § 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

# § 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Civil Engineer/Soil Management/LEP of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Civil Engineer/Soil Management/LEP may notify the Contractor whether the Owner or the Civil Engineer/Soil Management/LEP (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Civil Engineer/Soil Management/LEP to provide notice within the 14-day period shall constitute notice of no reasonable objection.

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- § 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Civil Engineer/Soil Management/LEP has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
- § 5.2.3 If the Owner or Civil Engineer/Soil Management/LEP has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Civil Engineer/Soil Management/LEP has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.
- § 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Civil Engineer/Soil Management/LEP makes reasonable objection to such substitution.

# § 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Civil Engineer/Soil Management/LEP. Each subcontract agreement shall preserve and protect the rights of the Owner and Civil Engineer/Soil Management/LEP under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

# § 5.4 Contingent Assignment of Subcontracts

- § 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that
  - .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
  - .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

- § 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.
- § 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

# ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to

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those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

- § 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.
- § 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.
- **§ 6.1.4** Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

#### § 6.2 Mutual Responsibility

- § 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.
- § 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Civil Engineer/Soil Management/LEP of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Civil Engineer/Soil Management/LEP of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.
- § 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.
- § 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.
- **§ 6.2.5** The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

# § 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Civil Engineer/Soil Management/LEP will allocate the cost among those responsible.

#### ARTICLE 7 CHANGES IN THE WORK

# § 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

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- § 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Civil Engineer/Soil Management/LEP. A Construction Change Directive requires agreement by the Owner and Civil Engineer/Soil Management/LEP and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Civil Engineer/Soil Management/LEP alone.
- § 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

# § 7.2 Change Orders

- § 7.2.1 A Change Order is a written instrument prepared by the Civil Engineer/Soil Management/LEP and signed by the Owner, Contractor, and Civil Engineer/Soil Management/LEP stating their agreement upon all of the following:
  - .1 The change in the Work;
  - .2 The amount of the adjustment, if any, in the Contract Sum; and
  - .3 The extent of the adjustment, if any, in the Contract Time.

# § 7.3 Construction Change Directives

- § 7.3.1 A Construction Change Directive is a written order prepared by the Civil Engineer/Soil Management/LEP and signed by the Owner and Civil Engineer/Soil Management/LEP, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, 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.
- § 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
- § 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
  - .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
  - .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
  - .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
  - .4 As provided in Section 7.3.4.
- § 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Civil Engineer/Soil Management/LEP shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Civil Engineer/Soil Management/LEP may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:
  - .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Civil Engineer/Soil Management/LEP;
  - .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed:
  - .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
  - .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
  - .5 Costs of supervision and field office personnel directly attributable to the change.
- § 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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- § 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Civil Engineer/Soil Management/LEP of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
- § 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.
- § 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Civil Engineer/Soil Management/LEP. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.
- § 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Civil Engineer/Soil Management/LEP will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Civil Engineer/Soil Management/LEP determines, in the Civil Engineer/Soil Management/LEP's professional judgment, to be reasonably justified. The Civil Engineer/Soil Management/LEP's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.
- § 7.3.10 When the Owner and Contractor agree with a determination made by the Civil Engineer/Soil Management/LEP concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Civil Engineer/Soil Management/LEP will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

# § 7.4 Minor Changes in the Work

The Civil Engineer/Soil Management/LEP 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. The Civil Engineer/Soil Management/LEP's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Civil Engineer/Soil Management/LEP and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Civil Engineer/Soil Management/LEP's order for a minor change without prior notice to the Civil Engineer/Soil Management/LEP that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

### ARTICLE 8 TIME

# § 8.1 Definitions

- § 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
- § 8.1.2 The date of commencement of the Work is the date established in the Agreement.
- § 8.1.3 The date of Substantial Completion is the date certified by the Civil Engineer/Soil Management/LEP in accordance with Section 9.8.
- § 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

#### § 8.2 Progress and Completion

- § 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- § 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

#### § 8.3 Delays and Extensions of Time

- § 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Civil Engineer/Soil Management/LEP, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Civil Engineer/Soil Management/LEP determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Civil Engineer/Soil Management/LEP may determine.
- § 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.
- § 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

# ARTICLE 9 PAYMENTS AND COMPLETION

#### § 9.1 Contract Sum

- § 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.
- § 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

#### § 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Civil Engineer/Soil Management/LEP before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Civil Engineer/Soil Management/LEP. This schedule, unless objected to by the Civil Engineer/Soil Management/LEP, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Civil Engineer/Soil Management/LEP and supported by such data to substantiate its accuracy as the Civil Engineer/Soil Management/LEP may require, and unless objected to by the Civil Engineer/Soil Management/LEP, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

# § 9.3 Applications for Payment

- § 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Civil Engineer/Soil Management/LEP an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Civil Engineer/Soil Management/LEP require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.
- § 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Civil Engineer/Soil Management/LEP, but not yet included in Change Orders.
- § 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.
- § 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

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compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 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 encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

# § 9.4 Certificates for Payment

§ 9.4.1 The Civil Engineer/Soil Management/LEP will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Civil Engineer/Soil Management/LEP determines is properly due, and notify the Contractor and Owner of the Civil Engineer/Soil Management/LEP's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Civil Engineer/Soil Management/LEP's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Civil Engineer/Soil Management/LEP to the Owner, based on the Civil Engineer/Soil Management/LEP's evaluation of the Work and the data in the Application for Payment, that, to the best of the Civil Engineer/Soil Management/LEP'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 an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Civil Engineer/Soil Management/LEP. However, the issuance of a Certificate for Payment will not be a representation that the Civil Engineer/Soil Management/LEP 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) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

# § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Civil Engineer/Soil Management/LEP may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Civil Engineer/Soil Management/LEP's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Civil Engineer/Soil Management/LEP is unable to certify payment in the amount of the Application, the Civil Engineer/Soil Management/LEP will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Civil Engineer/Soil Management/LEP cannot agree on a revised amount, the Civil Engineer/Soil Management/LEP will promptly issue a Certificate for Payment for the amount for which the Civil Engineer/Soil Management/LEP is able to make such representations to the Owner. The Civil Engineer/Soil Management/LEP may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Civil Engineer/Soil Management/LEP's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

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- repeated failure to carry out the Work in accordance with the Contract Documents.
- § 9.5.2 When either party disputes the Civil Engineer/Soil Management/LEP's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.
- § 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.
- § 9.5.4 If the Civil Engineer/Soil Management/LEP withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Civil Engineer/Soil Management/LEP and the Contractor shall reflect such payment on its next Application for Payment.

# § 9.6 Progress Payments

- § 9.6.1 After the Civil Engineer/Soil Management/LEP has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Civil Engineer/Soil Management/LEP.
- § 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- § 9.6.3 The Civil Engineer/Soil Management/LEP will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Civil Engineer/Soil Management/LEP and Owner on account of portions of the Work done by such Subcontractor.
- § 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Civil Engineer/Soil Management/LEP shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.
- § 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.
- § 9.6.6 A Certificate 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 Contract Documents.
- § 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.
- § 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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# § 9.7 Failure of Payment

If the Civil Engineer/Soil Management/LEP does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Civil Engineer/Soil Management/LEP or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Civil Engineer/Soil Management/LEP, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

## § 9.8 Substantial Completion

- § 9.8.1 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 that the Owner can occupy or utilize the Work for its intended use.
- § 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Civil Engineer/Soil Management/LEP a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
- § 9.8.3 Upon receipt of the Contractor's list, the Civil Engineer/Soil Management/LEP will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Civil Engineer/Soil Management/LEP's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Civil Engineer/Soil Management/LEP. In such case, the Contractor shall then submit a request for another inspection by the Civil Engineer/Soil Management/LEP to determine Substantial Completion.
- § 9.8.4 When the Work or designated portion thereof is substantially complete, the Civil Engineer/Soil Management/LEP will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and 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.
- § 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

# § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Civil Engineer/Soil Management/LEP as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Civil Engineer/Soil Management/LEP.

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§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Civil Engineer/Soil Management/LEP shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

# § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Civil Engineer/Soil Management/LEP will promptly make such inspection. When the Civil Engineer/Soil Management/LEP finds the Work acceptable under the Contract Documents and the Contract fully performed, the Civil Engineer/Soil Management/LEP will promptly issue a final Certificate for Payment stating that to the best of the Civil Engineer/Soil Management/LEP's knowledge, information and belief, and on the basis of the Civil Engineer/Soil Management/LEP's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Civil Engineer/Soil Management/LEP's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Civil Engineer/Soil Management/LEP (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Civil Engineer/Soil Management/LEP so confirms, the Owner shall, upon application by the Contractor and certification by the Civil Engineer/Soil Management/LEP, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Civil Engineer/Soil Management/LEP prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a 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.

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## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

# § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

# § 10.2 Safety of Persons and Property

- § 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to
  - employees on the Work and other persons who may be affected thereby; .1
  - .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
  - .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- § 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.
- § 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.
- § 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- § 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, its Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Civil Engineer/Soil Management/LEP or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.
- § 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be to oversee and coordinate the safety plans intended to promote the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Civil Engineer/Soil Management/LEP.
- § 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

## § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of a negligent act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

## § 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or

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polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Civil Engineer/Soil Management/LEP of the condition.

- § 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Civil Engineer/Soil Management/LEP the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Civil Engineer/Soil Management/LEP will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Civil Engineer/Soil Management/LEP has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Civil Engineer/Soil Management/LEP have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.
- § 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Civil Engineer/Soil Management/LEP, Civil Engineer/Soil Management/LEP's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.
- § 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.
- § 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.
- § 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

## § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## ARTICLE 11 INSURANCE AND BONDS

# § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Civil Engineer/Soil Management/LEP, and Civil Engineer/Soil Management/LEP's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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- § 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.
- § 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.
- § 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

## § 11.2 Owner's Insurance

- § 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.
- § 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.
- § 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

# § 11.3 Waivers of Subrogation

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§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Civil Engineer/Soil Management/LEP and Civil Engineer/Soil Management/LEP's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Civil Engineer/Soil Management/LEP, Civil Engineer/Soil Management/LEP's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive

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claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

## § 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Civil Engineer/Soil Management/LEP for loss of use of the Owner's property, due to fire or other hazards however caused.

# §11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Civil Engineer/Soil Management/LEP and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Civil Engineer/Soil Management/LEP and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

#### ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Civil Engineer/Soil Management/LEP's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Civil Engineer/Soil Management/LEP, be uncovered for the Civil Engineer/Soil Management/LEP's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Civil Engineer/Soil Management/LEP has not specifically requested to examine prior to its being covered, the Civil Engineer/Soil Management/LEP may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

# § 12.2 Correction of Work

## § 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Civil Engineer/Soil Management/LEP or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not

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fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Civil Engineer/Soil Management/LEP's services and expenses made necessary thereby, shall be at the Contractor's expense.

## § 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Civil Engineer/Soil Management/LEP, the Owner may correct it in accordance with Section 2.5.

- § 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.
- § 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.
- § 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- § 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.
- § 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

# § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

#### ARTICLE 13 MISCELLANEOUS PROVISIONS

# § 13.1 Governing Law

The Contract shall be governed by the law of the State of Connecticut, 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 15.4.

## § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

# § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Civil Engineer/Soil Management/LEP, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

# § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Civil Engineer/Soil Management/LEP timely notice of when and where tests and inspections are to be made so that the Civil Engineer/Soil Management/LEP may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Civil Engineer/Soil Management/LEP, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Civil Engineer/Soil Management/LEP will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Civil Engineer/Soil Management/LEP of when and where tests and inspections are to be made so that the Civil Engineer/Soil Management/LEP may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Civil Engineer/Soil Management/LEP's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Civil Engineer/Soil Management/LEP.

§ 13.4.5 If the Civil Engineer/Soil Management/LEP is to observe tests, inspections, or approvals required by the Contract Documents, the Civil Engineer/Soil Management/LEP will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

#### § 13.5 Interest

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Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

# § 14.1 Termination by the Contractor

- § 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:
  - .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
  - **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
  - .3 Because the Civil Engineer/Soil Management/LEP has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
  - .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.
- § 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.
- § 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Civil Engineer/Soil Management/LEP, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.
- § 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Civil Engineer/Soil Management/LEP, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

## § 14.2 Termination by the Owner for Cause

- § 14.2.1 The Owner may terminate the Contract if the Contractor
  - .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
  - .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
  - .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
  - .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.
- § 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Civil Engineer/Soil Management/LEP that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
  - .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
  - .2 Accept assignment of subcontracts pursuant to Section 5.4; and
  - .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- § 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

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§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Civil Engineer/Soil Management/LEP's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

# § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

## § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

- § 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall
  - .1 cease operations as directed by the Owner in the notice;
  - .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work;
  - .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

### ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

# § 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

# § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the 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 Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

## § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Civil Engineer/Soil Management/LEP, if the Civil Engineer/Soil Management/LEP is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

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§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

# § 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Civil Engineer/Soil Management/LEP will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

# § 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

## § 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

# § 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for indirect, incidental and consequential damages arising out of or relating to this Contract. This mutual waiver includes, but is not limited to:

- damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such
- damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all indirect, incidental and consequential damages due to either party's termination in accordance with Article 14.

## § 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Civil Engineer/Soil Management/LEP will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

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- § 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.
- § 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.
- § 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Civil Engineer/Soil Management/LEP, if the Civil Engineer/Soil Management/LEP is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.
- § 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.
- § 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.
- § 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.
- § 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

## § 15.3 Mediation

- § 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.
- § 15.3.2 The parties shall endeavor to resolve their Claims 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 the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings 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 is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.
- § 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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§ 15.3.4 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.

## § 15.4 Arbitration

- § 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim 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 the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.
- § 15.4.1.1 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 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.
- § 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
- § 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

## § 15.4.4 Consolidation or Joinder

- § 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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).
- § 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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.
- § 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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## PAGE 1

for the following PROJECT: Naugatuck Industrial Commons

## THE OWNER:

Borough of Naugatuck 229 Church Street Naugatuck, CT 06770

## THE ARCHITECT:CIVIL ENGINEER:

Civil 1

43 Sherman Hill Rd., Suite D-101

(Name, Woodbury, CT 06798(Name, legal status and address)

## THE SOIL MANAGEMENT/LICENSED ENVIRONMENTAL PROFESSIONAL(LEP):

Woodard & Curran Middlesex Corporate Center, 213 Court Street, 4th Floor Middletown, CT 06457

## ARCHITECTCIVIL ENGINEER/SOIL MANAGEMENT/LEP PAGE 3

## ARCHITECTCIVIL ENGINEER/SOIL MANAGEMENT/LEP

Architect, Civil Engineer/Soil Management/LEP, Definition of

Architect, Civil Engineer/Soil Management/LEP, Extent of Authority

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Architect, Civil Engineer/Soil Management/LEP, Limitations of Authority and Responsibility Architect's-Civil Engineer/Soil Management/LEP's Additional Services and Expenses Architect's-Civil Engineer/Soil Management/LEP's Administration of the Contract Architect's Civil Engineer/Soil Management/LEP's Approvals Architect's Civil Engineer/Soil Management/LEP's Authority to Reject Work Architect's Civil Engineer/Soil Management/LEP's Copyright Architect's Civil Engineer/Soil Management/LEP's Decisions Architect's-Civil Engineer/Soil Management/LEP's Inspections Architect's Civil Engineer/Soil Management/LEP's Instructions Architect's Civil Engineer/Soil Management/LEP's Interpretations Architect's Civil Engineer/Soil Management/LEP's Project Representative Architect's Civil Engineer/Soil Management/LEP's Relationship with Contractor Architect's Civil Engineer/Soil Management/LEP's Relationship with Subcontractors Architect's Civil Engineer/Soil Management/LEP's Representations

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Waiver of Claims by the <u>ArchitectCivil Engineer/Soil Management/LEP</u> **PAGE 11** 

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Civil Engineer/Soil Management/LEP. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

...

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's Civil Engineer/Soil Management/LEP or the Civil Engineer/Soil Management/LEP's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's Civil Engineer/Soil Management/LEP or the Civil Engineer/Soil Management/LEP's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect Civil Engineer/Soil Management/LEP shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's Civil Engineer/Soil Management/LEP's duties.

• • •

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's Civil Engineer/Soil Management/LEP and the Civil Engineer/Soil Management/LEP's consultants under their respective professional services agreements.

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Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

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Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects. Civil Engineer/Soil Management/LEPs.

...

- § 1.5.1 The Architect and the Architect's-Civil Engineer/Soil Management/LEP and the Civil Engineer/Soil

  Management/LEP's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's-Civil Engineer/Soil Management/LEP's consultants' reserved rights.
- § 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's-Civil Engineer/Soil Management/LEP, and the Civil Engineer/Soil Management/LEP's consultants.

...

The parties shall agree upon written protocols governing the transmission and use of, and reliance on, of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203<sup>TM</sup>\_2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

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Any use of, or reliance on, all or a portion of a building information model without agreement to written-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<sup>TM</sup>—2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202<sup>TM</sup>—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.

...

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the <a href="https://docs.not.have.such authority.">Architect Civil Engineer/Soil Management/LEP</a> does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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§ 2.3.2 The Owner shall retain an architect Civil Engineer/Soil Management/LEP lawfully licensed to practice architecture, Civil Engineer/Soil Management/LEPing, or an entity lawfully practicing architecture, Civil Engineer/Soil Management/LEPing, in the jurisdiction where the Project is located. That person or entity is identified as the Architect Civil Engineer/Soil Management/LEP in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect-Civil Engineer/Soil Management/LEP terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect. Civil Engineer/Soil Management/LEP.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect Civil Engineer/Soil Management/LEP and the Civil Engineer/Soil Management/LEP may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's-Civil Engineer/Soil Management/LEP's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, Civil Engineer/Soil Management/LEP, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

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§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's-Civil Engineer/Soil Management/LEP in the Civil Engineer/Soil Management/LEP's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

...

- § 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect-Civil Engineer/Soil Management/LEP any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect-Civil Engineer/Soil Management/LEP may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.
- § 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect Civil Engineer/Soil Management/LEP any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect Civil Engineer/Soil Management/LEP may require.
- § 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect—Civil Engineer/Soil Management/LEP issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect—Civil Engineer/Soil Management/LEP for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

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§ 3.3.1 The Contractor shall supervise coordinate, provide general supervision over 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 under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, Civil Engineer/Soil Management/LEP, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect Civil Engineer/Soil Management/LEP shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect Civil Engineer/Soil Management/LEP objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect-Civil Engineer/Soil Management/LEP in accordance with Section 3.12.8 or ordered by the Architect-Civil Engineer/Soil Management/LEP in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect-Civil Engineer/Soil Management/LEP and in accordance with a Change Order or Construction Change Directive.

...

§ 3.5.1 The Contractor warrants to the Owner and Architect-Civil Engineer/Soil Management/LEP that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, Civil Engineer/Soil Management/LEP, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

...

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect Civil Engineer/Soil Management/LEP before conditions are further disturbed and in no event later than 14 days after first observance of the conditions. The Architect Civil Engineer/Soil Management/LEP will promptly investigate such conditions and, if the Architect Civil Engineer/Soil Management/LEP determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect Civil Engineer/Soil Management/LEP determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect Civil Engineer/Soil Management/LEP shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's Civil Engineer/Soil Engineer/Soil Management/LEP shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's Civil Engineer/Soil Engineer/Soil Management/LEP's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Civil Engineer/Soil Management/LEP. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those

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remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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- § 3.9.1 The Contractor shall employ a competent <u>Project Manager</u>, superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The <u>Project Manager and</u> superintendent shall represent the Contractor, and communications given to the <u>Project Manager and</u> superintendent shall be as binding as if given to the Contractor.
- § 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect Civil Engineer/Soil Management/LEP of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect Civil Engineer/Soil Management/LEP may notify the Contractor, stating whether the Owner or the Architect Civil Engineer/Soil Management/LEP (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect Civil Engineer/Soil Management/LEP to provide notice within the 14-day period shall constitute notice of no reasonable objection.
- § 3.9.3 The Contractor shall not employ a proposed <u>Project Manager or</u> superintendent to whom the Owner or <u>Architect-Civil Engineer/Soil Management/LEP</u> has made reasonable and timely objection. The Contractor shall not change the <u>Project Manager or</u> superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

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- § 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's Civil Engineer/Soil Management/LEP's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.
- § 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's Civil Engineer/Soil Management/LEP's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect-Civil Engineer/Soil Management/LEP reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.
- § 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect. Civil Engineer/Soil Management/LEP.

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The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the <a href="https://documents.com/Architect-Civil Engineer/Soil Management/LEP">https://documents.com/Architect-Civil Engineer/Soil Management/LEP</a> and Owner, and delivered to the <a href="https://documents.com/Architect-Civil Engineer/Soil Management/LEP">https://documents.com/Architect-Civil Engineer/Soil Management/LEP</a> for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

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§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the <a href="Architect-Civil Engineer/Soil Management/LEP">Architect-Civil Engineer/Soil Management/LEP</a> is subject to the limitations of Section 4.2.7. Informational

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submittals upon which the <u>Architect-Civil Engineer/Soil Management/LEP</u> is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the <u>Architect-Civil Engineer/Soil Management/LEP</u> without action.

- § 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Civil Engineer/Soil Management/LEP, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect Civil Engineer/Soil Management/LEP or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.
- § 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect Civil Engineer/Soil Management/LEP that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- § 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. Civil Engineer/Soil Management/LEP.
- § 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's-Civil Engineer/Soil Management/LEP's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect Civil Engineer/Soil Management/LEP of such deviation at the time of submittal and (1) the Architect Civil Engineer/Soil Management/LEP has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's-Civil Engineer/Soil Management/LEP's approval thereof.
- § 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect-Civil Engineer/Soil Management/LEP on previous submittals. In the absence of such notice, the Architect's Civil Engineer/Soil Management/LEP's approval of a resubmission shall not apply to such revisions.
- § 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering-Civil Engineer/Soil Management/LEPing unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.
- § 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect Civil Engineer/Soil Management/LEP will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. Civil Engineer/Soil Management/LEP. The Owner and the Architect-Civil Engineer/Soil Management/LEP shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect-Civil Engineer/Soil Management/LEP have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect-Civil Engineer/Soil Management/LEP will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

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§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect Civil Engineer/Soil Management/LEP at the time and in the form specified by the Architect. Civil Engineer/Soil Management/LEP.

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The Contractor shall provide the Owner and Architect Civil Engineer/Soil Management/LEP with access to the Work in preparation and progress wherever located.

...

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect Civil Engineer/Soil Management/LEP harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. Civil Engineer/Soil Management/LEP. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect. Civil Engineer/Soil Management/LEP.

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- § 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's its agents, servants and employees, Civil Engineer/Soil Management/LEP, Civil Engineer/Soil Management/LEP's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a its Subcontractor, anyone directly or indirectly employed by them, them for purposes of carrying out the Work, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.
- § 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a-its\_Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT

# ARTICLE 4 CIVIL ENGINEER/SOIL MANAGEMENT/LEP

- § 4.1.1 The Architect Civil Engineer/Soil Management/LEP is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.
- § 4.1.2 Duties, responsibilities, and limitations of authority of the Architect-Civil Engineer/Soil Management/LEP as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Civil Engineer/Soil Management/LEP. Consent shall not be unreasonably withheld.

...

§ 4.2.1 The Architect-Civil Engineer/Soil Management/LEP will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect-Civil Engineer/Soil Management/LEP issues the final Certificate for Payment. The Architect-Civil Engineer/Soil Management/LEP will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

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- § 4.2.2 The Architect Civil Engineer/Soil Management/LEP will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, 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 Civil Engineer/Soil Management/LEP will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect Civil Engineer/Soil Management/LEP will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.
- § 4.2.3 On the basis of the site visits, the Architect Civil Engineer/Soil Management/LEP will 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. The Architect-Civil Engineer/Soil Management/LEP will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect-Civil Engineer/Soil Management/LEP will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

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The Owner and Contractor shall include the Architect-Civil Engineer/Soil Management/LEP in all communications that relate to or affect the Architect's Civil Engineer/Soil Management/LEP's services or professional responsibilities. The Owner shall promptly notify the Architect-Civil Engineer/Soil Management/LEP 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-Civil Engineer/Soil Management/LEP's consultants shall be through the Architect. Civil Engineer/Soil Management/LEP. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

- § 4.2.5 Based on the Architect's Civil Engineer/Soil Management/LEP's evaluations of the Contractor's Applications for Payment, the Architect Civil Engineer/Soil Management/LEP will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.
- § 4.2.6 The Architect Civil Engineer/Soil Management/LEP has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect Civil Engineer/Soil Management/LEP considers it necessary or advisable, the Architect Civil Engineer/Soil Management/LEP will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect Civil Engineer/Soil Management/LEP 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 Civil Engineer/Soil Management/LEP to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.
- § 4.2.7 The Architect-Civil Engineer/Soil Management/LEP will 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. The Architect's-Civil Engineer/Soil Management/LEP's action will be taken in accordance with the submittal schedule approved by the Architect Civil Engineer/Soil Management/LEP or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's-Civil Engineer/Soil Management/LEP's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's-Civil Engineer/Soil Management/LEP's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's-Civil Engineer/Soil Management/LEP's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The

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Architect's Civil Engineer/Soil Management/LEP's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- **§ 4.2.8** The <u>Architect-Civil Engineer/Soil Management/LEP</u> will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The <u>Architect-Civil Engineer/Soil Management/LEP</u> will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.
- § 4.2.9 The Architect Civil Engineer/Soil Management/LEP will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.
- § 4.2.10 If the Owner and Architect agree, the Architect Civil Engineer/Soil Management/LEP agree, the Civil Engineer/Soil Management/LEP will provide one or more Project representatives to assist in carrying out the Architect's Civil Engineer/Soil Management/LEP's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.
- § 4.2.11 The Architect-Civil Engineer/Soil Management/LEP will 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 Civil Engineer/Soil Management/LEP's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- § 4.2.12 Interpretations and decisions of the Architect Civil Engineer/Soil Management/LEP will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect Civil Engineer/Soil Management/LEP will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.
- **§ 4.2.13** The <u>Architect's-Civil Engineer/Soil Management/LEP's</u> decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.
- § 4.2.14 The Architect-Civil Engineer/Soil Management/LEP will review and respond to requests for information about the Contract Documents. The Architect's Civil Engineer/Soil Management/LEP's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect-Civil Engineer/Soil Management/LEP will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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- § 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect-Civil Engineer/Soil Management/LEP of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect-Civil Engineer/Soil Management/LEP may notify the Contractor whether the Owner or the Architect-Civil Engineer/Soil Management/LEP (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect-Civil Engineer/Soil Management/LEP to provide notice within the 14-day period shall constitute notice of no reasonable objection.
- § 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect Civil Engineer/Soil Management/LEP has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
- § 5.2.3 If the Owner or Architect Civil Engineer/Soil Management/LEP has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect Civil Engineer/Soil Management/LEP has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any,

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occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect-Civil Engineer/Soil Management/LEP makes reasonable objection to such substitution.

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By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Civil Engineer/Soil Management/LEP. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect Civil Engineer/Soil Management/LEP under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect Civil Engineer/Soil Management/LEP of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect Civil Engineer/Soil Management/LEP of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

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If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the <u>Architect Civil Engineer/Soil Management/LEP</u> will allocate the cost among those responsible.

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§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. Civil Engineer/Soil Management/LEP. A Construction Change Directive requires agreement by the Owner and Architect Civil Engineer/Soil Management/LEP and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect-Civil Engineer/Soil Management/LEP alone.

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§ 7.2.1 A Change Order is a written instrument prepared by the Architect-Civil Engineer/Soil Management/LEP and signed by the Owner, Contractor, and Architect-Civil Engineer/Soil Management/LEP stating their agreement upon all of the following:

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§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect-Civil Engineer/Soil Management/LEP and signed by the Owner and Architect, Civil Engineer/Soil Management/LEP, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, 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.

...

- § 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect-Civil Engineer/Soil Management/LEP shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect-Civil Engineer/Soil Management/LEP may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:
  - .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the <u>Architect;Civil</u> Engineer/Soil Management/LEP;

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§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect-Civil Engineer/Soil Management/LEP of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

...

- § 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. Civil Engineer/Soil

  Management/LEP. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.
- § 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect Civil Engineer/Soil Management/LEP will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect Civil Engineer/Soil Management/LEP determines, in the Architect's Civil Engineer/Soil Management/LEP's professional judgment, to be reasonably justified. The Architect's Civil Engineer/Soil Management/LEP's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.
- § 7.3.10 When the Owner and Contractor agree with a determination made by the Architect-Civil Engineer/Soil Management/LEP concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect-Civil Engineer/Soil Management/LEP will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

...

The Architect Civil Engineer/Soil Management/LEP 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. The Architect's Civil Engineer/Soil Management/LEP's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect-Civil Engineer/Soil Management/LEP and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's-Civil Engineer/Soil

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Management/LEP's order for a minor change without prior notice to the Architect-Civil Engineer/Soil Management/LEP that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect Civil Engineer/Soil Management/LEP in accordance with Section 9.8.

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§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, Civil Engineer/Soil Management/LEP, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect Civil Engineer/Soil Management/LEP determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect-Civil Engineer/Soil Management/LEP may determine.

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect Civil Engineer/Soil Management/LEP before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. Civil Engineer/Soil Management/LEP. This schedule, unless objected to by the Architect, Civil Engineer/Soil Management/LEP, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect Civil Engineer/Soil Management/LEP and supported by such data to substantiate its accuracy as the Architect Civil Engineer/Soil Management/LEP may require, and unless objected to by the Architect, Civil Engineer/Soil Management/LEP, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

- § 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect Civil Engineer/Soil Management/LEP an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect-Civil Engineer/Soil Management/LEP require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.
- § 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, Civil Engineer/Soil Management/LEP, but not yet included in Change Orders. PAGE 28
- § 9.4.1 The Architect Civil Engineer/Soil Management/LEP will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect-Civil Engineer/Soil Management/LEP determines is properly due, and notify the Contractor and Owner of the Architect's-Civil Engineer/Soil Management/LEP's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's-Civil Engineer/Soil Management/LEP's reason for withholding certification in whole as provided in Section 9.5.1.
- § 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect-Civil Engineer/Soil Management/LEP to the Owner, based on the Architect's Civil Engineer/Soil Management/LEP's evaluation of the

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Work and the data in the Application for Payment, that, to the best of the Architect's-Civil Engineer/Soil Management/LEP'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 an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. Civil Engineer/Soil Management/LEP. However, the issuance of a Certificate for Payment will not be a representation that the Architect-Civil Engineer/Soil Management/LEP 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) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

...

§ 9.5.1 The Architect-Civil Engineer/Soil Management/LEP may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's Civil Engineer/Soil

Management/LEP's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect-Civil Engineer/Soil Management/LEP is unable to certify payment in the amount of the Application, the Architect-Civil Engineer/Soil Management/LEP will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect-Civil Engineer/Soil Management/LEP cannot agree on a revised amount, the Architect-Civil Engineer/Soil Management/LEP will promptly issue a Certificate for Payment for the amount for which the Architect-Civil Engineer/Soil Management/LEP is able to make such representations to the Owner. The Architect-Civil Engineer/Soil Management/LEP may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's-Civil Engineer/Soil Management/LEP's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

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§ 9.5.2 When either party disputes the Architect's Civil Engineer/Soil Management/LEP's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

...

§ 9.5.4 If the Architect-Civil Engineer/Soil Management/LEP withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect Civil Engineer/Soil Management/LEP and the Contractor shall reflect such payment on its next Application for Payment.

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§ 9.6.1 After the Architect Civil Engineer/Soil Management/LEP has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Civil Engineer/Soil Management/LEP.

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§ 9.6.3 The Architect Civil Engineer/Soil Management/LEP will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect Civil Engineer/Soil Management/LEP and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor

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fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect Civil Engineer/Soil Management/LEP shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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If the Architect Civil Engineer/Soil Management/LEP does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect-Civil Engineer/Soil Management/LEP or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, Civil Engineer/Soil Management/LEP, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

- § 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect-Civil Engineer/Soil Management/LEP a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
- § 9.8.3 Upon receipt of the Contractor's list, the Architect-Civil Engineer/Soil Management/LEP will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's Civil Engineer/Soil Management/LEP's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. Civil Engineer/Soil Management/LEP. In such case, the Contractor shall then submit a request for another inspection by the Architect Civil Engineer/Soil Management/LEP to determine Substantial Completion.
- § 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect-Civil Engineer/Soil Management/LEP will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and 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.

- § 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect-Civil Engineer/Soil Management/LEP as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. Civil Engineer/Soil Management/LEP.
- § 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect-Civil Engineer/Soil Management/LEP shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

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- § 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect-Civil Engineer/Soil Management/LEP will promptly make such inspection. When the Architect-Civil Engineer/Soil Management/LEP finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect-Civil Engineer/Soil Management/LEP will promptly issue a final Certificate for Payment stating that to the best of the Architect's-Civil Engineer/Soil Management/LEP's knowledge, information and belief, and on the basis of the Architect's-Civil Engineer/Soil Management/LEP's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's-Civil Engineer/Soil Management/LEP's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.
- § 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect-Civil Engineer/Soil Management/LEP (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.
- § 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect-Civil Engineer/Soil Management/LEP so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, Civil Engineer/Soil Management/LEP, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect-Civil Engineer/Soil Management/LEP prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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- § 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a-its Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect-Civil Engineer/Soil Management/LEP or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.
- § 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be to oversee and coordinate the safety plans intended to promote the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect. Civil Engineer/Soil Management/LEP.

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User Notes:

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If either party suffers injury or damage to person or property because of an-a negligent act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

...

- § 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect-Civil Engineer/Soil Management/LEP of the condition.
- § 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect-Civil Engineer/Soil Management/LEP the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect-Civil Engineer/Soil Management/LEP will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect-Civil Engineer/Soil Management/LEP has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect-Civil Engineer/Soil Management/LEP have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.
- § 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's Civil Engineer/Soil Management/LEP, Civil Engineer/Soil Management/LEP's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

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- § 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's Civil Engineer/Soil Management/LEP, and Civil Engineer/Soil Management/LEP's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

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§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's-Civil Engineer/Soil Management/LEP and Civil Engineer/Soil Management/LEP's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or

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Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's Civil Engineer/Soil Management/LEP, Civil Engineer/Soil Management/LEP's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect-Civil Engineer/Soil Management/LEP for loss of use of the Owner's property, due to fire or other hazards however caused.

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§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect-Civil Engineer/Soil Management/LEP and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect-Civil Engineer/Soil Management/LEP and Contractor shall make payments to their consultants and Subcontractors in similar manner.

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- § 12.1.1 If a portion of the Work is covered contrary to the Architect's Civil Engineer/Soil Management/LEP's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, Civil Engineer/Soil Management/LEP, be uncovered for the Architect's Civil Engineer/Soil Management/LEP's examination and be replaced at the Contractor's expense without change in the Contract Time.
- § 12.1.2 If a portion of the Work has been covered that the Architect Civil Engineer/Soil Management/LEP has not specifically requested to examine prior to its being covered, the Architect Civil Engineer/Soil Management/LEP may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

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The Contractor shall promptly correct Work rejected by the <u>Architect Civil Engineer/Soil Management/LEP</u> or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the <u>Architect's Civil Engineer/Soil Management/LEP's</u> services and expenses made necessary thereby, shall be at the Contractor's expense. **PAGE 36** 

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during

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that period after receipt of notice from the Owner or Architect, Civil Engineer/Soil Management/LEP, the Owner may correct it in accordance with Section 2.5.

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The Contract shall be governed by the law of the place where the Project is located, State of Connecticut, 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 15.4.

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§ 13.3.2 No action or failure to act by the Owner, Architect, Civil Engineer/Soil Management/LEP, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

. . .

- § 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect Civil Engineer/Soil Management/LEP timely notice of when and where tests and inspections are to be made so that the Architect Civil Engineer/Soil Management/LEP may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.
- § 13.4.2 If the Architect, Civil Engineer/Soil Management/LEP, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect Civil Engineer/Soil Management/LEP will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect Civil Engineer/Soil Management/LEP of when and where tests and inspections are to be made so that the Architect Civil Engineer/Soil Management/LEP may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.
- § 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the <a href="Architect's-Civil Engineer/Soil Management/LEP's">Architect's-Civil Engineer/Soil Management/LEP's</a> services and expenses, shall be at the Contractor's expense.
- § 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the <u>Architect.Civil Engineer/Soil Management/LEP</u>.
- § 13.4.5 If the Architect-Civil Engineer/Soil Management/LEP is to observe tests, inspections, or approvals required by the Contract Documents, the Architect-Civil Engineer/Soil Management/LEP will do so promptly and, where practicable, at the normal place of testing.

  PAGE 38
  - .3 Because the <u>Architect Civil Engineer/Soil Management/LEP</u> has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

...

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- § 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, Civil Engineer/Soil Management/LEP, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.
- § 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, Civil Engineer/Soil Management/LEP, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

...

- **§ 14.2.2** When any of the reasons described in Section 14.2.1 exist, and upon certification by the <u>Architect-Civil Engineer/Soil Management/LEP</u> that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety: **PAGE 39**
- § 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's-Civil Engineer/Soil Management/LEP's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

...

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect Civil Engineer/Soil Management/LEP, if the Civil Engineer/Soil Management/LEP is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

PAGE 40

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The <u>Architect Civil Engineer/Soil Management/LEP</u> will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

١..

The Contractor and Owner waive Claims against each other for <u>indirect, incidental and</u> consequential damages arising out of or relating to this Contract. This mutual waiver <u>includes includes, but is not limited to:</u>

...

This mutual waiver is applicable, without limitation, to all <u>indirect, incidental and</u> consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

...

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§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect Civil Engineer/Soil Management/LEP will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect Civil Engineer/Soil Management/LEP, if the Civil Engineer/Soil Management/LEP is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

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# **Certification of Document's Authenticity** AIA® Document D401™ – 2003

I, hereby certify, to the best of my knowledge, information and belief, the simultaneously with its associated Additions and Deletions Report and this cunder Order No. 3104238828 from AIA Contract Documents software and document I made no changes to the original text of AIA® Document A201 <sup>TI</sup> Contract for Construction, other than those additions and deletions shown in Report.	ertification at 14:17:27 ET on $07/15/2024$ that in preparing the attached final $^{M}-2017$ , General Conditions of the
(Signed)	-
(Title)	-
(Dated)	-



#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYY)

10/17/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Subcontractor's Agent Name and Address	CONTACT NAME: PHONE (A/C, No, Ext):	F	FAX (A/C, No):
		E-MAIL ADDRESS:		
			AFFORDING COVERAGE	NAIC #
		INSURER A: AM Best Ra	ited A-, VII or better	r
INSURED Subcontractor's Name and Address		INSURER B: AM Best Ra	ited A-, VII or bettei	r
Subcontractor's Name and Address	INSURER C: AM Best Ra	ited A-, VII or better	r	
		INSURER D: AM Best Ra	ited A-, VII or bettei	r
		INSURER E: AM Best Ra	ited A-, VII or better	r
		INSURER F: AM Best Ra	ited A-, VII or better	r

CERTIFICATE NUMBER: COVERAGES REVISION NUMBER: THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,

E	EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD) YP	LIMIT	rs
	GENERAL LIABILITY	Х	Х	Endorsement Forms:		EACH OCCURRENCE	\$1,000,000
	COMMERCIAL GENERAL LIABILITY	, ,	`	CG 20 10 07 04		DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
	CLAIMS-MADE ✓ OCCUR			CG 20 37 07 04 CG 24 04 05 09 (or carrier		MED EXP (Any one person)	\$ 5,000
				equivalent)		PERSONAL & ADV INJURY	\$ 1,000,000
				CG 20 01 04 13 (or carrier equivalent)		GENERAL AGGREGATE	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:			No XCU Exclusions		PRODUCTS - COMP/OP AGG	\$2,000,000
	POLICY PRO- JECT LOC			CG 24 17 10 01			\$
	AUTOMOBILE LIABILITY	Х	x	CA 99 48 10 13		COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	ANY AUTO	, ,	`	CA 20 48 02 99 (or care quivalent) CA 04 44 10 13 (or arrier et avalent)	<b>▼</b>	BODILY INJURY (Per person)	\$
	ALL OWNED SCHEDULED AUTOS			CA 04 50 11 16 (Carrier equitant)		BODILY INJURY (Per accident)	\$
	HIRED AUTOS NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
							\$
	✓ UMBRELLA LIAB ✓ OCCUR	x	x	Follow form for unlying General		EACH OCCURRENCE	\$3,000,000
	EXCESS LIAB CLAIMS-MADE			Liability, Av. Liabil , and Employers bility (Conject excludent)		AGGREGATE	\$3,000,000
	DED RETENTION\$			Sills) (G. G. Silladini)			\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			00 t 13 (or carrier equivalent)		WC STATU- TORY LIMITS OTH- ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE N	N/A		INCLUDES EXEC. OFFICERS, SOLE		E.L. EACH ACCIDENT	\$500,000
	(Mandatory in NH)	14773		CI AS 3A STATE		E.L. DISEASE - EA EMPLOYEE	\$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	\$ 500,000
	PROFESSIONAL			IF WORK INCLUDES DESIGN		EACH OCC./AGG. \$2,00	00,000/\$2,000,000
	POLLUTION LIABILITY INSURANCE	Х	X	IF WORK INCLUDES HAZ MAT		EACH OCC./AGG. \$5,00	00,000/\$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Project: Naugatuck Industrial Park #3 Elm Street, Naugatuck, CT 06770.

The Borough of Naugatuck, the State of Connecticut and O&G Industries, Inc. are additional insureds under the General Liability, Auto Liability, Umbrella and Excess Liability and Pollution Liability policies on a primary and non-contributory basis. Eachpolicy must be endorsed to provide 30 days' notice of cancellation to O&G Industries, Inc. All policies should also include a Waiver of Subrogation. Umbrella/Excess Liability follows form over underlying.

CERTIFICATE HOLDER	CANCELLATION
O&G Industries, Inc. 112 Wall Street Torrington, CT 06780	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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ACORD 25 (2010/05)

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**POLICY NUMBER:** 

COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

#### Name Of Additional Insured Person(s) Or Organization(s):

The Borough of Naugatuck, the State of Connecticut and O&G Industries, Inc.

**Location(s) Of Covered Operations** 

Project: Naugatuck Industrial Park #3 Elm Street Naugatuck, UT 02, 70

Information required to complete this Schedule, if Schown bove will be shown in the Declarations.

- A. Section II Who Is An Insured is amende to include as an additional insured the person(s) organization(s) shown in the Schedille, "Ut only with respect to liability for "bodily injury" projectly damage" or "personal and advertising anjury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - **2.** The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**POLICY NUMBER:** 

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Additional Insured Person(s)
Or Organization(s):

Location And Description Of Completed Operations

The Borough of Naugatuck, The State of Connecticut and O&G Industries, Inc. Project:Naugatuck Industrial Park #3 Elm Street Naugatuck, CF-6770

Information required to complete this Sche if n shown above, will be shown in the Declarations.

Section II – Who Is An Insured is ame ded to include as an additional insured to persist or organization(s) shown in the Sche ulest only with respect to liability for "bodily injury" or property damage" caused, in whole or in part, so your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY CG 24 04 05 09

# WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Person Or Organization:	
The Borough of Naugatuck, the State of Connecticut and O&G Indu	ustries, Inc.
	in the Destaurtions
Information required to complete this Schedule, if not sh	nown above, will sharp in the Declarations.
The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:	
We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.	10.

COMMERCIAL GENERAL LIABILITY CG 20 01 04 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

#### **Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured. POLICY NUMBER: COMMERCIAL AUTO
CA 20 48 02 99

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### **DESIGNATED INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM GARAGE COVERAGE FORM MOTOR CARRIER COVERAGE FORM TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Cont ersign d By:
Named Insured:	(Authorized Representative)
	HEDGLE
Name of Person(s) or Organization(s): The Borough of Naugatuck and O&G Industries, Inc.	

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

CA 20 48 02 99

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POLICY NUMBER: COMMERCIAL AUTO
CA 04 44 10 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

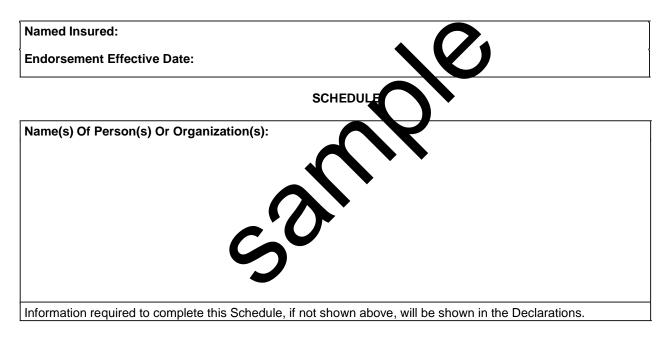
# WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM BUSINESS AUTO COVERAGE FORM MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.



The Transfer Of Rights Of Recovery Against Others To Us condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM GARAGE COVERAGE FORM MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The following is added to the **Other Insurance** Condition in the Business Auto and Garage Coverage Forms and the **Other Insurance - Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured ur set such other insurance; and

2. You have agreed in writing in a contract or agreement that this insurance would be prime y and would not seek contribution from any offer insurance available to such

COMMERCIAL AUTO CA 99 48 03 06

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### POLLUTION LIABILITY – BROADENED COVERAGE FOR COVERED AUTOS – BUSINESS AUTO, MOTOR CARRIER AND TRUCKERS COVERAGE FORMS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM MOTOR CARRIER COVERAGE FORM TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

#### A. Liability Coverage is changed as follows:

- Paragraph a. of the Pollution Exclusion applies only to liability assumed under a contract or agreement.
- With respect to the coverage afforded by Paragraph A.1. above, Exclusion B.6. Care, Custody Or Control does not apply.

#### **B.** Changes In Definitions

For the purposes of this endorsement, Paragraph **D.** of the **Definitions** Section is replaced by th following:

- D. "Covered pollution cost or expense" meany cost or expense arising out of:
  - Any request, demand, order or statutory regulatory requirement that any insuladifor others test for, monitor, clean premove, contain, treat, detoxify or heatralize, or in any way respond to, or assess the effects of "pollutants"; or
  - 2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

"Covered pollution cost or expense" does not include any set or expense arising out of the actual, deger or threatened discharge, dispersal see a set, magration, release or escape of "pollulants"

A fore the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

b. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraphs **a.** and **b.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

WC 00 03 13

(Ed. 4-84)

#### WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule



This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Insured	Effective Policy No.	Endorsement No. Premium
Insurance Company	Countersigned by	

WC 00 03 13 (Ed. 4-84) POLICY NUMBER: BAP 4421560-03

COMMERCIAL AUTO CA 20 70 10 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# COVERAGE FOR CERTAIN OPERATIONS IN CONNECTION WITH RAILROADS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM BUSINESS AUTO COVERAGE FORM MOTOR CARRIERS COVERAGE FORM

With respect to coverage provided under this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: O & G INDUSTRIES INC
Endorsement Effective Date:

#### SCHEDUL

Scheduled Railroad	Designated Job Site
ANY PERSON OR ORGANIZATION REQUERED	ALL PREMISES
BY WRITTEN CONTRACT OR AGREEMENT.	<b>\</b>
_'()	

With respect to the use of a covered "auto" in operations for or affecting a railroad designated in the Schedule at a Designated Job Site, the two exceptions contained in the definition of "insured contract" relating to construction or demolition operations performed within 50 feet of a railroad do not apply.

CA 20 70 10 13

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Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Page 1 of 1

#### **SECTION 007343 - WAGE AND HOUR RATES**

#### 1. GENERAL

1.1 The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in the Connecticut General Statutes, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed.

Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each payday.

- 1.2 In accordance with Connecticut General Statutes 31-53 and 31-55a, all Contractors are required to complete and submit the enclosed forms:
  - A. Contractors Wage Certifications Form
  - B. Contracting Agency Certification Form
  - C. Payroll Certification For Public Works Projects Weekly Payroll Form WWS-CP1 and WWS-CP2
- 1.3 Contractors bidding on this project should be aware of the following Connecticut Public and Special Acts P.A. 02-69:

Public Act No. 02-69 Substitute Senate Bill No. 63 AN ACT CONCERNING ANNUAL ADJUSTMENTS TO PREVAILING WAGES.

Be it enacted by the Senate and House of Representatives in General Assembly convened: Section 1. (NEW) (Effective October 1, 2002) Each contractor that is awarded a contract on or after October 1, 2002, for (1) the construction of a state highway or bridge that falls under the provisions of Section 31-54 of the general statutes, or (2) the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project that falls under the provisions of Section 31-53 of the general statutes shall contact the Labor Commissioner on or before July first of each year, for the duration of such contract, to ascertain the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each mechanic, laborer or worker employed upon the work contracted to be done, and shall make any necessary adjustments to such prevailing rate of wages and such payment or contributions paid or payable on behalf of each such employee, effective each July first.

#### 2. MINIMUM WAGE RATES

- 2.1 In accordance with Connecticut General Statute Title 31, Chapter 557, (Part III, State Contracts) Section 31-53 and as amended as of October 31, 2017 (PA 17-2), please note that current Connecticut Prevailing Wages will apply to the overall contractual obligations for this project.
- 2.2 The current wage and benefit rates are included in this section.



#### DEPARTMENT OF ADMINISTRATIVE SERVICES (DAS) Office of School Construction Grants & Review (OSCG&R)

#### **CURRENT PREVAILING WAGE RATES**

FORM SCG-6000

### IN COMPLIANCE WITH SECTION 31-53 OF THE CONNECTICUT GENERAL STATUTES (C.G.S.)

#### SHALL BE INSERTED

### PRIOR TO RELEASE OF DOCUMENTS For BID or PROCUREMENT

#### **ANNUAL ADJUSTMENT OF WAGE RATES**

**WILL BE AS REQUIRED** 

PER C.G.S. SECTION 31-55a

If you have questions regarding wages and workplace standards refer to the Department of Labor website: http://www.ctdol.state.ct.us or call 860-263-6000

N: Website migration\FORM SCG-6000\Prevailing Wage Rate holder page.DAS.doc

Project: Naugatuck Industrial Park, Phase 3

Minimum Rates and Classifications for Heavy/Highway Construction

ID#: 24-67726 Connecticut Department of Labor
Wage and Workplace Standards Division

By virtue of the authority vested in the Labor Commissioner under provisions of Section 31-53 of the General Statutes of Connecticut, as amended, the following are declared to be the prevailing rates and welfare payments and will apply only where the contract is advertised for bid within 20 days of the date on which the rates are established. Any contractor or subcontractor not obligated by agreement to pay to the welfare and pension fund shall pay this amount to each employee as part of his/her hourly wages.

Project Number: FY24-B099 Project Town: Naugatuck

State#: FAP#:

Project: Naugatuck Industrial Park, Phase 3

CLASSIFICATION	Hourly Rate	Benefits
1) Boilermaker	46.21	29.35
1a) Bricklayer, Cement Masons, Cement Finishers, Plasterers, Stone Masons	41.63	34.50
2) Carpenters, Piledrivermen	39.54	28.68
2a) Diver Tenders	39.54	28.68
3) Divers	48.0	28.68
03a) Millwrights	40.56	28.87
4) Painters: (Bridge Construction) Brush, Roller, Blasting (Sand, Water, etc.), Spray	57.85	25.95
4a) Painters: Brush and Roller	38.07	25.80
4b) Painters: Spray Only	41.07	25.80

4c) Painters: Steel Only	40.07	25.80
4d) Painters: Blast and Spray	41.07	25.80
4e) Painters: Tanks, Tower and Swing	40.07	25.80
4f) Elevated Tanks (60 feet and above)	47.07	25.80
5) Electrician (Trade License required: E-1,2 L-5,6 C-5,6 T-1,2 L-1,2 V-1,2,7,8,9)	45.4	33.57+3% of gross wage
6) Ironworkers: Ornamental, Reinforcing, Structural, and Precast Concrete Erection	45.25	41.27 + a
7) Plumbers (Trade License required: (P-1,2,6,7,8,9 J-1,2,3,4 SP-1,2) and Pipefitters (Including HVAC Work) (Trade License required: S-1,2,3,4,5,6,7,8 B-1,2,3,4 D-1,2,3,4 G-1, G-2, G-8, G-9)	49.58	36.15
LABORERS		
8) Group 1: General Laborers and concrete specialist	34.5	27.26
8) Group 1a: Acetylene Burners (Hours worked with a torch)	35.5	27.26
9) Group 2: Chain saw operators, fence and guard rail erectors, pneumatic tool operators, powdermen	34.75	27.26
10) Group 3: Pipelayers	35.0	27.26
11) Group 4: Jackhammer/Pavement breaker (handheld); mason tenders (cement/concrete), catch basin builders, asphalt rakers, air track operators, block paver, curb setter and forklift operators	35.0	27.26

12) Group 5: Toxic waste removal (non-mechanical systems)	36.5	27.26
13) Group 6: Blasters	36.25	27.26
Group 7: Asbestos/lead removal, non-mechanical systems (does not include leaded joint pipe)	37.5	27.26
Group 8: Traffic control signalmen	20.7	27.26
Group 9: Hydraulic Drills	35.25	27.26
Group 10: Toxic Waste Removers A or B With PPE	37.5	27.26
LABORERS (TUNNEL CONSTRUCTION, FREE AIR). Shield Drive and Liner Plate Tunnels in Free Air		
13a) Miners, Motormen, Mucking Machine Operators, Nozzle Men, Grout Men, Shaft & Tunnel Steel & Rodmen, Shield & Erector, Arm Operator, Cable Tenders	36.73	27.26 + a
13b) Brakemen, Trackmen, Miners' Helpers and all other men	35.76	27.26 + a
CLEANING, CONCRETE AND CAULKING TUNNEL		
14) Concrete Workers, Form Movers, and Strippers	35.76	27.26 + a
15) Form Erectors	36.09	27.26 + a
ROCK SHAFT LINING, CONCRETE, LINING OF SAME AND TUNNEL IN FREE AIR:		
16) Brakemen, Trackmen, Tunnel Laborers, Shaft Laborers, Miners Helpers	35.76	27.26 + a
As of: October 17, 2024		

17) Laborers Topside, Cage Tenders, Bellman	35.65	27.26 + a
18) Miners	36.73	27.26 + a
TUNNELS, CAISSON AND CYLINDER WORK IN COMPRESSED AIR:		
18a) Blaster	43.22	27.26 + a
19) Brakemen, Trackmen, Groutman, Laborers, Outside Lock Tender, Gauge Tenders	43.02	27.26 + a
20) Change House Attendants, Powder Watchmen, Top on Iron Bolts	41.04	27.26 + a
21) Mucking Machine Operator, Grout Boss, Track Boss	43.81	27.26 + a
TRUCK DRIVERS(*see note below)		
Two Axle Trucks, Helpers	33.16	32.36 + a
Three Axle Trucks; Two Axle Ready Mix	33.27	32.36 + a
Three Axle Ready Mix	33.33	32.36 + a
Four Axle Trucks	33.39	32.36 + a
Four Axle Ready-Mix	33.44	32.36 + a
Heavy Duty Trailer (40 tons and over)	35.66	32.36 + a

Specialized earth moving equipment other than conventional type on-the road trucks and semi-trailer (including Euclids)	33.44	32.36 + a
Heavy Duty Trailer (up to 40 tons)	34.39	32.36 + a
Snorkle Truck	33.54	32.36 + a
POWER EQUIPMENT OPERATORS		
Group 1: Crane Handling or Erecting Structural Steel or Stone, Hoisting Engineer (2 drums or over). (Trade License Required)	55.42	28.80 + a
Group 1a: Front End Loader (7 cubic yards or over); Work Boat 26 ft. and over.	50.79	28.80 + a
Group 2: Cranes (100 ton rate capacity and over); Bauer Drill/Caisson. (Trade License Required)	55.03	28.80 + a
Group 2a: Cranes (under 100 ton rated capacity).	54.09	28.80 + a
Group 2b: Excavator over 2 cubic yards; Pile Driver (\$3.00 premium when operator controls hammer).	50.4	28.80 + a
Group 3: Excavator; Gradall; Master Mechanic; Hoisting Engineer (all types of equipment where a drum and cable are used to hoist or drag material regardless of motive power of operation), Rubber Tire Excavator (Drott-1085 or similar); Grader Operator; Bulldozer Fine Grade (slopes, shaping, laser or GPS, etc.). (Trade License Required)	49.45	28.80 + a
Group 4: Trenching Machines; Lighter Derrick; CMI Machine or Similar; Koehring Loader (Skooper).	48.97	28.80 + a
Group 5: Specialty Railroad Equipment; Asphalt Paver; Asphalt Spreader; Asphalt Reclaiming Machine; Line Grinder; Concrete Pumps; Drills with Self Contained Power Units; Boring Machine; Post Hole Digger; Auger; Pounder; Well Digger; Milling Machine (over 24" mandrel)	48.22	28.80 + a

Group 5 continued: Side Boom; Combination Hoe and Loader; Directional Driller.	48.22	28.80 + a
Group 6: Front End Loader (3 up to 7 cubic yards); Bulldozer (rough grade dozer).	47.83	28.80 + a
Group 7: Asphalt Roller; Concrete Saws and Cutters (ride on types); Vermeer Concrete Cutter; Stump Grinder; Scraper; Snooper; Skidder; Milling Machine (24" and under Mandrel)	47.4	28.80 + a
Group 8: Mechanic, Grease Truck Operator, Hydroblaster, Barrier Mover, Power Stone Spreader; Welder; Work Boat under 26 ft.; Transfer Machine.	46.9	28.80 + a
Group 9: Front End Loader (under 3 cubic yards), Skid Steer Loader regardless of attachments (Bobcat or Similar); Fork Lift, Power Chipper; Landscape Equipment (including hydroseeder), Vacuum Excavation Truck and Hydrovac Excavation Truck (27 HG pressure or greater).	46.35	28.80 + a
Group 10: Vibratory Hammer, Ice Machine, Diesel and Air Hammer, etc.	43.77	28.80 + a
Group 11: Conveyor, Earth Roller; Power Pavement Breaker (whiphammer), Robot Demolition Equipment.	43.77	28.80 + a
Group 12: Wellpoint Operator.	43.69	28.80 + a
Group 13: Compressor Battery Operator.	42.97	28.80 + a
Group 14: Elevator Operator; Tow Motor Operator (Solid Tire No Rough Terrain).	41.52	28.80 + a
Group 15: Generator Operator; Compressor Operator; Pump Operator; Welding Machine Operator; Heater Operator.	41.01	28.80 + a
Group 16: Maintenance Engineer.	40.19	28.80 + a

Group 17: Portable Asphalt Plant Operator; Portable Crusher Plant Operator; Portable Concrete Plant Operator., Portable Grout Plant Operator, Portable Water Filtration Plant Operator.	45.63	28.80 + a
Group 18: Power Safety Boat; Vacuum Truck; Zim Mixer; Sweeper; (minimum for any job requiring CDL license).	42.57	28.80 + a
Surveyor: Chief of Party	45.87	28.80 + a
Surveyor: Assistant Chief of Party	42.3	28.80 + a
Surveyor: Instrument Man	40.7	28.80 + a
Surveyor: Rodman or Chairman	35.03	28.80 + a
**NOTE: SEE BELOW		
LINE CONSTRUCTION(Railroad Construction and Maintenance)		
20) Lineman, Cable Splicer, Technician	48.84	18.07
21) Heavy Equipment Operator	42.26	6.5% + 19.88
22) Equipment Operator, Tractor Trailer Driver, Material Men	40.96	6.5% + 19.21
23) Driver Groundmen	26.5	6.5% + 9.00
23a) Truck Driver	40.96	6.5% + 17.76
LINE CONSTRUCTION		
As of: October 17, 2024		

24) Driver Groundmen	30.92	6.5% + 9.70
25) Groundmen	22.67	6.5% + 6.20
26) Heavy Equipment Operators	37.1	6.5% + 10.70
27) Linemen, Cable Splicers, Dynamite Men	41.22	6.5% + 12.20
28) Material Men, Tractor Trailer Drivers, Equipment Operators	35.04	6.5% + 10.45

Welders: Rate for craft to which welding is incidental.

Surveyors: Hazardous material removal: \$3.00 per hour premium.

\*Note: Hazardous waste removal work receives additional \$1.25 per hour for truck drivers.

Crane with 150 ft. boom (including jib) - \$1.50 extra
Crane with 200 ft. boom (including jib) - \$2.50 extra
Crane with 250 ft. boom (including jib) - \$5.00 extra
Crane with 300 ft. boom (including jib) - \$7.00 extra
Crane with 400 ft. boom (including jib) - \$10.00 extra

All classifications that indicate a percentage of the fringe benefits must be calculated at the percentage rate times the "base hourly rate".

Apprentices duly registered under the Commissioner of Labor's regulations on "Work Training Standards for Apprenticeship and Training Programs" Section 31-51-d-1 to 12, are allowed to be paid the appropriate percentage of the prevailing journeymen hourly base and the full fringe benefit rate, providing the work site ratio shall not be less than one full-time journeyperson instructing and supervising the work of each apprentice in a specific trade.

~~Connecticut General Statute Section 31-55a: Annual Adjustments to wage rates by contractors doing state work ~~

<sup>\*\*</sup>Note: Hazardous waste premium \$3.00 per hour over classified rate

The Prevailing wage rates applicable to this project are subject to annual adjustments each July 1st for the duration of the project.

Each contractor shall pay the annual adjusted prevailing wage rate that is in effect each July 1st, as posted by the Department of Labor.

It is the contractor's responsibility to obtain the annual adjusted prevailing wage rate increases directly from the Department of Labor's website.

The annual adjustments will be posted on the Department of Labor's Web page:

www.ct.gov/dol. For those without internet access, please contact the division listed below.

The Department of Labor will continue to issue the initial prevailing wage rate schedule to the Contracting Agency for the project.

All subsequent annual adjustments will be posted on our Web Site for contractor access.

Contracting Agencies are under no obligation pursuant to State labor law to pay any increase due to the annual adjustment provision.

Effective October 1, 2005 - Public Act 05-50: any person performing the work of any mechanic, laborer, or worker shall be paid prevailing wage

All Person who perform work ON SITE must be paid prevailing wage for the appropriate mechanic, laborer, or worker classification.

All certified payrolls must list the hours worked and wages paid to All Persons who perform work ON SITE regardless of their ownership i.e.: (Owners, Corporate Officers, LLC Members, Independent Contractors, et. al)

Reporting and payment of wages is required regardless of any contractual relationship alleged to exist between the contractor and such person.

~~Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR 5.5 (a) (1) (ii)).

Please direct any questions which you may have pertaining to classification of work and payment of prevailing wages to the Wage and Workplace Standards Division, telephone (860)263-6790.

# CONNECTICUT DEPARTMENT OF LABOR WAGE AND WORKPLACE STANDARDS DIVISION

#### CONTRACTORS WAGE CERTIFICATION FORM

Construction Manager at Risk/General Contractor/Prime Contractor

I.	of
Officer, Owner, Authorized	Rep. Company Name
do hereby certify that the	
	Company Name
	Street
	City
and all of its subcontractors will p	ay all workers on the
Project	et Name and Number
Stre	eet and City
the wages as listed in the schedule attached hereto).	of prevailing rates required for such project (a copy of which i
	Signed
Subscribed and sworn to before n	ne this,
	Notary Public
Return to:	
Connecticut Depa Wage & Workplac 200 Folly Brook F Wethersfield, CT	ce Standards Division Blvd.
Rate Schedule Issued (Date): _	





# THIS IS A PUBLIC WORKS PROJECT

# PREVAILING WAGE LAW

**Covered by the** 

CT General Statutes Section 31-53

# If you have QUESTIONS regarding your wages CALL (860) 263-6790

Section 31-55 of the CT State Statutes requires every contractor or subcontractor performing work for the state to post in a prominent place the prevailing wages as determined by the Labor Commissioner November 29, 2006

#### **Notice**

#### To All Mason Contractors and Interested Parties Regarding Construction Pursuant to Section 31-53 of the Connecticut General Statutes (Prevailing Wage)

The Connecticut Labor Department Wage and Workplace Standards Division is empowered to enforce the prevailing wage rates on projects covered by the above referenced statute.

Over the past few years the Division has withheld enforcement of the rate in effect for workers who operate a forklift on a prevailing wage rate project due to a potential jurisdictional dispute.

The rate listed in the schedules and in our Occupational Bulletin (see enclosed) has been as follows:

#### **Forklift Operator:**

- Laborers (Group 4) Mason Tenders operates forklift solely to assist a mason to a maximum height of nine feet only.
- **Power Equipment Operator (Group 9)** operates forklift to assist any trade and to assist a mason to a height over nine feet.

The U.S. Labor Department conducted a survey of rates in Connecticut but it has not been published and the rate in effect remains as outlined in the above Occupational Bulletin.

Since this is a classification matter and not one of jurisdiction, effective January 1, 2007 the Connecticut Labor Department will enforce the rate on each schedule in accordance with our statutory authority.

Your cooperation in filing appropriate and accurate certified payrolls is appreciated.

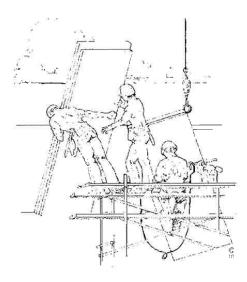
#### ~NOTICE~

#### TO ALL CONTRACTING AGENCIES

Please be advised that Connecticut General Statutes Section 31-53, requires the contracting agency to certify to the Department of Labor, the total dollar amount of work to be done in connection with such public works project, regardless of whether such project consists of one or more contracts.

Please find the attached "Contracting Agency Certification Form" to be completed and returned to the Department of Labor, Wage and Workplace Standards Division, Public Contract Compliance Unit.

Inquiries can be directed to (860) 263-6790.



# CONNECTICUT DEPARTMENT OF LABOR WAGE AND WORKPLACE STANDARDS DIVISION CONTRACT COMPLIANCE UNIT

#### CONTRACTING AGENCY CERTIFICATION FORM

I,	, acting in my official ca	apacity as
authorized	representative	title
for	, located at	
con	tracting agency	address
do hereby ce	ertify that the total dollar amount of work to b	be done in connection with
	, located at	
proje	ect name and number	address
shall be \$	, which includes all work, re	egardless of whether such project
consists of o	ne or more contracts.	
	CONTRACTOR INFOR	MATION
Name:		r
	Representative:e Starting Date:	
rpproximan	Starting Date.	
Approximate	e Completion Date:	
S	ignature	Date
Return To:	Connecticut Department of Labor Wage & Workplace Standards Division Contract Compliance Unit 200 Folly Brook Blvd. Wethersfield, CT 06109	
Date Issued:		

# Connecticut Department of Labor Wage and Workplace Standards Division FOOTNOTES

Please Note: If the "Benefits" listed on the schedule for the following occupations includes a letter(s) (+ a or + a+b for instance), refer to the information below.

Benefits to be paid at the appropriate prevailing wage rate for the listed occupation.

If the "Benefits" section for the occupation lists only a dollar amount, disregard the information below.

#### Bricklayers, Cement Masons, Cement Finishers, Concrete Finishers, Stone Masons (Building Construction) and

(Residential- Hartford, Middlesex, New Haven, New London and Tolland Counties)

a. Paid Holiday: Employees shall receive 4 hours for Christmas Eve holiday provided the employee works the regularly scheduled day before and after the holiday. Employers may schedule work on Christmas Eve and employees shall receive pay for actual hours worked in addition to holiday pay.

#### **Elevator Constructors: Mechanics**

- a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day, plus the Friday after Thanksgiving.
- b. Vacation: Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

#### Glaziers

a. Paid Holidays: Labor Day and Christmas Day.

#### **Power Equipment Operators**

(Heavy and Highway Construction & Building Construction)

Paid Holidays: New Year's Day, Good Friday, Memorial day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday. Holidays falling on Saturday may be observed on Saturday, or if the employer so elects, on the preceding Friday.

#### Ironworkers

a. Paid Holiday: Labor Day provided employee has been on the payroll for the 5 consecutive work days prior to Labor Day.

#### Laborers (Tunnel Construction)

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. No employee shall be eligible for holiday pay when he fails, without cause, to work the regular work day preceding the holiday or the regular work day following the holiday.

#### Roofers

a. Paid Holidays: July 4<sup>th</sup>, Labor Day, and Christmas Day provided the employee is employed 15 days prior to the holiday.

#### **Sprinkler Fitters**

a. Paid Holidays: Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day, provided the employee has been in the employment of a contractor 20 working days prior to any such paid holiday.

#### **Truck Drivers**

(Heavy and Highway Construction & Building Construction)

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas day, and Good Friday, provided the employee has at least 31 calendar days of service and works the last scheduled day before and the first scheduled day after the holiday, unless excused.

Rev. 7/1/21

#### **STATUTE 31-55a**

#### - SPECIAL NOTICE -

To: All State and Political Subdivisions, Their Agents, and Contractors

Connecticut General Statute 31-55a - Annual adjustments to wage rates by contractors doing state work.

Each contractor that is awarded a contract on or after October 1, 2002, for (1) the construction of a state highway or bridge that falls under the provisions of section 31-54 of the general statutes, or (2) the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project that falls under the provisions of section 31-53 of the general statutes shall contact the Labor Commissioner on or before July first of each year, for the duration of such contract, to ascertain the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each mechanic, laborer or worker employed upon the work contracted to be done, and shall make any necessary adjustments to such prevailing rate of wages and such payment or contributions paid or payable on behalf of each such employee, effective each July first.

- The prevailing wage rates applicable to any contract or subcontract awarded on or after October 1, 2002 are subject to annual adjustments each July 1st for the duration of any project which was originally advertised for bids on or after October 1, 2002.
- Each contractor affected by the above requirement shall pay the annual adjusted prevailing wage rate that is in effect each July 1st, as posted by the Department of Labor.
- It is the *contractor's* responsibility to obtain the annual adjusted prevailing wage rate increases directly from the Department of Labor's Web Site. The annual adjustments will be posted on the Department of Labor Web page: <a href="https://www.ctdol.state.ct.us">www.ctdol.state.ct.us</a>. For those without internet access, please contact the division listed below.
- The Department of Labor will continue to issue the initial prevailing wage rate schedule to the Contracting Agency for the project. All subsequent annual adjustments will be posted on our Web Site for contractor access.

Any questions should be directed to the Contract Compliance Unit, Wage and Workplace Standards Division, Connecticut Department of Labor, 200 Folly Brook Blvd., Wethersfield, CT 06109 at (860)263-6790.

Sec. 31-53b. Construction safety and health course. New miner training program. Proof of completion required for mechanics, laborers and workers on public works projects. Enforcement. Regulations. Exceptions. (a) Each contract for a public works project entered into on or after July 1, 2009, by the state or any of its agents, or by any political subdivision of the state or any of its agents, described in subsection (g) of section 31-53, shall contain a provision requiring that each contractor furnish proof with the weekly certified payroll form for the first week each employee begins work on such project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 on such public works project, pursuant to such contract, has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 48 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268.

- (b) Any person required to complete a course or program under subsection (a) of this section who has not completed the course or program shall be subject to removal from the worksite if the person does not provide documentation of having completed such course or program by the fifteenth day after the date the person is found to be in noncompliance. The Labor Commissioner or said commissioner's designee shall enforce this section.
- (c) Not later than January 1, 2009, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of subsections (a) and (b) of this section. Such regulations shall require that the ten-hour construction safety and health courses required under subsection (a) of this section be conducted in accordance with federal Occupational Safety and Health Administration Training Institute standards, or in accordance with Federal Mine Safety and Health Administration Standards or in accordance with 29 CFR 1910.268, as appropriate. The Labor Commissioner shall accept as sufficient proof of compliance with the provisions of subsection (a) or (b) of this section a student course completion card issued by the federal Occupational Safety and Health Administration Training Institute, or such other proof of compliance said commissioner deems appropriate, dated no earlier than five years before the commencement date of such public works project.
- (d) This section shall not apply to employees of public service companies, as defined in section 16-1, or drivers of commercial motor vehicles driving the vehicle on the public works project and delivering or picking up cargo from public works projects provided they perform no labor relating to the project other than the loading and unloading of their cargo.

(P.A. 06-175, S. 1; P.A. 08-83, S. 1.)

History: P.A. 08-83 amended Subsec. (a) by making provisions applicable to public works project contracts entered into on or after July 1, 2009, replacing provision re total cost of work with reference to Sec. 31-53(g), requiring proof in certified payroll form that new mechanic, laborer or worker has completed a 10-hour or more construction safety course and adding provision re new miner training program, amended Subsec. (b) by substituting "person" for "employee" and adding "or program", amended Subsec. (c) by adding "or in accordance with Federal Mine

Safety and Health Administration Standards" and setting new deadline of January 1, 2009, deleted former Subsec. (d) re "public building", added new Subsec. (d) re exemptions for public service company employees and delivery drivers who perform no labor other than delivery and made conforming and technical changes, effective January 1, 2009.

#### **Informational Bulletin**

# THE 10-HOUR OSHA CONSTRUCTION SAFETY AND HEALTH COURSE

(applicable to public building contracts entered into *on or after July 1, 2007*, where the total cost of all work to be performed is at least \$100,000)

- (1) This requirement was created by Public Act No. 06-175, which is codified in Section 31-53b of the Connecticut General Statutes (pertaining to the prevailing wage statutes);
- (2) The course is required for public building construction contracts (projects funded in whole or in part by the state or any political subdivision of the state) entered into on or after July 1, 2007;
- (3) It is required of private employees (not state or municipal employees) and apprentices who perform manual labor for a general contractor or subcontractor on a public building project where the total cost of all work to be performed is at least \$100,000;
- (4) The ten-hour construction course pertains to the ten-hour Outreach Course conducted in accordance with federal OSHA Training Institute standards, and, for telecommunications workers, a ten-hour training course conducted in accordance with federal OSHA standard, 29 CFR 1910.268;
- (5) The internet website for the federal OSHA Training Institute is <a href="http://www.osha.gov/fso/ote/training/edcenters/fact\_sheet.html">http://www.osha.gov/fso/ote/training/edcenters/fact\_sheet.html</a>;
- (6) The statutory language leaves it to the contractor and its employees to determine who pays for the cost of the ten-hour Outreach Course;
- (7) Within 30 days of receiving a contract award, a general contractor must furnish proof to the Labor Commissioner that all employees and apprentices performing manual labor on the project will have completed such a course;
- (8) Proof of completion may be demonstrated through either: (a) the presentation of a *bona fide* student course completion card issued by the federal OSHA Training Institute; *or* (2) the presentation of documentation provided to an employee by a trainer certified by the Institute pending the actual issuance of the completion card;
- (9) Any card with an issuance date more than 5 years prior to the commencement date of the construction project shall not constitute proof of compliance;

- (10) Each employer shall affix a copy of the construction safety course completion card to the certified payroll submitted to the contracting agency in accordance with Conn. Gen. Stat. § 31-53(f) on which such employee's name first appears;
- (11) Any employee found to be in non-compliance shall be subject to removal from the worksite if such employee does not provide satisfactory proof of course completion to the Labor Commissioner by the fifteenth day after the date the employee is determined to be in noncompliance;
- (12) Any such employee who is determined to be in noncompliance may continue to work on a public building construction project for a maximum of fourteen consecutive calendar days while bringing his or her status into compliance;
- (13) The Labor Commissioner may make complaint to the prosecuting authorities regarding any employer or agent of the employer, or officer or agent of the corporation who files a false certified payroll with respect to the status of an employee who is performing manual labor on a public building construction project;
- (14) The statute provides the minimum standards required for the completion of a safety course by manual laborers on public construction contracts; any contractor can exceed these minimum requirements; and
- (15) Regulations clarifying the statute are currently in the regulatory process, and shall be posted on the CTDOL website as soon as they are adopted in final form.
- (16) Any questions regarding this statute may be directed to the Wage and Workplace Standards Division of the Connecticut Labor Department via the internet website of <a href="http://www.ctdol.state.ct.us/wgwkstnd/wgemenu.htm">http://www.ctdol.state.ct.us/wgwkstnd/wgemenu.htm</a>; or by telephone at (860)263-6790.

THE ABOVE INFORMATION IS PROVIDED EXCLUSIVELY AS AN EDUCATIONAL RESOURCE, AND IS NOT INTENDED AS A SUBSTITUTE FOR LEGAL INTERPRETATIONS WHICH MAY ULTMATELY ARISE CONCERNIG THE CONSTRUCTION OF THE STATUTE OR THE REGULATIONS.

## Information Bulletin Occupational Classifications

The Connecticut Department of Labor has the responsibility to properly determine "job classification" on prevailing wage projects covered under C.G.S. Section 31-53(d).

Note: This information is intended to provide a sample of some occupational classifications for guidance purposes only. It is not an all-inclusive list of each occupation's duties. This list is being provided only to highlight some areas where a contractor may be unclear regarding the proper classification. If unsure, the employer should seek guidelines for CTDOL.

Below are additional clarifications of specific job duties performed for certain classifications:

#### ASBESTOS WORKERS

Applies all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems.

#### ASBESTOS INSULATOR

Handle, install apply, fabricate, distribute, prepare, alter, repair, dismantle, heat and frost insulation, including penetration and fire stopping work on all penetration fire stop systems.

#### BOILERMAKERS

Erects hydro plants, incomplete vessels, steel stacks, storage tanks for water, fuel, etc. Builds incomplete boilers, repairs heat exchanges and steam generators.

#### BRICKLAYERS, CEMENT MASONS, CEMENT FINISHERS, MARBLE MASONS, PLASTERERS, STONE MASONS, PLASTERERS. STONE MASONS, TERRAZZO WORKERS, TILE SETTERS

Lays building materials such as brick, structural tile and concrete cinder, glass, gypsum, terra cotta block. Cuts, tools and sets marble, sets stone, finishes concrete, applies decorative steel, aluminum and plastic tile, applies cements, sand, pigment and marble chips to floors, stairways, etc.

#### • <u>CARPENTERS, MILLWRIGHTS. PILEDRIVERMEN. LATHERS. RESILEINT FLOOR</u> LAYERS, DOCK BUILDERS, DIKERS, DIVER TENDERS

Constructs, erects, installs and repairs structures and fixtures of wood, plywood and wallboard. Installs, assembles, dismantles, moves industrial machinery. Drives piling into ground to provide foundations for structures such as buildings and bridges, retaining walls for earth embankments, such as cofferdams. Fastens wooden, metal or rockboard lath to walls, ceilings and partitions of buildings, acoustical tile layer, concrete form builder. Applies firestopping materials on fire resistive joint systems only. Installation of curtain/window walls only where attached to wood or metal studs. Installation of insulated material of all types whether blown, nailed or attached in other ways to walls, ceilings and floors of buildings. Assembly and installation of modular furniture/furniture systems. Free-standing furniture is not covered. This includes free standing: student chairs, study top desks, book box desks, computer furniture, dictionary stand, atlas stand, wood shelving, two-position information access station, file cabinets, storage cabinets, tables, etc.

#### LABORER, CLEANING

• The clean up of any construction debris and the general (heavy/light) cleaning, including sweeping, wash down, mopping, wiping of the construction facility and its furniture, washing, polishing, and dusting.

#### DELIVERY PERSONNEL

- If delivery of supplies/building materials is to one common point and stockpiled there, prevailing wages <u>are not required</u>. If the delivery personnel are involved in the distribution of the material to multiple locations within the construction site then they would have to be paid prevailing wages for the type of work performed: laborer, equipment operator, electrician, ironworker, plumber, etc.
- An example of this would be where delivery of drywall is made to a building and the delivery personnel distribute the drywall from one "stockpile" location to further sub-locations on each floor. Distribution of material around a construction site is the job of a laborer or tradesman, and not a delivery personnel.

#### ELECTRICIANS

Install, erect, maintenance, alteration or repair of any wire, cable, conduit, etc., which generates, transforms, transmits or uses electrical energy for light, heat, power or other purposes, including the Installation or maintenance of telecommunication, LAN wiring or computer equipment, and low voltage wiring. \*License required per Connecticut General Statutes: E-1,2 L-5,6 C-5,6 T-1,2 L-1,2 V-1,2,7,8,9.

#### ELEVATOR CONSTRUCTORS

Install, erect, maintenance and repair of all types of elevators, escalators, dumb waiters and moving walks. \*License required by Connecticut General Statutes: R-1,2,5,6.

#### • FORK LIFT OPERATOR

Laborers Group 4) Mason Tenders - operates forklift solely to assist a mason to a maximum height of nine (9) feet only.

Power Equipment Operator Group 9 - operates forklift to assist any trade, and to assist a mason to a height over nine (9) feet.

#### GLAZIERS

Glazing wood and metal sash, doors, partitions, and 2 story aluminum storefronts. Installs glass windows, skylights, store fronts and display cases or surfaces such as building fronts, interior walls, ceilings and table tops and metal store fronts. Installation of aluminum window walls and curtain walls is the "joint" work of glaziers and ironworkers, which require equal composite workforce.

#### • IRONWORKERS

Erection, installation and placement of structural steel, precast concrete, miscellaneous iron, ornamental iron, metal curtain wall, rigging and reinforcing steel. Handling, sorting, and installation of reinforcing steel (rebar). Metal bridge rail (traffic), metal bridge handrail, and decorative security fence installation. Installation of aluminum window walls and curtain walls is the "joint" work of glaziers and ironworkers which require equal composite workforce.

#### INSULATOR

• Installing fire stopping systems/materials for "Penetration Firestop Systems": transit to cables, electrical conduits, insulated pipes, sprinkler pipe penetrations, ductwork behind radiation, electrical cable trays, fire rated pipe penetrations, natural polypropylene, HVAC ducts, plumbing bare metal, telephone and communication wires, and boiler room ceilings.

#### LABORERS

Acetylene burners, asphalt rakers, chain saw operators, concrete and power buggy operator, concrete saw operator, fence and guard rail erector (except metal bridge rail (traffic), decorative security fence (non-metal).

installation.), hand operated concrete vibrator operator, mason tenders, pipelayers (installation of storm drainage or sewage lines on the street only), pneumatic drill operator, pneumatic gas and electric drill operator, powermen and wagon drill operator, air track operator, block paver, curb setters, blasters, concrete spreaders.

#### • PAINTERS

Maintenance, preparation, cleaning, blasting (water and sand, etc.), painting or application of any protective coatings of every description on all bridges and appurtenances of highways, roadways, and railroads. Painting, decorating, hardwood finishing, paper hanging, sign writing, scenic art work and drywall hhg for any and all types of building and residential work.

#### • LEAD PAINT REMOVAL

- Painter's Rate
  - 1. Removal of lead paint from bridges.
  - 2. Removal of lead paint as preparation of any surface to be repainted.
  - 3. Where removal is on a Demolition project prior to reconstruction.
- Laborer's Rate
  - 1. Removal of lead paint from any surface NOT to be repainted.
  - 2. Where removal is on a TOTAL Demolition project only.

#### • <u>PLUMBERS AND PIPEFITT</u>ERS

Installation, repair, replacement, alteration or maintenance of all plumbing, heating, cooling and piping. \*License required per Connecticut General Statutes: P-1,2,6,7,8,9 J-1,2,3,4 SP-1,2 S-1,2,3,4,5,6,7,8 B-1,2,3,4 D-1,2,3,4.

#### • POWER EQUIPMENT OPERATORS

Operates several types of power construction equipment such as compressors, pumps, hoists, derricks, cranes, shovels, tractors, scrapers or motor graders, etc. Repairs and maintains equipment. \*License required, crane operators only, per Connecticut General Statutes.

#### ROOFERS

Covers roofs with composition shingles or sheets, wood shingles, slate or asphalt and gravel to waterproof roofs, including preparation of surface. (demolition or removal of any type of roofing and or clean-up of any and all areas where a roof is to be relaid.)

#### SHEETMETAL WORKERS

Fabricate, assembles, installs and repairs sheetmetal products and equipment in such areas as ventilation, air-conditioning, warm air heating, restaurant equipment, architectural sheet metal work, sheetmetal roofing, and aluminum gutters. Fabrication, handling, assembling, erecting, altering, repairing, etc. of coated metal material panels and composite metal material panels when used on building exteriors and interiors as soffits, facia, louvers, partitions, canopies, cornice, column covers, awnings, beam covers, cladding, sun shades, lighting troughs, spires, ornamental roofing, metal ceilings, mansards, copings, ornamental and ventilation hoods, vertical and horizontal siding panels, trim, etc. The sheet metal classification also applies to the vast variety of coated metal material panels and composite metal material panels that have evolved over the years as an alternative to conventional ferrous and non-ferrous metals like steel, iron, tin, copper, brass, bronze, aluminum, etc. Fabrication, handling, assembling, erecting, altering, repairing, etc. of architectural metal roof, standing seam roof, composite metal roof, metal and composite bathroom/toilet partitions, aluminum gutters, metal and composite lockers and shelving, kitchen equipment, and walk-in coolers. To include testing and air -balancing ancillary to installation and construction.

#### • SPRINKLER FITTERS

Installation, alteration, maintenance and repair of fire protection sprinkler systems. \*License required per Connecticut General Statutes: F-1,2,3,4.

#### • TILE MARBLE AND TERRAZZO FINISHERS

Assists and tends the tile setter, marble mason and terrazzo worker in the performance of their duties.

#### TRUCK DRIVERS

~How to pay truck drivers delivering asphalt is under <u>REVISION</u>~

Truck Drivers are requires to be paid prevailing wage for time spent "working" directly on the site. These drivers remain covered by the prevailing wage for any time spent transporting between the actual construction location and facilities (such as fabrication, plants, mobile factories, batch plant, borrow pits, job headquarters, tool yards, etc.) dedicated exclusively, or nearly so, to performance of the contract or project, which are so located in proximity to the actual construction location that it is reasonable to include them. \*License required, drivers only, per Connecticut General Statutes.

#### For example:

- Material men and deliverymen are not covered under prevailing wage as long as they are not directly involved in the construction process. If, they unload the material, they would then be covered by prevailing wage for the classification they are performing work in: laborer, equipment operator, etc.
- Hauling material off site is not covered provided they are not dumping it at a location outlined above.
- Driving a truck on site and moving equipment or materials on site would be considered covered work, as this is part of the construction process.

Any questions regarding the proper classification should be directed to:
Public Contract Compliance Unit
Wage and Workplace Standards Division
Connecticut Department of Labor
200 Folly Brook Blvd, Wethersfield, CT 06109
(860) 263-6790.

[New] In accordance with Section 31-53b(a) of the C.G.S. each contractor shall provide a copy of the OSHA 10 Hour Construction Safety and Health Card for each employee, to be attached to the first certified payroll on the project.

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#### \*FRINGE BENEFITS EXPLANATION (P):

Bona fide benefits paid to approved plans, funds or programs, except those required by Federal or State Law (unemployment tax, worker's compensation, income taxes, etc.).

Please specify the type of benefits provided:  1) Medical or hospital care	4) Disability
Pension or retirement	
3) Life Insurance	
CERTIFIED STATE	EMENT OF COMPLIANCE
For the week ending date of	
I,of	, (hereafter known as
Employer) in my capacity as	(title) do hereby certify and state:
Section A:	
1. All persons employed on said project have be the week in accordance with Connecticut General hereby certify and state the following:	ten paid the full weekly wages earned by them during I Statutes, section 31-53, as amended. Further, I
a) The records submitted are true and ac	curate;
contributions paid or payable on behalf of defined in Connecticut General Statutes, of wages and the amount of payment or person to any employee welfare fund, as	nic, laborer or workman and the amount of payment or f each such person to any employee welfare fund, as section 31-53 (h), are not less than the prevailing rate sontributions paid or payable on behalf of each such determined by the Labor Commissioner pursuant to section 31-53 (d), and said wages and benefits are not ad by contract;
c) The Employer has complied with all e section 31-53 (and Section 31-54 if appli	of the provisions in Connecticut General Statutes, cable for state highway construction);
	ker's compensation insurance policy for the duration of has been provided to the contracting agency;
gift, gratuity, thing of value, or compens- indirectly, to any prime contractor, prime employee for the purpose of improperly	cks, which means any money, fee, commission, credit, ation of any kind which is provided directly or contractor employee, subcontractor, or subcontractor obtaining or rewarding favorable treatment in nnection with a prime contractor in connection with a tor; and
	tified payroll which he knows to be false is a class D ned up to five thousand dollars, imprisoned for up to
2. OSHA~The employer shall affix a copy training completion document to the certified agency for this project on which such person	payroll required to be submitted to the contracting
(Signature)	Submitted on (Date)

\*\*\*THIS IS A PUBLIC DOCUMENT\*\*\*
\*\*\*DO NOT INCLUDE SOCIAL SECURITY NUMBERS\*\*\*

### INSTRUCTIONS FOR FILING "MINORITY WORK FORCE UTILIZATION REPORT" (CHRO CC-257)

The monthly utilization report is to be completed by each subject contractor (both prime and sub) and signed by a responsible official of the company. The reports are to be filed by the 15<sup>th</sup> day of each month during the term of the contract, and they shall include the total work hours for each employee classification in each trade on the project for the monthly reporting period. The prime contractor shall submit a report for its work force and collect and submit reports for each subcontractor's workforce to the contract-awarding agency and to the Commission on Human Rights and Opportunities.

Minority	Includes Blacks, Hispanics, American Indians, Alaskan Natives, and Asian and Pacific Islanders.
1. Covered Area	State Labor Market area.
2. Employer I.D. Number	Federal Identification Number used on Company Tax Return.
3. Current Goals (min & Fem)	See contract notice.
4. Reporting Period	Each month for duration of the project.
5. Construction Trade	Those construction crafts in which contractor employs workers.
6. Work Hours of Employment (a-e)	<ul> <li>a. The total number of male hours and the total number of female hours worked by employees in each classification.</li> <li>b-e. The total number of male hours and the total number of female hours worked by each specified group of minority employees in each classification.</li> </ul>
7. Minority Percentage	The total work <b>hours</b> worked by all minority male workers divided by the total work <b>hours</b> of all workers, shown as a percentage.
8. Female Percentage	The total work <b>hours</b> worked by all female workers divided by the total work <b>hours</b> of all workers, shown as a percentage.
9. Total Number of Employees	The total number of all workers who are included in the reported work hours shown.
10. Total Number of Minority Employees	The total number of minority employees who are included in the reported work hours shown.

RMF/emv 1/9/01 S:\RFLETCHE\INSTRUCTIONS FOR FILING...



## State of Connecticut Commission on Human Rights and Opportunities

Contract Compliance Unit – 450 Columbus Blvd., Suite 2, Hartford, CT 06103

Promoting Equality and Justice for all People

### Notice of Policy Change Regarding Failure to Submit CHRO Forms and Closure Documents

Effective June 1, 2017, if a company fails to submit the required reporting forms (e.g., Forms cc-257, cc-257a, cc-257b, cc-258a, and cc-259) after the Commission on Human Rights and Opportunities ("CHRO") has sent a second request, the company's project file will be referred to the CHRO's Legal Division to consider initiating a CHRO complaint of discrimination and/or noncompliance against the contractor or subcontractor.

Effective June 1, 2017, if a company fails to submit the required file closure documents (e.g., cover letter, Final cc-258a, Final Attachment III, lien waivers, certificate of substantial completion) after the CHRO has sent a second request, the company's project file will be referred to the CHRO's Legal Division to consider initiating a CHRO complaint of discrimination and/or noncompliance against the contractor or subcontractor.

For your information, when a noncompliance complaint or discrimination complaint against a contractor is initiated by the CHRO through its attorneys, the complaint is sent directly to the CHRO's Office of Public Hearings (an administrative law tribunal) to commence a public hearing proceeding. Through this proceeding, a human rights referee (an administrative law judge) will be assigned to the case. The case will then proceed through the public hearing process, which includes, but is not limited to, discovery of documents, motion practice, witness interviews, and a public hearing/trial (an administrative law trial).

After the trial is conducted and evidence is presented, the presiding human rights referee will determine whether there is noncompliance and/or unlawful discrimination. If the human rights referee decides that a contractor has engaged in unlawful discrimination and/or noncompliance, then the human rights referee is authorized to issue orders for various forms of penalties, fines, and other ordered actions. These include, but not limited to, the State's retaining two percent of the total value of the contract, debarment of the contractor from participating in State-funded contracting for two years, and other actions. See Conn. Gen. Stat. § 46a-56(c) and (d) and § 46a-86 as applicable.

If you have other State-funded contracts in progress or anticipate bidding on another State-funded contract, we urge you (as well as the individual responsible for the preparation of your company's Plan and/or closeout documentation) to attend to a CHRO Technical Assistance (TA) Session. Please let us know if you have questions so we can address them. TA sessions are held online, via the Microsoft Teams platform. You and your representative are urged to attend a TA session prior to your next Plan submission. To attend a contract compliance training, please use the above link to register.

REV20180417

Main (860) 541-3400 | Fax (860) 541-3432 <u>portal.ct.gov/CHRO</u> | Toll Free in Connecticut (800) 477-5737 | TDD (860) 541-3459 <u>Affirmative Action / Equal Opportunity Employer</u>

1. MONTHLY PROJECT AREA (MSA): 3. PROJECT AAP GOALS 4. REPORTING PERIOD MINORITY:	NAME AND LOCATION OF CONTRACTOR (submitting report):  STATE AWARDING AGENCY:	6. WORK HOURS OF TRADE WORKERS EMPLOYED ON PROJECT 9. 10.	6b. 6c. 6d. ASIAN OR ALASKAN Hispanic Origin) Congin) Congin Congin Congress of the control of the control of the control or control							TED TITLE 12. TELEPHONE NUMBER (Including area 13. DATE SIGNED PAGE code)
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Commission on Human Rights and Opportunities Contract Compliance Unit	)	GENERAL CONTRACTOR: PROJECT NAME: CONTRACT NUMBER:	5.	ON SITE PERSONNEL (OTHER THAN TRADE WORKERS)	(please identify specific job title)			GRAND TOTAL WORKERS	11. COMPANY OFFICIALS SIGNATURE, PRINTED NAME, AND PRINTED TITLE	Did not p Form CHRO 257a

#### SECTION 01 21 00 - ALLOWANCES

#### Allowance Schedule

1. Bidders shall include in their base bid the allowances set forth in the following table as it relates to their respective bid package. These allowances are to be used only for work determined by the Construction Manager to be above and beyond work already shown on or inferred by the Contract Documents.

1.31 - Sitew	ork & Utiliti	es		
Allowance	Unit Price	Description/Purpose of Allowance	Quantity	Unit
No.	Item No.			
1	1	Trench Rock Excavation, Drill & Blast, and Haul to On-Site	500	CY
		Stockpile		
2	2	Trench Rock Excavation, Mechanical Removal, and Haul to	500	CY
		On-Site Stockpile		
3	3	Unsuitable Soil Excavation and Haul to On-Site Stockpile	500	CY
4	4	Unknown Foundation / Concrete Excavation and Haul to	500	CY
		On-Site Stockpile		
5	5	Transport and Handling of Material from the Soil	12000	CY
		Characterization Temporary Stockpile Area to one of three		
		Temporary Stockpile Areas as defined in the Materials		
		Handling Special Provision		
6	6	Furnish & Install Compacted Granular Fill	500	CY
7	7	Furnish & Install Gravel Subbase	500	CY
8	17	Furnish & Install Lawn Seed	9000	SF
9	23	Furnish & Install Temporary 6' Chain-link Fence with Scrim	2000	LF

#### Procedure

- 1. When an allowance stipulates a given quantity, the allowance will be calculated as required by the unit price listed in the Form of Proposal. This unit price will be used to establish the allowance amount to be included in the Payment Application Schedule of Values and to adjust the allowance amount up or down by Change Order.
- 2. Overhead and profit for any and all allowances shall be included in the unit cost or unit labor rates used to derive the allowance value. The total cost of the allowance must be included in the base bid of the trade contractor responsible for the allowance.
- 3. The trade contractor shall include a separate line item for each allowance on their Schedule of Values and will be allowed to bill under these line items only when approved by the Construction Manager/Owner.
- 4. When the trade contractor is directed by the Construction Manager to perform work under one of the

assigned allowances, the trade contractor shall perform this work on a time and material basis. Any Time and Material slip brought forth as a result of the aforementioned directive will only be considered when the work on the said slip has been previously authorized in writing by the Construction Manager. Each Time and Material slip is to be presented by the trade contractor to the Construction Manager on the **same** day the work was performed on the said slip. T&M slips submitted later than the day the work was performed will not be accepted. **There are no exceptions.** If the work requested spans a period greater than one day, then a separate T&M slip is required for each day.

- 5. When completing tickets for time and material work, the trade contractor shall not include line items for small tools. A small tool shall be defined as a tool with a replacement value of \$1,000.00 or less and shall include tools used on a daily basis in the normal performance of their work, (e.g. extension cords, ladders, hoses, etc.). Any specific equipment rented for the time and material work can and must be identified on the time and material ticket in order to be included for compensation.
- 6. The trade contractor shall submit a PCO along with their pencil application for the billing period in which the work was done, or within 20 days of when the work was performed, whichever occurs first. PCO should have signed time and material sheets, and material and rental invoices associated with the work identified on the time and material ticket(s).
- 7. When completing the time and material PCO, the trade contractor shall not include costs for incidental items such as small tools, as-builts, cleanup, safety, etc. These items are to be included in the allowance unit cost.
- 8. A single change order will be issued at project close-out to credit any unused portion of the allowance and document the scope of work performed.

END OF SECTION

#### SECTION 01 35 13 – GENERAL ADMINISTRATION PROCEDURES FOR THE PROJECT

#### 1. GENERAL

- a) Requirements set forth herein are in addition to and shall be considered as complementary to the General Conditions of the Contract and the entire Division 01.
- b) All Contractors, Subcontractors, Sub-subcontractors, Vendors and the like are required to familiarize themselves with said provisions.
- c) Definitions as they apply to "Contractors" involved with the work of this Project are as follows: "The Contractor", "Contractor", "Trade Contractor" or "Respective Contractor" means that Contractor normally responsible for that work referenced unless specifically assigned otherwise. Any reference to the term "Contractor" shall mean "Trade Contractor", to "Subcontractor" it shall mean "Trade Sub-contractor" and to "Sub-subcontractor", it shall mean "Trade Sub-subcontractor".
- d) It should be understood that the project will be executed under the direct control of a Construction Manager who will enter into a contract with each of the successful bidders (Trade Contractor) for each Bid Package. The Construction Manager will assist the Trade Contractors with the coordination of their work with other Trade Contractors.

#### 2. CORRELATION OF DRAWINGS AND SPECIFICATIONS

- a) In general, the Specifications will describe the "quality" of the work and the Drawings, the "extent" of the work. The Drawings and Specifications are cooperative and supplementary, however, each item of the work is not necessarily mentioned in both the Drawings and the Specifications. All work necessary to complete the project, so described, is to be included in this Contract.
- b) Where a conflict occurs between or within Standards, Specifications and Drawings, the more stringent or higher quality requirements shall be assumed to apply, notwithstanding the Architect's final decision as to which stipulation will provide the best installation and will be most consistent with design intent.

#### 3. CONTRACT

- a) The Owner will award one (1) Trade Contract for this project to complete all work as indicated and specified.
- b) The Trade Contractor shall cooperate with the Contractors for any separate Contracts that the Owner may award.

#### 4. CERTIFIED PAYROLLS

a) Each trade contractor shall submit certified payrolls and compliance statements for all of their workforce, including their subcontractors, compiled and submitted each month via Oracle+Aconex, to the Construction Manager. Monthly Pay Applications will not be processed or approved unless certified payrolls and compliance statements are current.

- b) In accordance with applicable laws, certified payrolls and compliance statements are also required to be submitted monthly, either via US Mail or electronically (to be determined at contract award), by each trade contractor for all of their workforce, including their subcontractors, to the contracting agency.
- c) Copies of OSHA 10 course completion cards for every employee performing labor at this project are to be submitted at the same time and in the same manner (electronically or via US mail) as the Payroll Certification for Public Works projects - Weekly Payroll. See Public Act and Informational Bulletin included in Section 00 73 43 - Wage and Hour Rates.

#### 5. CONTRACTOR REQUIRED SUPERVISION

- a) All contractors shall maintain full-time supervision at the jobsite during any time in which their employees or subcontractors are on site or involved on the project. The Supervisor shall attend all coordination meetings as scheduled by the Construction Manager's field supervisor and shall have the authority to make decisions. This supervisor shall be equipped with a cellular phone for communication with O&G Industries and other trades.
- b) Each trade contractor's field supervisor shall provide a copy of their Daily Field Report to the O&G Superintendent. The Daily Field Report shall indicate workforce manpower, quantities, equipment, scope of work and work completed as it relates to location of work, job schedule, job conditions, etc. This report will list each employee on site by name, where they worked and what tasks they performed. This report must be submitted no later than 10:00 a.m. on the workday directly following the day the work was performed. Failure to submit a report will result in a \$100.00 fine.
- c) Regarding sub-trade contractors, the Construction Manager may, at his sole discretion, refuse site access to a sub-trade contractor if their respective trade contractor's supervision is not on site or the Construction Manager may allow the subtrade contractor to work but the respective trade contractor will be charged a non-negotiable supervision charge of \$120.00/hour for each hour the Sub-trade contractor is on site.
- d) The successful bidder shall be responsible for purchasing any required sets of project documents. The Owner will not be providing any sets of project documents.
- e) All contractors should note that the CADD files of drawings can be provided at no cost for shop drawings and/or as-built use by contractors if desired. The Architect/Engineer will require contractors to sign a release for use of these documents
- f) All communication, oral or written, will be through the Construction Manager. There shall be no direct contact with the Architect or Engineer unless approved by the Construction Manager.
- g) All materials being furnished for this project to be installed by another trade contractor shall be delivered to the jobsite at a location to be determined by the Construction Manager.
- h) Each contractor shall be responsible for understanding the occupational classifications (refer to Department of Labor Informational Bulletin included in Section 00 73 43) of the work to be performed within their assigned scope and shall include all costs associated with employing the correct classification of worker and for paying the correct prevailing wage. For example, each trade contractor responsible for patching partitions/ceilings shall employ workers who specialize in this work to perform all required patching, e.g. mason to patch masonry, carpenter and taper to patch drywall and lathers to patch plaster.

#### 6. PROJECT MEETINGS

- a) Project meetings will be held at the jobsite weekly unless otherwise designated by the Construction Manager, Owner or by the Architect.
- b) The trade contractors' project manager and field supervisor are required to attend all project meetings as directed by the Construction Manager. In addition, the subcontractors or vendors whose presence is deemed necessary by Construction Manager shall attend the job meeting as well as requested. Refer to other specification for other meeting attendance requirements.
- c) All decisions, instructions and interpretations agreed upon at such meeting will be recorded by the Construction Manager and furnished to each trade contractor.
- d) Specific preinstallation conferences will be scheduled as deemed necessary for all installations with the Architect, Construction Manager, Owner Agents (Cx, OPM, etc.), and all tiers of contractors and suppliers. All contractors and suppliers regardless of tier will attend these meetings as directed by the Construction Manager.

#### 7. SAFETY

- a) All Trade Contractors shall comply with the "General Safety and Health Procedural Regulations" included as Exhibit B in Section 00 52 00 as well as the O&G COVID-19 Health & Safety Plan and O&G's Health and Safety Manual which is posted with the Bid Documents on SmartBidNet. All contractors and subcontractors will also comply with all federal, state, local and O&G Covid protocol.
- b) All Trade Contractors storing fuel on-site shall meet with the local Fire Marshal to review the conditions and requirements for storing these materials and strictly comply.
- c) All contractors shall complete a Job Safety Task Analysis (JSTA) form on a daily basis for each task activity being performed on this project. JSTA's are to be submitted electronically each day no later than 7:30 AM. Failure to provide these forms daily will result in a \$100.00 fine. Submission of the JSTA form shall be made electronically via Hammertech.
- d) During each phase of construction, the General Trades contractor shall provide fire extinguishers and stands at throughout the construction area to meet all OSHA and local Fire Marshal regulations and as directed by the Construction Manager. The fire extinguisher stands shall be constructed with 3/4" plywood mounted over 2x4 masts and integral bases and painted red. Each stand shall have a 5' mast with a pre-manufactured sign with the words "fire extinguisher", shall include an air horn, and an 8-1/2" x 11" egress plan. The General Trades contractor shall also provide extinguishers, stands and signage adjacent at all flammable fuel storage areas, including propane and site equipment fueling areas. The General Trades contractor shall be responsible to maintain the extinguishers stands and signage throughout the duration of the project and relocate, recharge or replace the extinguishers as necessary.
- e) The General Trades contractor shall provide 7" x 10" pre-manufactured signs with the word "EXIT" for primary and secondary egress paths from all areas of the construction area. The General Trades contractor shall be responsible to maintain the signage throughout the duration of the project.

#### 8. PROJECT MANAGEMENT AND FIELD QUALITY CONTROL - Subscription Fee

- a) All contractors shall be aware that Oracle+Aconex Project Management will be utilized for this project.
- b) All trade contractors shall participate in Oracle+Aconex Field Management a field documentation and quality control program established to increase the quality of work in place, increase field personnel productivity and expedite the project close-out phase through reduction of punch lists.
- c) With Oracle+Aconex Field Management, trade contractors will:
  - Access project documents from mobile devices
  - Receive notification of work requiring completion or correction
  - Notify the CM that work is ready for inspection
- d) All trade contractors shall participate in Oracle+Aconex Project Management Project Management program established to facilitate collaboration, communication and documentation with all team members to increase project efficiency and accountability.
- e) With Oracle+Aconex Project Management, trade contractors will:
  - Submit and receive all project communications through the Oracle+Aconex mail module
  - Submit RFIs and review responses
  - Submit trade contractor daily reports
  - Submit all shop drawings, product data, close-out documentation and other required submittals
  - Receive and submit requests for change, change order proposals and cost documents using O&G's standard forms
  - Receive project notifications as deemed necessary
  - Use any other Oracle+Aconex module as required by the Construction Manager
  - Submit certified payroll records
- f) Each trade contractor shall be responsible for a lump sum Subscription fee to be paid directly to O&G. The Subscription fee is calculated as 0.79% of the trade contract value. This fee will be deducted from the trade contractor's initial Application for Payment. Other than the Subscription fee, there are no other licensing or monthly service fees for using Oracle+Aconex Project Management. Internet access is required for access to Oracle+Aconex and mobile devices with internet access are required for access to Oracle+Aconex.
- g) Each trade contractor shall have a full-time on-site representative who is equipped with an iOs or Android device, loaded with Oracle+Aconex. Each trade contractor shall be responsible for updating/upgrading their mobile device to ensure that all functions of Oracle+Aconex can be utilized. Each trade contractor shall sync with the Oracle+Aconex database daily to ensure up-to-date information is utilized. If help is needed you may visit their website at <a href="https://help.aconex.com/">https://help.aconex.com/</a> or contact them at 1-888-5ACONEX.
- h) All participants must have a valid e-mail address to access Oracle+Aconex. Trade contractor representatives who are participating in Oracle+Aconex will receive an e-mail notification when an issue has been assigned to their company. Trade contractors are required to respond to all issues

within Oracle+Aconex and by the due date specified for each particular issue. Issues that are not resolved by the specified due date will be assessed as they relate to progress billings for the assigned trade contractor.

i) Using Oracle+Aconex will ensure high-quality work with minimized corrections which, in turn, will shorten the project close-out phase and expedite the release of retainage payments to trade contractors. Consequently, failure to actively participate in using Oracle+Aconex will delay release of your monthly progress payments and release of retainage.

#### 9. SUBMITTAL PROCESS

- a) Trade Contractors shall submit submittals to the Construction Manager via the Construction Manager's Oracle+Aconex Project Management program. The Construction Manager will return all submittals via the Construction Manager's Oracle+Aconex Project Management program.
- b) Trade Contractors shall submit/package submittals according to their submittal schedule. Each submittal is required to have Construction Manager's Submittal Cover Page filled out properly. If submittal is not submitted/packaged per submittal schedule or does not include a properly completed Construction Manager's Submittal Cover Page, the submittal will be rejected by the Construction Manager and returned to the Trade Contractor for resubmission. Trade Contactor is responsible for any schedule impact that results from improper submission of submittals.
- c) MEPFP Specifications Compliance:

As part of the formal submittal process, MEPFP Trade Contractors shall submit with each formal submittal a declaration of specification compliance for all submittals within Divisions 21, 22, 23, 26, 27 and 28. This declaration shall include the following:

- 1. A complete copy of the project specifications with a line-by-line (page-by-page) compliance statement. This ensures a complete review of the specification(s) has taken place.
  - a. Where the proposed system complies fully, such shall be indicated by placing the word "Comply" opposite the line or paragraph number.
  - b. "N/A" shall be indicated for any aspect that is not applicable.
  - c. Where the proposed system does not comply, or accomplishes the stated function in a manner different from that described, a full description of the deviation shall be provided.
- 2. Where a full description of the deviation is not provided, or if a declaration of specification compliance is not provided, the submittal will not be accepted and will be returned to the Trade Contractor as "Revise and Resubmit" and the Trade Contractor shall resubmit the submittal with a declaration of specification compliance.
- 3. Any additional costs incurred to recover from delays to the project schedule resulting from the Trade Contractor's non-compliance with ANY of the above requirements shall be the sole responsibility of the offending Trade Contractor.
- d) Trade Contractor shall provide two (2) hard copies of Record Shop Drawings larger than 11"x17" paper, if requested by the Construction Manager.

#### 10. PAYMENT PROCESS - Subscription and Usage Fees

- a) Unless otherwise directed or authorized in writing by the Construction Manager, all Applications for Payments and all supporting documents (including but not limited to lien waivers, sworn statements and the like) for the trade contractor shall be in electronic format and shall be submitted to the Construction Manager using Textura Construction Payment Management (CPM).
- b) O&G has chosen Textura Corporation to facilitate invoicing with an easy-to-use automated payment processing service. Using Textura's service gives each trade contractor:
  - Automatic generation of your AIA G702/703 invoices and lien waiver documents.
  - E-mail notification as the draw progresses.
  - Immediate feedback if your invoice is questioned.
  - Notification when you will be paid.
  - Faster, direct electronic payments No need to go collect your check.
  - Unlimited training and support for all users.
- c) This service will decrease payment time, significantly ease the paperwork burden, eliminate rework and reduce requisition processing time. As your first draw date for submitting a requisition on this project approaches, you will receive an e-mail inviting you to join Textura. Simply follow the instructions in the e-mail to set-up your user name and password to activate your account.
- d) The trade contractor shall be responsible for the lump sum Usage fee to be paid directly to Textura. The Usage fee is calculated as 0.22% of the contract value, with a maximum fee of \$5,000.00 per contract. Each trade contractor will be responsible for the same 0.22% fee on approved change orders. The trade contractor shall also be responsible for the lump sum Subscription fee to be paid directly to O&G. The Subscription fee is calculated as 0.55% of the contract value. Both the initial contract value usage fee and subscription fee will be deducted from the trade contractor's initial Application for Payment.
- e) The benefits of this automated payment application generation and payment will significantly outweigh the costs. For more information, see the attached Textura CPM Overview. You can also find more information about Textura on their website at <a href="https://www.texturacorp.com">www.texturacorp.com</a> or by calling 1-866-TEXTURA (866-839-8872).
- f) Payment Application Procedures
  - i) The documents required to be submitted are:
    - (1) Schedule of Values (SOV)
    - (2) Applications for Payment (Requisitions)
  - ii) The following items are required to be submitted with each trade contractors pay application on a monthly basis. The contractor fully understands that their monthly payments will not be processed until such time as all items listed below are received and accepted by the Construction Manager:
    - (1) Summary Log of all approved change proposals and pending change proposals.
    - (2) Material Status Log (see attached form contained in Section 01 3513).
    - (3) Schedule update.
    - (4) Updated As-Built set required by the sitework and MEP tradecontractors.
    - (5) Updated Commissioning Report.

- iii) Each Trade Contractor shall establish an agreed to Schedule of Values (SOV) with the Construction Manager and enter it online as described within this specification section. This will be used each time a monthly pay application is submitted.
- g) Each Trade Contractor shall establish an agreed to Schedule of Values (SOV) with the Construction Manager and enter it online as described within this specification section. This will be used each time a monthly pay application is submitted. The trade contractor shall show separate line items for each item of work that can be deemed eligible or ineligible for reimbursement by the State Department of Education Bureau of School Facilities. The determination of whether an item is to be reported as eligible or ineligible will be made by the Architect and the Construction Manager when the trade contractor is preparing the initial schedule of values for approval. The trade contractor must then report costs attributable to eligible and ineligible items whenever they submit an application for payment. All allowances shall be listed separately on each Trade Contractor's SOV. The Architect and Construction Manager will determine what portion of the allowance payment amount shall be listed as eligible or ineligible on the Trade Contractor's requisition.
- h) Each trade contractor will be required to provide a complete breakdown of material costs and indicate the source of supply for each material for High Performance Building tracking purposes. This shall be submitted with the trade contractor's first application for payment.

#### 11. SCHEDULE OF VALUES

- a) All Trade Contractors shall include individual line items in their Schedule of Values for the following items of work: Warranties; O&M Manuals; Shop Drawings and Submittals; Clean-up (interim/phase and final); Scheduling, Lean and Pull Planning; Coordination participation; Attic Stock; Punchlist; Commissioning and As-Built documents. No progress payments will be paid to the trade contractor for the line item noted above except for Clean-up and Scheduling, Lean and Pull Planning until all requirements of the line items of work have been approved and accepted to the satisfaction of the Construction Manager or the approving authority.
- b) All trade contractors shall indicate two line items in their Schedule of Values specifically for scheduling per Specification 00 31 13 Project Scheduling and Phasing. The first line item shall be an amount determined to be the minimum calculated Schedule of Value per paragraph c below, or \$5,000.00, whichever is greater. These funds will be released after this contractor's Level IV Baseline Schedule is accepted by the Construction Manager. If the schedule is not provided by this trade contractor within twenty days of the issuance of the Limited Notice to Proceed, the Construction Manager will create the schedule on behalf of the contractor and the Construction Manager will retain this Schedule of Value amount. The second Schedule of Value line item shall be established at \$1,000.00 per month for providing the schedule updates. Failure to update the schedule will result in the forfeiture of this monthly amount to the Construction Manager for completing the monthly update on their behalf.
- c) A Minimum Calculated SOV (Schedule of Value) is a percentage of the trade contractor's total value of their awarded contract. The trade contractor shall provide a separate line item for each of the following requirements: Warranties; O&M Manuals; Shop Drawings and Submittals; Scheduling, Lean and Pull Planning; Attic Stock; Punchlist; Commissioning; As-Built documents. The value for each line item shall be based on the following sliding scale:

Value of Contract Less than \$1,000,000.00 Over \$1 mil. to \$5 million Over \$5 million Minimum Calculated Value of Line Item

.5% of total contract value .375% of total contract value .25% of total contract value

- d) All trade contractors are required to include a line item for Minimum Calculated SOV for clean-up (interim/phase and final) per calculation in Specification 01 74 13 Project Cleanliness. All trade contractors shall refer to Specification 01 31 16 Coordination Drawings for bid packages where BIM coordination participation is required. Identified contractors shall include a line item for Minimum Calculated SOV for coordination participation.
- e) The trade contractor shall show separate line items for each item of work that can be deemed eligible or ineligible for reimbursement by the Department of Administrative Services, Office of School Construction Grants & Review. The determination of whether an item is to be reported as eligible or ineligible will be made by the Architect and the Construction Manager when the trade contractor is preparing the initial schedule of values for approval.
- f) The trade contractor shall show separate line items for each allowance included in the contract total. The line item value shall be the value included in the contract, either as the application of the quantity and unit cost, or as a lump sum. The line item shall not include overhead or profit, overhead and profit must be accounted for elsewhere in the Trade Contractor's SOV.
- g) Each trade contractor is reminded to increase the value of these line items if, in his opinion, the minimal value for payment purposes is insufficient to accomplish the work as herein stated.

#### 12. EXTRA WORK

- a) At times, a trade contractor may be directed to perform work on a time and material basis. This work may include but not be limited to allowance work, disputed work, additional scope items requested by the Owner for which a lump sum amount has not been agreed to, work that is back-chargeable to another trade contractor or additional work requested by the Construction Manager that is not billable to any other party.
- b) Any Time and Material slip brought forth as a result of the aforementioned directive will only be considered when the work on the said slip has been previously authorized <u>in writing</u> by the Construction Manager. Each Time and Material slip is to be presented by the trade contractor to the Construction Manager on the **same** day the work was performed on the said slip. T&M slips submitted later than the day the work was performed will not be accepted. **There are no exceptions.** If the work requested spans a period greater than one day, then a separate T&M slip is required for each day.
- c) Time and material slips need to include employee name and craft (apprentice if applicable). All ticket work must be priced and returned to the Construction Manager within thirty (30) calendar days of the work being performed. Failure to submit pricing within this time frame will result in the time and material slip and associated pricing being subject to penalties, discounts and/or recalculation, commensurate with the loss of reimbursement the Municipality would have otherwise received had the pricing of the slip been submitted within the time period noted herein.

- d) Be warned, any work performed for which a Time and Material slip is completed by the Trade Contractor in which the Trade Contractor has not been expressly authorized to perform said work by the Construction Manager is done solely at the Trade Contractor's expense as there will be no compensation for said slips or work.
- e) Notwithstanding any language to the contrary either within the contract or noted on any Trade Contractor time and material/extra work order slip, the Construction Manager's sign-off on a time and material slip is for the verification of time and material expended and does not constitute acceptance of a change in or an alteration to the contract until such time as said ticket is vetted for that purpose.
- f) The cost of the payment and performance bond is not to be included in the individual change order request. Any additional bond payments requested by the trade contractor due to an increase in their trade contract sum must be submitted as a separate change order at the completion of the project as stipulated by the Department of Administrative Services, Office of School Construction Grants & Review. The contractor must provide an original invoice from their bonding company identifying the increase in Bond costs as a result of the contract amount including all approved change orders. The information will used as the backup for a final change order. Overhead and profit is not allowed in the additional bond cost change order.
- g) The cost of small tools is not to be included in change order requests, all costs for small tools are included in the overhead and profit percentages allowed by contract. A small tool shall be defined as a tool with a replacement value of \$1,500.00 or less and shall consist of tools used on a daily basis in the normal performance of work, such as hand tools, extension cords, ladders, hoses, etc. Any specific equipment rented for time and material work can be billed based on invoices for the rental of the equipment. All contractors must submit the rental rate of equipment with a value over \$1,500.00. Rental tickets from the rental company must accompany all extra work change proposals.
- h) The trade contractor shall not include separate costs for incidental labor items such as as-built drawings, clean-up, safety, mobilization, or for office or field supervision i.e. superintendent, project manager, etc., in the change order request. These items are to be included in the allowed percentage for overhead and profit.
- i) At the sole discretion of the Construction Manager, all changes in the work identified and required to be completed immediately shall be performed on a time and material basis due to the time constraints of the work schedule.
- j) Notwithstanding any language to the contrary here and elsewhere in the contract, the aggregate total of all overhead and profit on any given change when performed by a Trade Contractor and their respective subordinate trade contractors cannot exceed 10%. All trade contractors shall utilize the Proposed Change Order (PCO) workbook provided by the Construction Manager at the beginning of the project for submitting all change proposals, including T&M work.

#### 13. EQUIPMENT START-UP MATRIX

a) Following the coordination effort, the HVAC contractor shall initiate drafting an equipment startup matrix targeting systems that require formal vendor start up or special programming. This matrix is to include, but not limited to: HVAC equipment, fire alarm systems, security systems, plumbing equipment, fire pumps, switchgear, lighting controls, emergency generators, automatic temperature

controls, etc. This document will be submitted to and managed by the MEP Coordinator, who will then circulate the matrix amongst the various trade partners for their inputting of their respective systems. This matrix will be a living document to aid in maintaining the construction schedule and be a lead into the formal Commissioning process. A Sample Equipment Start-up Matrix is enclosed at the end of this section.

#### 14. PROJECT CLOSE-OUT

- a) Each Trade Contractor shall remedy all punchlist items within thirty (30) days of issuance of said list or in the time frame prescribed in the contract schedule, whichever is shorter. If a Trade Contractor is unable to remedy any item due to occupancy by the Owner, then those items must be remedied during non-occupancy hours, including, but not limited to, 2<sup>nd</sup> shift, 3<sup>rd</sup> shift, weekends and holidays. If any punchlist item is not remedied in accordance with the above provisions, the Construction Manager will provide notice, giving the Trade Contractor 48 hours from receipt of notice to remedy the incomplete items. All items remaining incomplete past the 48-hour provision noted herein will be completed by the Construction Manager, the cost of which will be deducted from any amounts due the Trade Contractor. Any cost for O&G Supervision required after the prescribed time frame noted above due to the Trade Contractor will be deducted from any amounts due.
- b) Notwithstanding any language to the contrary, no retainage will be reduced/released until all Project Close-out items are complete to the satisfaction of the Construction Manager.
- c) The trade contractor shall identify on the submittal the quantity(ies) of attic stock required to be submitted per the technical specifications. The trade contractor shall also submit an attic stock schedule. The attic stock schedule shall identify all attic stock required including colors and quantities. All attic stock requirements are to be delivered to the project as directed by the Construction Manager and fulfilled with materials used for each phase of the project to ensure a consistent dye-lot is maintained.
- d) Operations and Maintenance Manuals shall be submitted electronically and in accordance with Section 01 78 23 and any applicable technical specification sections for review no later than sixty (60) days after receipt of approved submittal(s). An amount defined by the sliding scale shall be included on each contractor's Schedule of Values whose contract requires submission and acceptance of Operations and Maintenance Manuals. No monies will be paid to the trade contractor until all required Operations and Maintenance Manuals have been approved and accepted.
- e) Sample Warranties shall be submitted electronically for review no later than sixty (60) days after receipt of approved submittal(s). Final Warranties shall be submitted within thirty (30) days after receipt of Substantial Completion. An amount defined by the sliding scale shall be included on each contractor's Schedule of Values whose contract requires submission and acceptance of Warranties. No monies will be paid to the trade contractor until all required Warranties have been approved and accepted.
- f) Owner Training shall be scheduled and completed in the time frame prescribed in the contract schedule.
- g) Upon request of the Owner, and prior to the expiration of one year from the date of substantial completion for each phase, the trade contractor shall, without additional compensation, attend a meeting with the Construction Manager and the Owner to review the facility operations and performance.

#### 15. WARRANTIES/GUARANTEES & MAINTENANCE

#### a) Warranties/Guarantees

Manufacturer's warranties shall not start until the date of substantial completion of each particular phased area or, until all aspects of the commissioning of the respective system are complete and accepted by the Commissioning Agent and the Owner, whichever date is later. The HVAC and electrical contractors shall include in their base bid any additional cost for extending manufacturer's warranties until the date of substantial completion of each particular phased area or, until all aspects of the commissioning of the respective system are complete and accepted by the Commissioning Agent and the Owner, whichever date is later.

Listed below is an outline of how the warranties/guarantees and equipment maintenance will be handled for this project:

For all major mechanical and electrical equipment including but not limited to boilers, circulation pumps, domestic hot water heating tanks, generators, fire pumps, switchgear, airhandlers, cabinet unit heaters, unit ventilators, fans, light fixtures and other electrical devices, the warranties and guarantees on these pieces of equipment will commence per completed phase after the equipment has been put into permanent operating mode, the Owner's training, if required, has been given and accepted, the operations and maintenance manuals have been submitted and approved, and finally, until all aspects of the commissioning of the respective system are complete and accepted by the Commissioning Agent and the Owner. The maintenance of these pieces of equipment will be the responsibility of the contractor for a period of one (1) year from the time warranties/guarantees commence.

- Warranties and guarantees on the temperature control building management systems, fire alarm and security systems shall commence on the date of substantial completion of the entire project.
- ii) All warranties on new roof areas shall not commence until all of the roof areas on the entire building are complete and the roof areas have been inspected by the roofing manufacturer for compliance with the manufacturer's warranty. The roofing contractor shall include in his bid any additional costs that may occur as a result of starting all of the roof warranties at the same time.
- iii) The warranties and guarantees on all food service equipment shall commence when the Owner occupies the new Kitchen and Servery spaces. The Owner will be responsible for maintaining the equipment after the date of occupancy of the Kitchen and Servery.

#### b) Maintenance

Once equipment is turned on in the building per the schedule the contractor is responsible for the following.

- i) All equipment installed under this contract having moving parts and requiring lubrication shall be properly lubricated according to the manufacturer's recommendations prior to testing and operation. Any such equipment discovered to have been operated before lubrication by the contractor is subject to rejection and replacement at no additional cost to the Owner.
- ii) The contractor shall provide the necessary skilled labor to assure the proper operation and to provide all required current and preventative maintenance for all equipment and controls until final acceptance of the building by the Owner. The contractor shall not assume acceptance of the building by the Owner until he receives written notification.
- iii) The contractor shall receive calls for any and all problems experienced in the operation of the equipment provided under this contract and shall take steps to immediately correct any deficiencies that may exist.

- iv) The contractor shall provide a check list and shall put a copy of it in the boiler or main mechanical room. The check list shall itemize each piece of equipment furnished under his contract.
- v) The contractor shall verify on his check list that he has examined each piece of equipment and that, in his opinion, it is operating as intended by the manufacturer, it has been properly lubricated, and that all necessary current and preventative maintenance has been performed as recommended by the manufacturer and by good and accepted practice.
- vi) During construction the contractor shall ensure that all filters are in place on all equipment. If the equipment is not operated during construction, strict attention shall be paid to maintaining cleaning and effective filters and cleaning ductwork and equipment. Filters shall be new and/or clean when the system testing and balancing takes pace. The contractor shall bear the cost of all filters and media during construction until final acceptance by the Owner. This requirement shall apply equally to fluid filters and strainers.

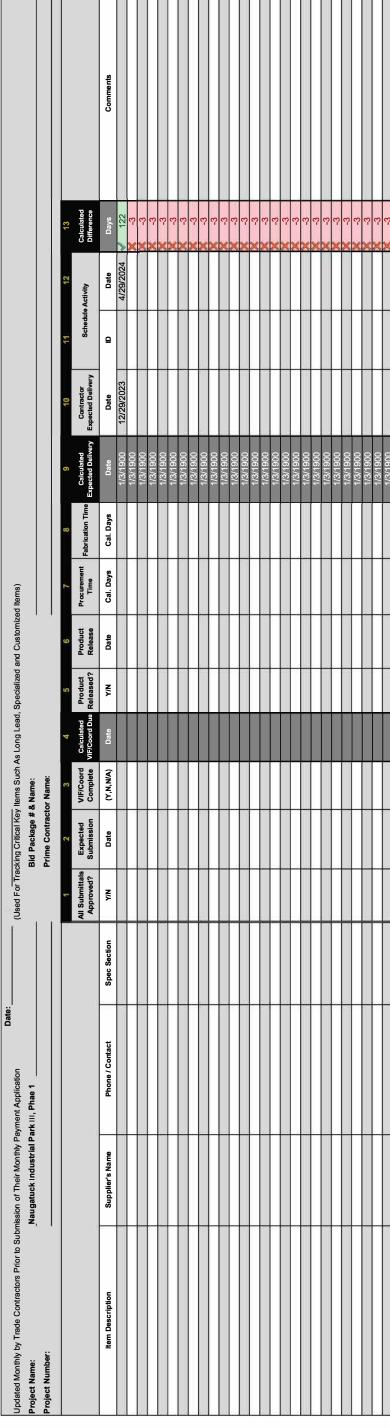
**END OF SECTION** 



## **Project Material and Equipment Status Report Instructions**

Use the attach	ned tracking sheet to coordinate procurement items as listed (but not limited to)
	- Items with 6 or more weeks of Procurement time - Custom Items that may require Verification in Field (VIF) - Materials with Multiple Submittals Required for release
Each Item sho	ould be updated as follows:
Column 1 -	Submittals Completion - Please select whether all required submittals are approved for product release. (Answer Y or N)
Column 2 -	Expected Submission Date - If Column 1 is "N", Provide the latest expected submission for any action submittals, If Col. 1 is "Y", Select the Day the Last submittals was Approved.
Column 3 -	VIF/Coord Complete - Please select if the listed material has been Field measured/ VIF. If this is not required select "N/A". (Answer Y, N, or N/A)
Column 4 -	VIF/Coord Due By - This Is a calculated column, please leave alone. Based on the Answer provided in Col 3, a drop dead date for VIF will be calculated by the date provided in Col. 12
Column 5 -	minus the expected procurement and fabrication times. (Col. 7 & 8).  Product Release - Update if the product has been release. (Answer Y or N)
Column 6 -	Product Release Date - If the product was release (Column 4 is "Y") provide the date it was released. If "N", please leave blank.
Column 7 -	<u>Procurement Time</u> - Provide the Longest estimated time period, <u>in calendar days</u> , for materials to be delivered from the release date (Col. 6). (6-8 weeks would be input as 56 calendar days)
Column 8 -	<u>Fabrication Time</u> - Provide the longest estimated time period, <u>in calendar days</u> , for materials to be <u>fabricated and delivered</u> to site. (6-8 weeks would be input as 56 calendar days. If there is no fab time input 0)
Column 9 -	<u>Calculated Expected Delivery</u> - <u>This Is a calculated column, please leave alone.</u> This cell
	calculates the expected on site delivery date based on the values in Columns 1-6. If the material
	has not been released, the cell will add submittal review time and procurement time to the
	expected date in Col. 1. If the product is realeased (Col. 4 = "Y") procurment and fabrication
Column 10 -	time (Column 7 & 8) will be added to the release date (Col. 6).  Contractor Expected Delivery - This cell should be filled with the expected delivery date once
Column 10 -	the order is shipped by the manufacturer. This will override any calculated dates in Col. 9 and
	update the schedule difference in column 13.
Column 11 -	Schedule Activity ID - Fill in the updated activity ID from the O&G latest project schedule. If there is not an exact activity, select the schedule ID for the activity your scope of work should precede.
Column 12 -	Schedule Activity Date - Please provide the start date with the activity ID chosen in Column 8
Column 13 -	Calculated Difference (Calculated Value) - This value will calculate the difference between Expected Delivery (Col. 7) or Trade Contractor Expected Delivery (Col. 8 if not blank) and the Schedule Activity Date (Col. 9).
Submit an up O&G review.	dated tracking log via Aconex as an excel file and submit as a typical workflow for
Please Note:	A tracking log must be provided monthly by the 15th. If not provided, trade vill not be invited to the monthly draw.

# Project Material and Equipment Status Report





NAUGATUCK, CT

## O&G Industries, Inc. Equipment Start-Up Matrix (MEPFP)

	Сотте		
9/26/2023			
<u>Date :</u>	Commisioning Date		
	Startup Report Received		
	Startup Date		
	VFD Applicable Startup Date Received Date		
	Manufacture Required Startup		
	PFC Status		
	Projected Install Date		
	Last Promised Actual Delivery Projected Install Delivery Date Date Date		
	Last Promised Delivery Date		
	Equipment		
ii.	_		
Project Name: Project Number:	Spec Section		

Commisioning Gomments Date

#### STATE OF CONNECTICUT Contractor Verification (in accordance with Public Act 16-67)

<u>Directions to Contractor</u>: Connecticut law requires that any contractor applying or bidding for a contract (including individuals who are independent contractors) with a local or regional board of education, a governing council of a state or local charter school, or interdistrict magnet school operator require any employee with the contractor who would be in a position involving direct student contact to supply the contractor with the information provided in this form. Information may be collected either through a written communication or telephonically.

In addition, pursuant to Connecticut General Statutes (C.G.S.) § 10-233c, the contractor is required to contact – either telephonically or through written communication – any current or former employer of an employee if such employer was a local or regional board of education, a governing council of a state or local charter school, or interdistrict magnet school operator or if the employment caused the employee to have contact with children, to request any information concerning whether there was a finding of abuse or neglect or sexual misconduct against the employee. If the contractor receives any information indicating such a finding, or otherwise has knowledge of such a condition, the contractor must immediately forward such information to any local or regional board of education with which the contractor is under contract.

<u>Directions to Employee of Contractor:</u> Pursuant to Connecticut state law, employees of a contractor who would be in a position involving direct student contact must supply all of the information provided in Section 2 of this form.

#### Section 1 – To be completed by Contractor

Name	
Street address	
City, State, Zip Code	
Contact person	
Telephone number/email address	

#### Section 2 – To be completed by Employee of Contractor

**Part A.** On a separate sheet of paper, please list the name, address and telephone number of each current or former employer, if such current or former employer was a local or regional board of education, a governing council of a state or local charter school, or interdistrict magnet school operator, or if such employment otherwise caused you to have contact with children.

Part B. Please complete the questions below in their entirety.

Have you ever:

- Y N Been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department (answer "no" if the investigation resulted in a finding that all allegations were unsubstantiated)?
- Y N Been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (the "department"), or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to section 17a-101g of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?
- Y N Had a professional or occupational license or certificate suspended or revoked or ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by the department or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by the department of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?

Part C – Written Consent and Disclosure Authorization. I hereby at	uthorize the entities I have listed in Section 2 of this form to
release to the entity listed in Section 1 of this form the information requi	ired to be released by my previous employer pursuant to
(C.G.S.) § 10-222c along with any related records. I hereby consent to a	and authorize disclosure by the State Department of Education
of the information requested pursuant to C.G.S. § 10-222c, as amended	by Public Act 16-67, and I hereby authorize the release by the
State Department of Education of any related records. I further hereby i	release the above-named employer(s) and the State Department
of Education from any and all liability of any kind that may arise from t	he disclosure or release of records requested pursuant to
C.G.S. § 10-222c, as amended by Public Act 16-67.	
Signature of Applicant	Date
Signature of Applicant	Date

#### NOTES:

The terms provided below are currently defined in state law as follows. Please note that statutes may be amended from time to time.

Sexual Misconduct means – "any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student." Connecticut General Statutes § 10-222c(k).

Abuse or neglect means – "abuse or neglect as described in Section 46b-120, and includes any violation of Sections 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a." Connecticut General Statutes  $\S$  10-222c(k).

The Connecticut State Department of Education is an affirmative action/equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, gender identity or expression, sexual orientation, marital status, national origin, ancestry, age, criminal record, political beliefs, genetic information, intellectual disability, past or present history of mental disability, learning disability, or physical disability, including, but not limited to, blindness or any other basis prohibited by Connecticut state and/or federal nondiscrimination laws.

#### **Contractor Background Check Form**

Company Name:		Date					
Employee	Information						
Full Name:							
	Last	First				Middle	
Address:	Street Address					Apartment/Unit #	
Birth Date:	City	Driver's License #:			State	ZIP Code	
	mm/dd/yyyy		State	Number			
<b>Employee</b>	Information						
Full Name:							
	Last	First				Middle	
Address:	Street Address					Apartment/Unit #	
Birth Date:	City				State	ZIP Code	
	mm/dd/yyyy	Driver's License #:	State	Number		<del></del>	
	,,,,,						
<b>Employee</b>	Information						
Full Name:							
	Last	First				Middle	
Address:	Street Address					Apartment/Unit #	
Birth Date:	City	Driver's License #:			State	ZIP Code	
	mm/dd/yyyy		State	Number			
<b>Employee</b>	Information						
Full Name:							
Address:	Last	First				Middle	
	Street Address					Apartment/Unit #	
Birth Date:	City	Driver's License #:			State	ZIP Code	
	mm/dd/yyyy	Briver's Electrise #.	State	Number			
Employee	Information						
Full Name:							
Address:	Last	First				Middle	
	Street Address					Apartment/Unit #	
Birth Date:	City				State	ZIP Code	
	mm/dd/yyyy	Driver's License #:	State	Number			
	iiiiii aa yyyy		Jule	IVAITIDE			

mm/dd/yyyy

146666



#### Oracle's Textura Payment Management: Work Faster and More Efficiently

#### What Is Textura Payment Management (TPM®)?

Oracle's TPM is an Internet-based construction invoicing and payment solution. With the TPM system, subcontractors can electronically sign and submit their pay applications—including invoices, sworn statements, and conditional and/or unconditional lien waivers. Payments are made electronically via ACH (Automated Clearing House) resulting in faster access to your funds. In addition, TPM facilitates submission and tracking of compliance documents and sub-tier waivers. In short, TPM has revolutionized the construction payment process. Thousands of subcontractors currently use TPM to submit their pay applications every month.

#### Sign Pay Applications and Submit Electronically

TPM automatically generates the required Pay Application documents and transmits them to your GC electronically at the click of a button.

- · Invoices are created by simply entering a percent complete or dollar value by line item of your budget
- · Electronic submission of documents eliminates the expense and inconvenience of fax or hand delivery
- · Invoice amounts are verified with lien waiver and payment amounts, reducing the risk of error

#### **Receive Payments via ACH**

TPM uses the secure ACH network for electronic deposit of funds to accelerate draw payments.

- ACH will deliver funds faster than a manual check. Payments are made through TPM directly by the GC and are subject to the terms of your contract.
- · ACH works like direct deposit. Funds are immediately available, no waiting for checks to clear.
- TPM alerts you via email that payment has been disbursed.

#### Know What is Happening, When It Happens

TPM offers complete visibility throughout the draw process and notifies users of critical events.

- · Receive real-time notifications when a draw is opened, change order issued, payment disbursed, etc.
- Receive email reminders to update expiring insurance documents and notification of non-compliance.
- Online invoice approval and rejection ensures that both parties are informed of final invoice amounts.

#### **Manage Documents Online**

Project documents created in or uploaded to the system are available for viewing, printing or downloading to your computer. TPM will store these documents for a minimum of ten years.

- · Pay Application backup documents are submitted quickly and easily via an upload attachment feature.
- Electronic submission & tracking of legal documents such as insurance certificates reduces payment holds.
- Possibility for lost or delayed documents resulting in held payments is virtually eliminated

#### What Does It Cost to Use TPM?

#### 0.22 % of contract value\*

- Maximum \$5,000
- Sub-tier subcontractors \$100

#### **Payment Methods**

· ACH (default) or Credit Card

\*Plus applicable taxes

#### **Technical Requirements:**

TPM is completely web-based- there is no software to install. Users need only:

- Internet access (high-speed recommended)
- Email access for each user
- Adobe Acrobat Reader 6.0 or higher (free download)

#### Free Training & Support:

Our Training Supports your training needs with:

- Free webinars
- Individual training by phone
- Training videos
- Live in-app chat

Support representatives are available to answer your questions at 866 -TEXTURA (866-839-8872).

ORACLE

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#### SECTION 01 50 00 - CONSTRUCTION CONTROLS AND TEMPORARY FACILITIES

#### **GENERAL**

a. The Drawings, General Conditions, Supplementary General Conditions and Division l, General Requirements, are a part of this Section and shall be binding on the contractor and/or subcontractor who performs this work. Note also all Addenda.

#### **SCOPE OF THE WORK**

- a. The trade contractor shall provide each and every manner of temporary structure and means of operation as required and herein specified to expedite construction phases properly and safely:
  - 1. Temporary Field Office Buildings
  - 2. Storage Facilities and Parking
  - 3. Temporary Sanitary Facilities
  - 4. Temporary Telephone, Data and Internet Access Service
  - 5. Security
  - 6. Site Logistics Plan
  - 7. Familiarity of Site Responsibilities
  - 8. Project Sign

## 1. Temporary Field Office Buildings

- a. The Construction Manager will provide a temporary trailer for his own use at the site. The Sitework Contractor shall extend temporary electric service to the Construction Manager's temporary field office and make all necessary connections. The installation of such electric service shall comply with all governing codes and regulations.
- b. The Trade Contractor shall provide his own temporary trailer on the project site at a location designated by the Construction Manager. The Trade Contractor shall extend temporary electric service to his temporary field office and make all necessary connections. The installation of such electric service shall comply with all governing codes and regulations.
- c. Each trade contractor shall pay all expenses connected with his field office. This includes, but is not limited to, electrical service to the trailer and telephone/data to the trailer.

### 2. Storage Facilities and Parking

- a. Each trade contractor shall provide weathertight storage for materials requiring protection from the weather.
- b. Storage areas on the project site shall be in locations as directed by the Construction Manager and shall be relocated as necessary to maintain phased construction and schedule set by the Construction Manager.
- c. Parking shall be in designated areas of the Owner's existing parking areas or in the Designated Contractor Parking area as indicated on the Site Logistics Plan.

#### NAUGATUCK INDUSTRIAL PARK III - PHASE 1

### 3. Temporary Sanitary Services

a. All temporary sanitary services will be provided by the Sitework Trade Contractor.

#### 4. Temporary Telephone, Data and Internet Access Service

- a. The Trade Contractor shall provide his own temporary phone at his office trailer for use during construction. The Construction Manager's phones will <u>not</u> be available for the contractor's use.
- b. The Trade Contractor shall include in his bid the cost of providing a smart phone for each of his supervisory personnel.

#### 5. Security

- a. Each trade contractor shall take all reasonable precautions necessary to prevent loss or damage caused by vandalism, theft, burglary, or pilferage of property located within the limit of work.
- b. The sitework contractor shall install, maintain and remove all temporary security fence and gates shown in the Site Logistics Plan included in this section. The fencing shall be minimum 2-inch, 9-gage, galvanized steel, chain-link fencing, minimum 8 feet high with driven galvanized steel pipe posts; minimum 2-3/8-inch-OD line posts and 2-7/8-inch-OD corner and pull posts, with 1-5/8-inch-OD top and bottom rails. Provide galvanized steel bases for supporting posts. Privacy scrim fabric with grommets or slats shall be provided in all fencing, including portable fence panels and gates.
- c. The sitework contractor shall provide "No Trespassing" signs on all perimeter fencing at maximum 100' spacing.

#### 6. Site Logistics Plan

a. The Site Logistics, Fencing and Temporary Power Sketches are included at the end of this section.

#### 7. Familiarity of Site Responsibilities

- a. It is the duty and responsibility of the Trade Contractor to visit the site and familiarize and verify all existing conditions.
- b. The Trade Contractor shall take all necessary field measurements prior to fabrication and installation of work and shall assume complete responsibility for accuracy of same.
- c. The Trade Contractor shall ascertain the location of all electrical cables, conduit, utility lines, oil tanks, supply lines, sewer, water lines and drains whether or not exposed to view, and take proper precautions not to disturb any existing utilities that are to remain in use.
- d. Should any utility line be discovered or uncovered during the work, the Trade Contractor shall promptly notify the Construction Manager in writing.

## NAUGATUCK INDUSTRIAL PARK III - PHASE 1

e. The Trade Contractors shall be held responsible for any utility lines damaged during the process of any of their respective work under the Contract.

## 8. Project Sign

a. The Project Sign requirements are included at the end of this section.

# **END OF SECTION**



## Department of Economic and Community Development Project Sign

8' -0"



# Name of the project

Sponsor/ Developer Logo

in cooperation with



Daniel O'Keefe, Commissioner
Department of Economic and Community Development

and

Name of Chief Elected Offical, Title
Name of Municipality

Name of Architect

Name of General Contractor

Sign Panel %" MDO-EXT-APA PLYWOOD SUPPORTED WITH (2) 4X4 TREATED WOOD COLUMNS AND SECURED 4'

INTO GRADE. TOP OF SIGN AT 8'-0" ABOVE GRADE

Colors ALL LETTERS AND SYMBOLS ARE TO BE BLACK. THE BACKGROUND WILL BE WHITE ENAMEL. BACK OF

PLYWOOD AND SUPPORT STRUCTURE SHALL BE PAINTED MATTE BLACK

Typeface POPPINS SEMI-BOLD. NAME OF PROJECT IS TO BE BIGGER THAN ANY NAMES. TITLES OF LEADERS IS TO

BE SMALLER THAN THEIR NAMES. FONT IS ATTACHED.

**COLORS** ALL LETTERS AND SYMBOLS ARE TO BE BLACK. THE BACKGROUND WILL BE WHITE ENAMEL. BACK OF

PLYWOOD AND SUPPORT STRUCTURE SHALL BE PAINTED MATTE BLACK

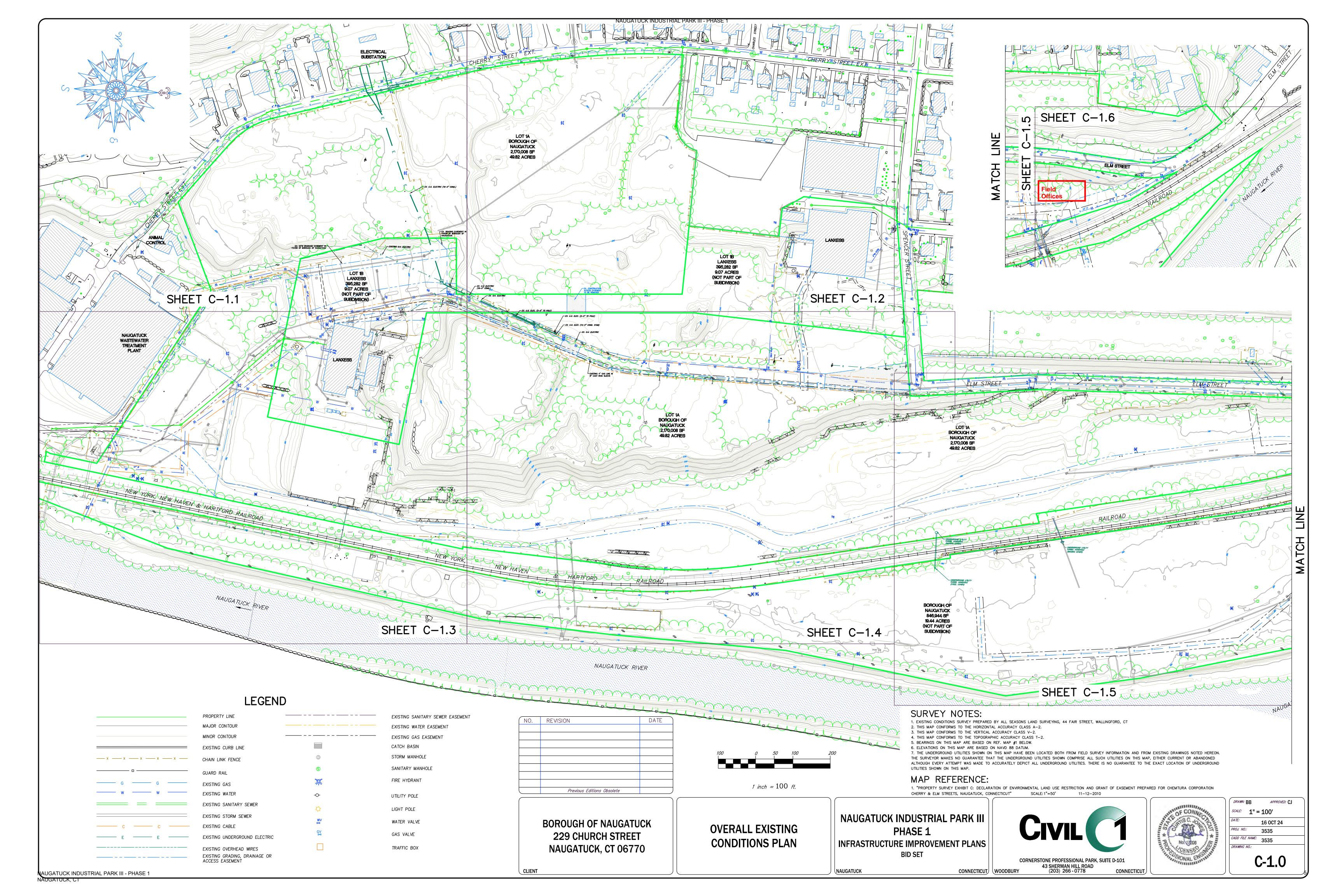
**Location** SIGN MUST BE LOCATED WHERE IT IS CLEARLY VISIBLE TO THE PUBLIC

Timing Install at the start of construction and remove at construction completion

State & Governor Logo

4'0"

ATTACHED



# Index to

# GENERAL REQUIREMENTS

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## **GENERAL REQUIREMENTS**

Naugatuck Industrial Park III – Phase 1 Naugatuck, CT Contract FY24-B099

## 1. Scope of Work

The project consists of the redevelopment of the Naugatuck Industrial Park, as detailed in the bid plans. This project includes site development and major infrastructure improvements, consisting of roadway reconstruction/extension, parking lot construction, storm drainage and sanitary sewer installations and modifications, gas and water main installations, lighting, and other amenities. The work shall also conform to such additional Drawings and addenda to these Specifications and Drawings as may be published or exhibited prior to the opening of bid proposals and to such drawings in explanation of details, or as may be furnished by the Engineer from time to time during the construction. Construction shall be in accordance with the Borough of Naugatuck's Design and Construction Standards, Form 819 (2024), all supplements thereto and special provisions provided herein.

Work and materials which are necessary in the construction, but which are not specifically referred to in the Specification, or shown on the Drawings, but implied by the Contract shall be furnished by the Contractor at their own cost and expense, included in the lump sum bid for the project, and shall be such as will correspond with the general character of the work as may be determined by the Engineer, whose decisions as to the necessity for and character of such work and materials shall be final and conclusive. It is the intent of these Specifications to produce a complete, operational, and finished project whether shown in every detail or not.

The Borough reserves the right to decrease the Scope of Work to be done under this Contract, select bid or alternate items in its best interest, or to omit any work in order to bring the cost within available funds. Exercise by the Borough of the above rights shall not constitute any grounds or basis of claim for damages or for anticipated profits on work omitted.

#### 2. Standards

Wherever reference is made in this Contract to the Standard of any technical society or other recognized organization, these shall be construed to mean the latest standard adopted and published at the date of advertisement for bids.

Abbreviations are defined as follows:

ASTM -- American Society of Testing and Materials.

ANSI -- American National Standards Institute

ASA -- American Standards Association

ACI -- American Concrete Institute

AASHTO -- American Association of State Highway and Transportation Officials

ASME -- American Society of Mechanical Town of Deep River Inspectors

IEEE -- Institute of Electrical and Electronics Engineers

AWWA-- American Water Works Association ACPA-- American Concrete Pipe Association

## 3. Contract Drawings and Working Drawings

The work is shown on the accompanying Contract Drawings. Such additional working drawings, as required because of changes or to provide greater detail, will be provided by the Engineer.

#### 4. Alterations

The Engineer may make alterations to the line, grade, plan, form, dimensions, or materials of the work, or any part thereof, either before or after the commencement of the work. If such alterations increase the quantity of work, such increase will be paid for according to the quantity of such extra work actually done and at the prices stipulated for such work under unit adjustment prices of the Contract. In case no unit price is applicable, the alterations will be paid for as extra work defined in Article XXVIII of the Contract.

#### 5. Planimeter

The use of the planimeter shall be considered satisfactory for estimating quantities where geometric and analytic methods would be comparatively laborious.

#### 6. Contractor's Schedule of Operations

The Contractor shall submit, within ten (10) days of the date of the Notice to Proceed, a preliminary schedule of operations for the project to the Owner for approval. The approved preliminary schedule shall be used to prepare a detailed schedule of the principal construction events including all proposed purchase and delivery dates for items with critical delivery times. A supplemental bar graph shall also be prepared based on this construction schedule. The detailed schedule and supplemental bar graph shall be submitted by the preconstruction meeting.

The status of the project shall be evaluated monthly by the Contractor and shall be compared to the original schedule which shall be revised, if necessary, and reissued.

#### 7. Coordination with Other Contractors and Utilities

During the progress of the work, other contractors and/or utilities may be engaged in performing work in the area. The Contractor shall coordinate the work to be done under this Contract with the work of others.

#### 8. Cost Breakdown

Prior to the first estimate for payment to the Contractor, the Contractor shall submit to the

Engineer for approval a detailed schedule of values of the various amounts to be paid for within each Lump Sum Item, as applicable. It shall also include, but not necessarily be limited to, proportional amounts for bonds, insurance and miscellaneous works which are to be paid for throughout the life of the Contract, and which are not specifically included for payment under other Items and/or Division of the Contract.

## 9. Estimated Quantities

To aid the Owner in determining lump sum percent payment or quantities to be paid for, the Contractor shall, whenever requested, give the Owner access to the proper invoices, bills of lading, or other pertinent documents and shall provide methods and assistance necessary for weighing or measuring materials.

## 10. Payment for Miscellaneous Work

No direct payment will be made to the Contractor for furnishing and providing miscellaneous temporary works, plants, and services, including Contractor's office, sanitary requirements, water supply, power, tools, equipment, lighting, telephone systems, store houses, store yards, safety devices, permits, insurances, bonds, watchmen, cleanup and the like, or other items specified under these General Requirements, unless payment therefore has been specifically provided. Compensation for the same is understood to be included in the scheduled prices hereinbefore given for the various kinds of work contemplated.

## 11. Drawings and Information to be furnished by the Contractor

For materials and equipment not supplied by the Owner, the Contractor shall promptly furnish to the Engineer, for their information, three (3) copies of drawings in detail of the materials, equipment, piping, and structural details for any part of the work for which Drawings are not to be issued by the Owner. Before placing orders for any manufactured item or part of structure, they shall also submit three (3) copies, for approval, of detailed lists and descriptions of the various materials, fixtures, fittings and supplies which they propose to use in the work, and also the names of individuals or companies who propose to furnish or manufacture the same. Copies of the results of all tests of materials and equipment shall be furnished by the Contractor immediately following the performance of required tests.

All submittals shall be submitted sufficiently in advance of construction requirements to provide no less than fifteen (15) days, excluding Saturdays, Sundays, and Owner holidays for review from the time received by the Borough's Engineer/Inspector. For submittals of major equipment, that require more than fifteen (15) days to review, due to its sheer complexity and amount of detail and also requiring review by more than one engineering discipline, a letter will be sent by the Project Manager or his/her designee to the Contractor informing him/her of the circumstances and the date it is expected the submittal will be returned to the Contractor.

Prior to the submittal of shop drawings, the Contractor shall check, approve, initial and date the drawings and shall also indicate by reference the Standard Specification, Special Provision and/or Plan which covers the item. Submittals will be returned to the Contractor if they have not

been properly processed by them.

Approval by the Owner of shop drawings for any material, apparatus, device and layout shall not relieve the Contractor from the responsibility of furnishing same of proper dimension, size, quality, quantity and all performance characteristics to efficiently perform the requirements and intent of the Contract Documents. Approval shall not relieve the Contractor from the responsibility for errors of any sort on the shop drawings. If the shop drawings deviate from the Contract Documents, the Contractor shall advise the Owner of the deviations in writing, including the reasons for the deviation.

In the event the Contractor obtains the Engineer's approval for the material, manufactured items, or equipment, other than that which is shown on the Plans or specified herein, the Contractor shall, at their own expense, make any changes as required in the structures, buildings, piping, or any other portion of the work necessary to accommodate the approved material, manufactured item, or equipment.

#### 12. Substitution Clause

Whenever in the Contract Documents any item of equipment or material is designated by reference to a particular brand, manufacturer or trade name, it is understood that an approved equal product, acceptable to the Owner, may be substituted by the Contractor, except where expressly noted as "no substitutions."

#### 13. Contract Limits

The Contractor shall confine their activities to within street lines, easements, and right-of-way.

The Contractor shall take particular care to existing walls, protect trees and shrubs and private personal property. The Contractor shall make good any damage to the satisfaction of the Owner.

The Contractor shall not enter upon or make use of any private property along the line of work, outside the limits of the rights-of-way, except when written permission is secured from the owner of said property and a copy delivered to the Owner. The Contractor shall be held responsible for all damages or injury, done by the Contractor or those in the Contractor's employment, to any private or public property of any character during the prosecution of the work. The Contractor shall restore or repair at their own expense, in a manner satisfactory to the Owner, such property as may be damaged by their operations during the prosecution of the work.

In case of failure on the part of the Contractor to restore or repair such property in a manner satisfactory to the Owner, the Owner may, upon 48-hour notice to the Contractor, proceed with such restoration or repair. The expense of such restoration or repair shall be deducted from any monies which are due or may become due the Contractor under this Contract.

#### 14. Work in Easements

The Contractor shall comply with all permanent and temporary construction easements related to

the work and shall be responsible for coordinating with property owners where work in easements exists.

## 15. Cleaning up the Site

During the progress of the work, the Contractor shall keep the construction areas in a neat condition, free from accumulations of waste materials and rubbish. Lunch papers, bottles, lumber cut-offs, drinking cups and like rubbish shall be removed from the site daily. No alcoholic beverages will be permitted at the construction site(s).

On, or before the completion of the work, and before acceptance and final payment shall be made, the Contractor shall clean and remove, from the site and adjacent property all surplus and discarded materials, rubbish, and temporary structures and restore, in an acceptable manner, all property and leave the whole area in a neat and presentable condition.

## 16. Storage of Materials

Materials shall be stored so as to ensure the preservation of their quality and fitness for the work. When considered necessary, they shall be placed on wooden platforms and covered or stored in a suitable building, as directed by the Owner. Stored materials shall be located so as to facilitate prompt inspections.

Materials and equipment supplied by the Owner shall be jointly inspected by the Owner and the Contractor and shall, upon acceptance by the Contractor, become the Contractor's responsibility to make good any damage to the materials and equipment until they have been incorporated and accepted in the work.

#### 17. Removal of Condemned Materials

The Contractor shall remove from the site of the work, without delay, all rejected and condemned materials of any kind brought to or incorporated in the work. No such rejected or condemned materials shall again be offered for use by the Contractor.

#### 18. Hauling Materials

Before starting any work, the Contractor shall arrange, with the Municipal or State officials having jurisdiction, for the use of routes of travel for hauling materials, including surplus earth and rock, that will result in minimum inconvenience to the traveling public. Routes of travel so scheduled shall be adhered to throughout the course of the work, unless otherwise approved.

#### 19. Accommodation of Traffic

During the progress of the work, all streets shall be kept open for the passage of traffic and pedestrians and shall not be obstructed unless authorized by the authority having jurisdiction over same. Driveways, sidewalks, and areas of roadway shall be closed as short a time as possible while work is in progress and passage shall be restored by the close of work every day,

by properly placed backfill or approved bridging. The Contractor shall notify residents prior to working in front of their home or business. The Contractor shall take such measures as may be necessary to keep the street open for traffic and shall give at least 48-hour advance notice to the Fire and Police Departments, and the Board of Education of their proposed street operations. They further agree to be responsible for all legal notices to the public concerning the state of the roads while the work is in progress.

Warning signs shall be provided along all streets while work is in progress and, where traffic direction is required, flag person shall be designated by the Contractor to direct traffic past the equipment, machinery or construction operations. Barricades and lights shall be provided as required to protect life and property. Where trenches have been cut in streets on which traffic may pass at times, warning signs shall be placed at frequent intervals and maintained until the street is safe for travel. All such work and operations shall be in accordance with requirements of the Owner, Standard Specifications and Special Provisions herein. The use of unauthorized or unapproved signs, barricades, or traffic delineators will not be permitted.

The Contractor shall construct, maintain, without extra compensation, such adequate and proper bridges over excavations as may be necessary or directed for the purpose of accommodating pedestrians and vehicles. Ingress and egress to private property, satisfactory to the Owner, shall be continuously provided.

Should the Contractor or their employees neglect to set out and maintain barricades or lights, as required in the Specifications, the Owner may immediately and without notice arrange for furnishing, installing and maintaining barricades or lights and any other precaution deemed necessary. The cost thereof shall be borne by the Contractor and may be deducted from any amount due or to become due to the Contractor under this Contract.

The Contractor is required to delineate any raised structures within the travel lanes, so that the structures are visible day and night, unless there are specific Contract plans and provisions to temporarily lower these structures prior to the completion of work.

The Contractor shall be held responsible for any damages that may have to be paid as a consequence of the Contractor's failure to protect the public.

## 20. Temporary Roads and Driveways

The Contractor shall be responsible for providing and maintaining such temporary access roads, to and along right-of-way. Where temporary roads, necessary for the transportation of materials and equipment are on private property, the Contractor shall obtain permission from the property owners and the Borough for their construction and use and pay all costs pertaining thereto.

#### 21. Dust Control

The Contractor shall take all necessary precautions to prevent and abate nuisance caused by dust arising from their operations. Approved methods applicable to various parts of the work, such as sweeping application of water spray or calcium chloride, shall be employed. This also applies to

maintaining temporary paving nuisance-free until permanent paving is placed. The area of construction along roadways shall be broom swept each day after completion of the day's work and the application of water as necessary, all at no additional cost to the owner.

## 22. Working Conditions

In prosecuting the work of this Contract, the Contractor shall provide working conditions on each operation that shall be as safe and healthful as the nature of the operation permits. The Contractor shall comply with all safety and sanitary rules, laws, and regulations.

#### 23. Work in Inclement Weather

During freezing, storm or inclement weather, no work shall be performed except such as can be done satisfactorily and in such manner as to secure first-class construction throughout.

### 24. Working Hours

The Contractor's working schedule shall be confined to a five (5)-day week, Monday through Friday, and the working day shall be confined between the hours of 7:00 a.m. and 5:00 p.m. current local time, unless otherwise approved by the Engineer. Refer to Section 1.08 Prosecution and Progress of work for winter shutdown requirements.

Unless otherwise permitted by the Owner, no work shall be done between the hours of 5:00 p.m. and 7:00 a.m. except as necessary for the proper care and protection of the work already performed. If it shall become absolutely necessary to perform work at night, this shall be approved by the Owner at least 24 hours in advance, of the beginning of the performance of such work. Only such work shall be done at night as can be done satisfactorily and in a first-class manner. Good lighting and all other necessary facilities for carrying out and inspecting the work shall be provided and maintained at all points where such work is being done.

## 25. Emergency Work

The Contractor shall file, with the Borough of Naugatuck Engineer, the name and telephone number of a person authorized by them who may be contacted regarding emergency works at the job site that may be required during non-working hours for reasons of public safety. This person shall be readily available and full Authority to deal with any emergency that may occur.

#### 26. Sedimentation and Erosion Control

The Contractor shall prepare and submit for approval a sedimentation and erosion control plan for the work, prior to the start of construction.

## 27. Work Near Brook(s) and Stream(s)

Care shall be taken to prevent, or reduce to a minimum, any damage to any water body from pollution by debris, sedimentation, or other material, or from manipulations of equipment and/or materials near such water bodies and on abutting property. Particular care shall be taken to prevent gasoline, diesel fuel, and other oils from entering any water body.

### 28. Work Within or Near Areas Designated as Inland Wetlands

Care shall be taken to prevent, or reduce to a minimum, any damage to any inland wetland from pollution by debris, sedimentation, or other material, or from manipulations of equipment and/or materials near such water bodies and on abutting property. Particular care shall be taken to prevent gasoline, diesel fuel, and other oils from entering any inland wetland.

#### 29. Soil and Groundwater Conditions

The Owner assumes no responsibility whatsoever with respect to ascertaining for the Contractor such facts concerning physical characteristics at the site of the project. The Contractor agrees that they will make no claim for and has no right to additional payment for extension of time for completion of the work, or any other concession because of any interpretations or misunderstanding on their part of this Contract, or because of any failure on their part to fully acquaint themself with all conditions relating to the work.

### 30. General Sewer Requirements

All sanitary sewer work shall be in accordance with Borough of Naugatuck requirements. If unexpected sanitary sewer conflicts arise, immediately notify the Owner and Engineer.

### 31. Water Supply and Electrical Energy

Contractor to supply all water and electrical energy required to perform the work at no additional expense to the Owner.

## 32. Contractor's Office

Refer to the applicable special provision regarding the Contractor's Office.

#### 33. Resident Engineer's Office

Space for the resident engineer shall be provided according to the Contractor's Office special provisions.

#### 34. Explosives and Blasting

Not applicable for this Contract.

## 35. Sheeting, Shoring, and Bracing

Where necessary, the sides of trenches and excavations shall be supported by adequate sheeting, shoring and bracing. The Contractor shall be held accountable and responsible for the sufficiency of all sheeting, shoring and bracing used and for all damage to persons or property resulting from the improper quality, strength, placing maintaining or removing of the same. Where sheeting is removed, care shall be taken not to disturb the new work or existing utilities and structures. The Contractor shall adhere to all OSHA standards and requirements pertaining to the work.

No sheeting is to be left in place unless expressly permitted by the Engineer. No direct payment will be made for sheeting, shoring, and bracing and compensation for such work and all expenses incidental thereto shall be considered as included in the lump sum bid price of this Contract.

## 36. Existing Structures

All known surface and underground structures and utilities, on or immediately adjacent to the work, are shown on the Plans. Sewer, drainage, water and gas mains, manholes and similar structures located in or adjacent to the location of the structures included in this Contract, are shown on the Contract Drawings, which locations should be considered approximate. This information is shown for the convenience of the Contractor in accordance with the best information available, but is not guaranteed to be correct or complete. The Contractor shall explore the route ahead of trenching and shall uncover all known obstructing pipes sufficiently to determine their location. Necessary changes in location may be made by the Engineer to avoid unanticipated obstructions.

Wherever water or gas mains, electric or telephone ducts, or electric or telephone poles are encountered and may be in any way interfered with, the Contractor shall keep the utility company involved fully informed in advance. The Contractor shall cooperate with the utility company in the protection, removal, relocation and replacement of such structures.

The Contractor shall, at their own expense, sustain in their places and protect from direct or indirect injury all utilities, pipes, poles, conduit, walls, buildings and other structures and property in the vicinity of their work, and they shall be responsible for all damage and assume all expense for direct or indirect injury caused by their work to any of them or to any person or property by reason of injury to them.

Guard rails, posts, guard cables, signs, poles, markers, mailboxes, fences, walls and stone walls, and other private improvements, which are temporarily removed, damaged or destroyed during construction, shall be replaced and restored to a condition as good as or better than existed and to the satisfaction of the Owner.

The Contractor shall, at their own expense, retain the services of a licensed surveyor to replace property markers, on or adjacent to privately owned property, which have been disturbed during the course of construction.

## 37. Marking New Underground Plant

All new underground plant shall be marked with warning tape in accordance with State of Connecticut Public Act 16-345 and DPUC Regulations.

#### 38. Operation of Water Valves

Unless otherwise permitted, existing water valves shall not be operated by the Contractor. Whenever the operation of a water valve is necessary, the Contractor shall make arrangements, at least 24 hours in advance of the need, to have the utility company's forces perform the required operations. Contractor must prepare and distribute customer notices to all affected customers at least 24 hours prior to any shutdown of service.

#### 39. Testing Laboratories

The Contractor shall appoint an independent testing laboratory for all material testing in accordance with the Standard Specifications, which shall be included in the cost of the contract. The Contractor shall provide material samples to the laboratory, as required, throughout the duration of the project.

## 40. Wage Rates

The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of section 31-53, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair project is being undertaken. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

The Contractor shall comply with all Connecticut General Statutes pertaining to the payment of prevailing wages. The Contractor shall provide to the Borough weekly certified payrolls of their employees and any subcontractors employed on the work.



#### INTRODUCTION TO THE TECHNICAL SPECIFICATIONS

The following Technical Specifications shall apply to the various items of work which constitute the construction contemplated under this Contract.

Within the Technical Specifications of this Contract, the following definitions shall apply:

1. <u>Standard Specifications:</u> Shall mean the State of Connecticut, Department of Transportation, Bureau of Highways, "Standard Specifications for Roads, Bridges, Facilities and Incidental Construction, Form 819, dated 2024" and supplements. Only those portions of the Standard Specifications that are referred to in the "MATERIALS" and/or "CONSTRUCTION METHODS" sections of this Contract's Technical Specifications, not supplemented and/or amended therein, shall apply. Within the referred to portions of the Standard Specifications wherein the following terms are used, they shall mean respectively:

## State, Department, Commissioner

Local Public Agency, Owner, or Representative of the Owner

#### Inspector

Owner, Representative of the Owner, the Local Public Agency, or other duly authorized representative

#### Laboratory

Laboratory designated by the Owner

- 2. <u>Applicable Safety Code:</u> Shall mean the latest edition including any and all amendments, revisions, and additions thereto of the Federal Department of Labor, Occupational Safety and Health Administration's "Occupational Safety and Health Standards" and "Safety and Health Regulations for Construction," the State of Connecticut, Labor Department," Construction Safety Code," or State of Connecticut "Building Code," whichever is the more stringent for the applicable requirement.
- 3. <u>Local Regulatory Agency(ies)</u>: Borough of Naugatuck Department of Public Works & Engineering
- 4. <u>These Specifications</u>: Where used in the text of the Technical Specifications, Items shall mean the Technical Specifications of this Contract.
- 5. The following is a list of applicable CTDOT Standard Specifications; however, the list shall not be construed to be complete:

<u>Item</u>	Form 819, Article*
Clearing and Grubbing	2.01
Roadway Excavation, Formation of Embankment	
and Disposal of Surplus Material	2.02
Subgrade	2.09
Subbase	2.12
Granular Fill	2.13
Sedimentation Control System	2.19
Drainage Trench Excavation, Rock in Drainage	
Trench Excavation	2.86
Processed Aggregate Base	3.04
Processed Aggregate	3.05
Cold Reclaimed Asphalt Pavement	4.03
Bituminous Concrete	4.06
Catch Basins, Manholes, and Drop Inlets	5.86
Concrete for Structures	6.01
Reinforcing Steel	6.02
Clean Existing Drainage System	6.53
Drainage Pipes, Drainage Pipe Ends	6.86
Riprap	7.03
Underdrain and Outlets for Underdrain	7.51
Geotextile	7.55
Bituminous Concrete Curbing	8.15
Bituminous Concrete Sidewalk, Bituminous	
Concrete Driveway	9.22
Topsoil	9.44
Turf Establishment, Erosion Control Matting	9.50
Trafficperson	9.70
Maintenance and Protection of Traffic	9.71
Mobilization and Project Closeout	9.75
Traffic Cone	9.77
Traffic Drum	9.78
Construction Barricades	9.79
Construction Surveying	9.80
Trenching and Backfilling	10.01
Light Standards	10.03
Roadway Luminaire	10.04
Electrical Conduit	10.08
Concrete Handhole	10.10
Single Conductor	10.12
Cable in Duct	10.14
Grounding Conductor	1015
Removal of Existing Signing, Removal of Existing	
Overhead Signing	12.06
Sign Face – Sheet Aluminum	12.08
Painted Pavement Markings	12.09

Epoxy Resein Pavement Markings	12.10
Removal of Pavement Markings	12.11
Temporary Plastic Pavement Marking Tape	12.12
Construction Signs	12.20

<sup>\*</sup>Articles may make reference to Materials section of Form 819, applicable but intentionally not listed above. Refer to Form 816 and Supplements for Cold Reclaimed Asphalt Pavement specifications which shall apply.

## INDEX TO SPECIAL PROVISIONS

Note: This index has been prepared for the convenience of those using this contract with the sole express purpose of locating quickly the information contained herein; and no claims shall arise due to omissions, additions, deletions, etc., as this Index shall not be considered part of the contract.

NOTICE TO CONTRACTOR - SPECIAL PROVISIONS

NOTICE TO CONTRACTOR - WORK SCHEDULE AND COORDINATION OF WORK

NOTICE TO CONTRACTOR – CONTRACT TIME AND LIQUIDATED DAMAGES

NOTICE TO CONTRACTOR - EMERGENCY VEHICLE ACCESS

NOTICE TO CONTRACTOR - STAGING AND LAYDOWN AREA

NOTICE TO CONTRACTOR - PERMITS

NOTICE TO CONTRACTOR - PROCUREMENT OF MATERIALS

NOTICE TO CONTRACTOR - SUBCONTRACTORS AND SUPPLIERS

NOTICE TO CONTRACTOR - DUST CONTROL

NOTICE TO CONTRACTOR - PROTECTION AND COORDINATION OF EXISTING UTILITIES

NOTICE TO CONTRACTOR - SUBMITTALS FOR IMPORTED AGGREGATES

NOTICE TO CONTRACTOR - MATERIALS TESTING AND LABORATORY DESIGNATION

NOTICE TO CONTRACTOR – CONTRACTOR TRAINING REQUIREMENT FOR 10-HOUR OSHA CONSTRUCTION SAFETY AND HEALTH COURSE

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NOTICE TO CONTRACTOR - ENVIRONMENTAL COMPLIANCE

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NOTICE TO CONTRACTOR - AS-BUILLT PLANS

SECTION 1.07 - LEGAL RELATIONS AND RESPONSIBILITIES

SECTION 1.08 – PROSECUTION AND PROGRESS

CONTROLLED MATERIALS HANDLING

**TEST PIT** 

SEDIMENTATION CONTROL SYSTEM AT CATCH BASIN

ASPHALT ADJUSTMENT COST

CONSTRUCTION FIELD OFFICE, SMALL

MAINTENANCE AND PROTECTION OF TRAFFIC

MOBILIZATION AND PROJECT CLOSEOUT

DECORATIVE LIGHT POLE AND LIGHT FIXTURE

**BREAK-AWAY FUSE HOLDER** 

PVC SCHEDULE 80 IN TRENCH

RIGID METAL CONDUIT IN TRENCH

RIGID METAL CONDUIT UNDER ROADWAY

AWG COPPER CONDUCTOR

ELECTRICAL SERVICE ENCLOSURE, FOUNDATION AND EQUIPMENT

TEMPORARY ILLUMINATION

REMOVAL AND RELOCATION OF EXISTING SIGNS

ADJUST GATE BOX (GAS)

REPLACE AND RESET MANHOLE FRAME AND COVER (SANITARY SEWER)

Special Provisions Index

# TEMPORARY BYPASS (SANITARY SEWER) SERVICE CONNECTIONS

Special Provisions Index

### NOTICE TO CONTRACTOR – SPECIAL PROVISIONS

All work under this contract shall adhere to and comply with Borough standards and with the Department of Transportation, Form 819, "Standard Specifications for Roads, Bridges, Facilities and Incidental Construction," including the most recent supplements thereto, unless otherwise specified in these provisions.

In Form 819, where the words "State of Connecticut," "Department," "ConnDOT," or "CTDOT" appear, it shall be interpreted to mean "Borough of Naugatuck" as if inserted therein.

The following Special Provisions and Sections of CTDOT Form 819 are hereby incorporated and made part of this contract. CTDOT Form 819, "Standard Specifications for Roads, Bridges, Facilities and Incidental Construction," including the most recent supplements thereto shall be referred to as "Standard Specifications" herein.

Payment will only be made for items in the Bid Proposal. Other items may be included in the Standard Specifications or Special Provisions but payment for those items not listed in the Bid Proposal will be included in the cost of other items of work. Bid Proposal Items may have alphanumeric designations consistent with applicable sections or articles in the Standard Specifications or Special Provisions.

In the case of any conflicts between the Special Provisions, Plans, and Standard Specifications, the order of governance in order of descending authority shall be as follows:

1. Special Provisions, 2. Plans, 3. Standard Specifications.

Where specifications may be in conflict, Borough standards shall prevail over CTDOT.

## NOTICE TO CONTRACTOR - CONTRACT TIME AND LIQUIDATED DAMAGES

Three Hundred Ninety (390) calendar days will be allowed for completion of the work on this project. The delay damages charge to apply will be two thousand dollars (\$2,000.00) per calendar day. The project shall be substantially complete within Three Hundred Seventy (370) calendar days of issuance of the Notice to Proceed.

# NOTICE TO CONTRACTOR – EMERGENCY VEHICLE ACCESS

The Contractor is hereby notified that emergency vehicle access through the work zone shall be maintained at all times during construction and shall be considered a priority in terms of public safety. The Borough will not consider delays or other claims associated with temporary work stoppage due to emergency responses.

# NOTICE TO CONTRACTOR – STAGING AND LAYDOWN AREA

The Contractor shall submit a staging and laydown area plan, to the Owner, upon Notice to Proceed. The plan shall be submitted atleast 7 days prior to mobilization for approval by the Owner. The Contractor shall not mobilize until a staging and laydown area plan is approved by the Owner.

Under all circumstances, the Contractor shall permit passage of emergency vehicles and service vehicles at all times.

### **NOTICE TO CONTRACTOR – PERMITS**

The Contractor shall be responsible for applying for and acquiring a street opening/street use permit a minimum of two weeks prior to the start of construction at no additional cost to the project. If traffic detours are required, the Contractor must submit a request to the Borough, for approval, at least two weeks in advance of implementing the detour. The detour is not guaranteed to be approved at the exact time/date requested and work must prevail whether it is approved or not. The Contractor shall be bound to comply with all requirements of such permits and permit applications. The requirements and conditions set forth in the permit and permit applications shall be binding.

Any plumbing, electrical, building, water, sewer, or other permits required shall be obtained from the Borough of Naugatuck by the Contractor with copies of signed/approved permits furnished to the Owner prior to the start of associated work.

## NOTICE TO CONTRACTOR – PROCUREMENT OF MATERIALS

Upon award, the Contractor shall proceed with shop drawings, working drawings, procurement of materials, and all other submittals required to complete the work in accordance with the contract documents. Upon submittal approvals, procurement shall begin immediately to avoid any potential project delays and implementation of delay damages.

### NOTICE TO CONTRACTOR – SUBCONTRACTORS AND SUPPLIERS

The Contractor shall submit a complete list of <u>all</u> subcontractors, suppliers, vendors, etc. to the Owner for approval, as part of their bid. Approval of subcontractors, vendors, and suppliers shall not relieve the Contractor from meeting all project requirements. No approval of subcontractor, vendor, or supplier shall constitute acceptance of work performed or materials furnished.

## NOTICE TO CONTRACTOR – DUST CONTROL

The Contractor is responsible for controlling air pollution at all times during work of this contract, 24 hours a day, 7 days per week, including non-working hours, weekends, and holidays.

The Contractor shall comply with all State and Federal regulations pertaining to dust control. Particular attention shall be made to the Regulations of Connecticut State Agencies Section 22a-174-18a,b "Control of Particulate Emissions."

The contractor shall submit a dust control plan to the Engineer within 30 days after the Award of the Contract. The dust control plan shall include contact information for the responsible individual(s) from the contractor (24-hour availability) who have authority to implement necessary controls. The plan should detail dust control procedures for anticipated activities that may typically generate dust (ex. Jack hammering, saw-cutting pavement, haul roads, material storage sites, etc.).

The cost for the dust control, including all associated submittals, shall be part of the lump sum bid for this project.

# NOTICE TO CONTRACTOR – PROTECTION AND COORDINATION OF EXISTING UTILITIES

Existing utilities shall be maintained during construction except as specifically stated herein and/or noted on the plans and as coordinated with the utilities. The Contractor shall verify the location of underground, structure mounted and overhead utilities. Construction work within the vicinity of utilities shall be performed in accordance with current safety regulations.

The Contractor shall notify "Call Before You Dig", dial 811 or go to CBYD.com two full working days prior to construction for the location of public utilities, in accordance with Section 16-345 of the Regulations of the Department of Utility Control.

Representatives of the various utility companies shall be provided access to the work, by the Contractor.

Contractors are cautioned that it is their responsibility to verify locations, conditions, and field dimensions of all existing features, as actual conditions may differ from the information shown on the plans or contained elsewhere in the specifications.

The Contractor shall notify the Engineer prior to the start of work and shall be responsible for all coordination with the Borough and utility companies. The Contractor shall allow the Engineer complete access to the work.

The Contractor's attention is directed to the requirements of Section 1.07.13 – "Contractor's Responsibilities for Adjacent Property and Services."

Prior to opening an excavation, effort shall be made to determine whether underground installations, i.e., water, sanitary, gas, electric ducts, communication ducts, etc., will be encountered and, if so, where such underground installations are located. When the excavation approaches the estimated location of such an installation, the exact location shall be determined by careful probing or hand digging, and when it is uncovered, proper supports shall be provided for the existing installation. There will be no separate payment for the support of existing utilities. Utility companies shall be contacted and advised of proposed work prior to the start of actual excavation, as noted above.

The Contractor shall be liable for all damages or claims received or sustained by any persons, corporations or property in consequence of damage to the existing utilities, their appurtenances, or other facilities caused directly or indirectly by the operations of the Contractor.

Any damage to any existing private and public utility, as a result of the Contractor's operations, shall be repaired to the utility's and Engineer's satisfaction at no cost to the State or the Utilities, including all materials, labor, etc., required to complete the repairs.

The Contractor shall coordinate all utility relocations and resets with the respective utility company. The Contractor will be responsible for resetting Borough-owned and Quasi-Public facilities including storm and sanitary sewer manholes, and water gate boxes. Privately owned utility companies will be responsible for the resetting of their own facilities. The Contractor shall notify appropriate utility

companies atleast two weeks in advance of the required valve box, handholes, manholes or other utility box adjustments as shown on the plans.

Delay claims for untimely resetting of utilities will not be reviewed or accepted. It is the Contractor's responsibility to ensure resetting of facilities and the overall project be completed within the allotted calendar days.

## NOTICE TO CONTRACTOR – SUBMITTALS FOR IMPORTED AGGREGATES

Per Borough requirements and the requirements of CTDOT Form 819, the Contractor shall provide product data submittals and material certifications. Materials specified in conformance with CTDOT Form 819 shall satisfy <u>ALL</u> requirements set forth by Form 819, including requirements in the materials division specifications. No material shall be imported until the Engineer issues a written approval. Approval of material sources and submittals shall not relieve the Contractor from furnishing and placing all materials in strict conformance with all project requirements.

Imported aggregates, gravels, and other materials, whether bank run or crusher run, shall meet all CTDOT requirements including not just gradation but also abrasion, soundness, toughness, etc. where applicable and as directed by the Engineer.

# NOTICE TO CONTRACTOR – MATERIALS TESTING AND LABORATORY DESIGNATION

The Owner shall designate a third-party laboratory for materials testing, in accordance with the requirements of CTDOT Form 819, at least two weeks prior to the start of construction. Testing shall be performed at the Borough's expense and shall satisfy the requirements of LOTCIP's Schedule of Minimum Testing (attached), CTDOT Form 819, the standard specifications, and the special provisions, which shall include, but not limited to, gradation, hardness, abrasion, and density testing for roadway structure materials. The designated laboratory must be capable of fulfilling the requirements herein.

The Contractor shall provide ample notice to the Owner and Owner's Representative, at least two full working days in advance, when the Contractor plans to perform materials testing, or when the Contractor anticipates completing a task that requires testing by the Engineer. The Contractor shall coordinate with the testing agency to provide necessary access and materials for all testing procedures. There shall be no claims regarding lost time as a result of delayed or improperly scheduled materials testing or failure to designate a materials testing laboratory in a timely manner.

The Contactor shall be responsible for all material certifications and product testing necessary for submittal approvals including, but not limited to pipe, structures, topsoil, processed aggregate, subbase materials, etc., in accordance with the requirements of Form 819.

# NOTICE TO CONTRACTOR – CONTRACTOR TRAINING REQUIREMENT FOR 10-HOUR OSHA CONSTRUCTION SAFETY AND HEALTH COURSE

In accordance with Connecticut General Statute 31-53b and Public Act No. 08-83, the Contractor is required to furnish proof that any person performing the work of a mechanic, laborer, or worker pursuant to the classifications of labor under section 31-53, has completed a course of at least ten hours in duration in construction safety and health approved by the Federal Occupational Safety and Health Administration or, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 48 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268.

Proof of compliance with the provisions of the statute shall consist of a student course completion card issued by the Federal Occupational Safety and Health Administration, or other such proof as deemed appropriate by the Commissioner of the Connecticut Department of Labor, dated no earlier than five years prior to the commencement of the project. Each employer shall affix a copy of the construction safety course completion card for each applicable employee to the first certified payroll submitted to the Department of Transportation on which the employee's name first appears.

Any employee required to complete a construction safety and health course as required that has not completed the course, shall have a maximum of fourteen (14) days to complete the course. If the employee has not been brought into compliance, they shall be removed from the project until such time as they have completed the required training.

This section does not apply to employees of public service companies, as defined in section 16-1 of the 2008 supplement to the General Statutes, or drivers of commercial motor vehicles driving the vehicle on the public works project and delivering or picking up cargo from public works projects provided they perform no labor relating to the project other than the loading and unloading of their cargo.

The internet website for the federal Occupational Safety and Health Training Institute is <a href="http://www.osha.gov/fso/ote/training/edcenters">http://www.osha.gov/fso/ote/training/edcenters</a>.

Additional information regarding this statute can be found at the Connecticut Department of Labor website, <a href="http://www.ctdol.state.ct.us/wgwkstnd/wgemenu.htm">http://www.ctdol.state.ct.us/wgwkstnd/wgemenu.htm</a>.

Any costs associated with this notice shall be included in the general cost of the contract. In addition, there shall be no time granted to the contractor for compliance with this notice. The contractor's compliance with this notice and any associated regulations shall not be grounds for claims as outlined in Section 1.11 – "Claims."

# NOTICE TO CONTRACTOR – VERIFICATION OF PLAN DIMENSIONS AND FIELD MEASUREMENTS

The Contractor is responsible for verifying all dimensions before any work is begun. Dimensions of the existing structures shown on the plans are for general reference only; they are not guaranteed. The Contractor shall take all field measurements necessary to assure proper fit of the finished work and shall assume full responsibility for their accuracy. When shop drawings and/or working drawings based on field measurements are submitted for approval and/or review, the field measurements shall also be submitted for reference by the reviewer.

In the field, the Contractor shall examine and verify all existing and given conditions and dimensions with those shown on the plans. If field conditions and dimensions differ from those shown on the plans, the Contractor shall use the field conditions and dimensions and make the appropriate changes to those shown on the plans as approved by the Engineer. All field conditions and dimensions shall be so noted on the drawings submitted for approval.

There shall be no claim made against the Borough by the Contractor for work pertaining to modifications required by any difference between actual field conditions and those shown by the details and dimensions on the contract plans.

### NOTICE TO CONTRACTOR – ENVIRONMENTAL COMPLIANCE & PERMITS

Contractor shall note parts of the site contain contaminated material and may be subject to local regulatory agencies having jurisdiction over the work. The Contractor shall make provisions for access to the work for regulatory agency observations. The Contractor shall comply with any and all ordinances, laws and regulations pertaining to the work being conducted.

Locations of contaminated material have been identified in a report completed by Woodard and Curran, which is part of this bid package.

The Borough of Naugatuck has reviewed the project plans and granted administrative approval through its land use office. Any deviations to the work shown on the plans shall be coordinated with the Owner for determination as to applicability of any regulatory compliance requirements in advance of any changes.

The contractor is responsible for obtaining a roadway encroachment permit for work within townowned rights-of-way where condominium roadways intersect local roadways.

## NOTICE TO CONTRACTOR – PAVEMENT MATERIALS AND DENSITY TESTING

Recycled materials, as detailed in Section 2 of "Article 4.06.02 – Materials" of the special provisions, are prohibited, unless approved by the Engineer. Samples will be obtained at the asphalt source and on-site for approval. Asphalt obtaining recycled material that is found to be inadequate by the Engineer must be removed from the site.

Pavement density shall be tested by nuclear density gauge only and pavement cores shall NOT be obtained. Section 10 of "Article 4.06.03 - Construction Methods" of the special provisions shall be omitted. Cost adjustments in accordance with section 2 of "Article 4.06.04 - Method of Measurement" shall apply, but shall be based upon mat density (by nuclear density gauge) and not core density. Nuclear density gauge readings shall be taken at least every 100' in both travel lanes and/or as directed by the Engineer.

A Material Transfer Vehicle is NOT required as part of this project. All applicable sections of Article 4.06 referencing "Material Transfer Vehicle" shall be omitted.

#### NOTICE TO CONTRACTOR – AS-BUILT PLANS

The Contractor shall be required to track all field changes and record as-built conditions in a clear, neat, and legible manner on either paper plan sheets or in digital format. Digital plans may be in AutoCAD or Adobe PDF format. If paper as-builts are provided, the Contractor shall scan and submit digital copies in Adobe PDF format along with the hard copy paper submission. In addition to these requirements, the Contractor shall provide as-builts meeting the requirements of the Borough Standards.

It is the responsibility of the Contractor to track, note and record as-built conditions <u>on an ongoing basis</u> in the field. As-built conditions may include but may not be limited to: deviations in curb alignment; location of all new drainage pipe & structures, etc.; utilities encountered in locations not shown on the plans; depth to ledge, if encountered; etc. Plan notations shall include tie sketches/measurements, offsets distances, call-outs, etc. necessary to indicate as-built conditions.

As-built progress plans shall be submitted to the Owner for acceptance within two weeks of substantial completion for each phase of the project (i.e. for each completed roadway segment).

There will be no separate payment made for preparation and submission of as-built drawings, the cost for which shall be included in the lump sum bid price for this project.

# SECTION 1.07 – LEGAL RELATIONS AND RESPONSIBILITIES

**Article 1.07.13** - Contractor's Responsibility for Adjacent Property and Services is supplemented as follows:

The following company and representative shall be contacted by the Contractor to coordinate the protection of their utilities on this project 30 days prior to the start of any work on this project:

#### **Comcast of Connecticut, Inc.**

Mr. Christopher Simeone, Construction Manager CT/NY 222 New Park Drive Berlin, CT 06037

Mobile: 860-491-6701

E-MAIL: christopher\_simeone@cable.comcast.com

#### **Frontier Communications of Connecticut**

Ms. Lynne DeLucia, Manager - Engineering & Construction 1441 North Colony Road Meriden, CT 06450-4101

PHONE: (203) 238-5000 Mobile: 860-967-4389

E-MAIL: Lynne.m.delucia@ftr.com

#### **Eversource Energy – Electric Distribution**

Mr. Mark Bonjuklian, Manager - Distribution Projects and Programs 9 Tindall Avenue Norwalk, CT 06851 PHONE: 203-845-3456

E-MAIL: mark.bonjuklian@eversource.com

# Yankee Gas Services Company dba Eversource Energy - Gas Distribution

Mr. Kenneth Cook, Lead Engineer, Gas Project Engineering 107 Selden Street, Mail Stop NUE2 Berlin, CT 06037

PHONE: 860-978-5465

E-MAIL: kenneth.cookiii@eversource.com

# **The Connecticut Water Company**

Mr. David Peeling, P.E. Director of Engineering 93 West Main Street Clinton, CT 06413

PHONE: (860) 664-6007

E-MAIL: David.Peeling@ctwater.com

#### **SECTION 1.08 – PROSECUTION AND PROGRESS**

#### **1.08.01 – Transfer of Work or Contracts:** Add the following after the last paragraph:

The Contractor shall pay the subcontractor for work performed within thirty (30) days after the Contractor receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work. Completion of all of the subcontractor's work shall include test, maintenance and other similar periods that are required by the contract documents for the subcontractor's items of work.

For the purpose of this item, satisfactory completion shall have been accomplished when:

- 1. The subcontractor has fulfilled the contract requirements of the State, the Borough and the subcontract for the subcontracted work, as appropriate, including the submission of all submittals required by the specifications and the Sate and the Borough, and,
- 2. The work done by the subcontractor has been inspected and approved by the Borough and the final quantities of the subcontractor's work have been determined and agreed upon.

If the Contractor determines that a subcontractor's work is not complete, the Contractor shall notify the subcontractor and the Owner, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Owner within twenty-one (21) days of the subcontractor's request for release of retainage.

The inspection and approval of the subcontractor's work does not eliminate the Contractor's responsibilities for all the work as defined in Article 1.07.12, "Contractor's Responsibility for Work."

For any dispute regarding prompt payment or release of retainage, the alternate dispute resolution provisions of this article shall apply.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Contractor to comply with the provisions of this section may result in a finding that the Contractor is non-responsible on future projects.

#### **1.08.03 – Prosecution of Work:** is supplemented as follows:

The Contractor shall not be permitted to interrupt traffic for any continuous period of time until both of the following conditions are satisfied:

- 1. The Contractor has secured all of the required approvals from the Owner, and,
- 2. The Contractor has, as much as practical, all of the required materials needed on the site or readily available for that construction which requires the interruption of traffic.

#### **1.08.04 – Limitation of Operations:** is supplemented by the following:

The Contractor shall schedule his construction operations, so that construction at the site in this contract does not begin, extend into or end during the period from December 1 through March 31, except as approved by the Owner.

In order to provide for traffic operations as outlined in the Special Provision "Maintenance and Protection of Traffic," the Contractor will not be allowed to perform any work that will interfere with the existing traffic operations on all project roadways as follows:

#### FOR LOCAL ROADS ADJACENT TO THE PROJECT SITE:

The Contractor shall be required to adhere to "Section 24 – Working Hours" of the General Conditions.

The Contractor will be allowed to halt traffic to perform necessary work, including installing transverse drainage runs and utility relocations, with the approval of the Owner, for a period of time not to exceed ten minutes between the hours of 8:00 a.m. and 4:00 p.m.

For specific operations, such as paving, the Contractor may be allowed to close the roadway in one direction and implement a detour or alternating one-way traffic, only as approved by the Owner. The Contractor must submit a plan for approval atleast 14 days prior to the implementation of a roadway/lane closure.

See "Lane Closure Restrictions" section below for additional information.

#### OTHER LIMITATIONS

The field installation of a signing pattern shall constitute an interference with existing traffic control operations and shall not be allowed except during the allowable periods.

No roadway, with the exception of transition areas, shall be open to traffic unless the appropriate pavement markings have been installed. The transition areas shall have pavement markings applied immediately upon opening to traffic.

Longitudinal dropdowns will not be permitted between new pavement, existing pavement, and/or temporary pavement in areas where traffic will be traveling.

The Contractor shall schedule operations so that pavement removal and roadway resurfacing shall be completed full width across a roadway section by the end of a work day/work night. All transverse height differentials on all roadway surfaces shall be tapered to negate any 'bump' to traffic as approved by the Owner. Material for this taper shall be as approved by the Owner.

All temporary concrete barriers, other protective systems and traffic control devices as called for by the contract or ordered by the Owner must be on-hand and available in sufficient quantity for immediate installation prior to any stage change.

#### TRAFFIC SIGNALS

Loop detectors disturbed by the Contractor's operations shall be made operational, in accordance with the special provision for Item No. 1111451A – Loop Detector Saw Cut, or temporary detection must be provided within 24 hours of the termination of the existing loop detectors. The contractor shall be responsible for coordinating with the Local Traffic Authority.

#### **LANE CLOSURE RESTRICTIONS**

It is anticipated that work on adjacent projects may be ongoing simultaneously with this project. The Contractor shall be aware of those projects so that coordination is maintained for proper traffic flow at all times on all roadways and this coordination is acceptable to the Owner.

The Contractor will not be allowed to close a lane if a Contractor working on an adjacent project has the opposite lane closed unless there is a least a one mile clear area length where the entire roadway is open to traffic, measured from the end of the first work area to the beginning of the signing pattern for the next work area.

It is imperative that the Contractor coordinates any proposed operations that affect normal traffic (traffic halting, lane closures, detours, etc.) with Contractor working on adjacent projects.

## **NIGHT WORK RESTRICTIONS**

The Contractor will not be allowed to perform any work on any portion of the project between 6:00 p.m. and 6:00 a.m. on all days. Excepted therefrom will be roadway reconstruction, paving, and utility service connection activities as approved by the Owner, within the limits noted, during which the Contractor will be allowed to work during this time. The Contractor shall notify the Owner 14 days in advance of the anticipated start of night work.

#### **1.08.07 – Determination of Contract Time:** is amended as follows:

Delete the second sentence in the first paragraph.

### **MATERIAL HANDLING**

# A. Project Description

Work under this item includes procedural requirements to be followed by the Contractor during the excavation of material from the Site. Woodard & Curran, Inc. (Woodard & Curran) has prepared a Site-Wide Materials Management Plan (Site-Wide MMP) (W&C, 2023) that details the Site activities proposed for this project (Phase 1 activities), which is provided as an addendum to the MMP (Phase 1 MMP) (W&C, 2024). Together the MMP and the Phase 1 MMP establish the management procedures and practices that apply to soil excavated from the Site for the purpose of redevelopment and/or remediation. Referenced environmental reports are included in Appendix A of this document. The Sitewide MMP is provided in Appendix A-1 and the Phase 1 MMP is provided in A-2. This Special Provision shall supplement Sections 2.02, 2.03, 2.06, and 2.86 of the Standard Specifications, Form 819, and all other Contract Special Provisions.

Material consisting of non-hazardous levels of regulated substances have been documented to exist within the Phase 1 Project Limits, as shown on Figures 1-2A through 1-2C of the Phase 1 MMP. Contaminated material known to exist within specific Areas of Concern is documented in the Phase 1 Addendum to the Remedial Action Plan (Phase 1 RAP) (W&C, 2024), see Appendix A-3. All Contractors engaged in the excavation of material shall be HAZWOPER certified as discussed in Section B - Health and Safety below.

Work under this item shall include: construction, securing, and dismantling of the temporary stockpile areas at a location designated by the Site LEP (Woodard & Curran); excavation and stockpiling materials at the appropriate stockpile area; and covering, securing, and maintaining the stockpiled materials throughout the duration of the Project.

#### B. Health and Safety

Health and safety provisions shall conform to the appropriate sections of the Contract. Provisions may include implementation of odor control, dust, air and personal monitoring, the use of chemical protective clothing (CPC), personal protective equipment (PPE), and decontamination procedures.

Implementation of Site-Specific Health and Safety Procedures, including the preparation of a Site-Specific Health and Safety Plan (HASP), prepared in compliance with the requirements of the OSHA HAZWOPER regulations (29 CFR Standard 1910.123). The HASP shall be maintained on-site when work is being conducted. The Contractor is responsible for ensuring that all workers and visitors to the Site are aware of the presence of hazards identified in the HASP prepared by the Contractor. All contractor personnel engaged in the management of excavated material during this project shall be HAZWOPER certified.

#### C. Material Management Categories

As described in the MMP, the Site has been overlain with a grid consisting of cells 20 ft by 20 ft and each cell has been assigned a unique identifier. The cells intersecting the Phase 1 Limits of Work are shown in Figures 1-2A through 1-2C of the Phase 1 MMP. Analytical samples have been collected for the purpose of investigating known AOCs and grid cells containing or adjacent to sample locations have

been categorized as "Native Soil/Inert Material" (Green hatched cell on referenced Phase 1 MMP Figures) or "Clean Fill" (blue hatched cell on referenced Phase 1 MMP Figures) based on these results. Cells that do not contain a sample and are not adjacent to a cell containing a sample are categorized as "No Sample" (no hatch color on referenced Phase 1 MMP Figures). Material excavated during the Phase 1 shall be transported to a designated stockpile area as shown on Figure 1-3 Phase 1 MMP as discussed below.

Unique identification of grid cells is shown on Figures 1-2A through 1-2C and will be used to track excavated material. When material is excavated during the Phase 1 activities, the Contractor shall record the associated grid cell identification information from where the material originated and the location of where the material is added to any of the temporary stockpile areas, and provide a record to the Site LEP on a daily basis.

All material excavated will be subject to a "Soil Screening Process" that shall be performed by the Contractor as described below (Section E) and in Section 3.2 of the Phase 1 MMP. Excavated material shall be managed as indicated below provided that the results of screening soil support this determination. Material excavated from cells containing the following soil categories shall be transported to the following designated stockpile areas on the Site:

- 1. *Natural Soil/Inert Material* (green fill cell in Phase 1 MMP Figures 1-2a through 1-2c) shall be transported to *Natural Soil/Inert Material Temporary Stockpile Area* (green hatched area on Phase 1 MMP Figure 1-3).
- 2. *Clean Fill* (blue hatched cell in Phase 1 MMP Figures 1-2a through 1-2c) shall be transported to *Clean Fill Temporary Stockpile Area* (blue hatched area in Phase 1 MMP Figure 1-3).
- 3. *No Sample* (no hatched cell in Phase 1 MMP Figures 1-2a through 1-2c) will be managed as *Natural Soil/Inert Material* (provided that Soil Screening (e.g. visual observations) as described in Section E support this classification) and shall be transported to *Natural Soil/Inert Material Temporary Stockpile Area* (green hatched area in Phase 1 MMP Figure 1-3).
- 4. *Exceeds Converted GBPMC* (tan hatched cells on Phase 1 MMP Figures 1-2A through 1-2C) shall be transported to the *Soil Characterization Temporary Stockpile Area* (tan hatched area in Figure 1-3).
- 5. If the Soil Screening observations indicate that contamination is present at concentrations that may negatively impact the environment or human heath, excavated material shall be transported *Soil Characterization Temporary Stockpile Area* (tan hatched area in Phase 1 MMP Figure 1-3).

During the Phase 1 activities, the Contractor shall prioritize the reuse of material onsite as excavation backfill or fill material whenever possible, notifying the LEP when material is used as backfill and fill. Material that cannot or will not be reused onsite during the Phase 1 activities shall be transported to the appropriate soil management area as described above in coordination with the Site LEP. Material that is categorized as "Natural Soil/Inert Material" that is structurally suitable may be reused within the project limits (i.e., utility trench excavation), unless otherwise directed by the Site LEP. Excess materials removed from the excavation shall be transported directly from their point of origin to the appropriate temporary stockpile as described above, material origin grid cell identification information recorded and

provided to Site LEP, and stockpiled in the designated area for potential reuse and either re-used as backfill, if deemed suitable by the Contractor.

### D. Materials Requirements

All materials shall conform to the requirements of the Contract. Excavated materials shall be staged as described in this Section, the Phase 1 MMP, and as directed by the LEP.

#### **General Materials**

- 1. Bedding sand shall conform to Section 6.51.02 of the Specifications.
- 2. Processed Aggregate Base shall conform to Section 3.04.02 of the Specifications.
- 3. Straw bales shall conform to the requirements of Section 2.18.02 of the Specifications.
- 4. Crushed stone for the anti-tracking pad shall conform to the gradation for No. 3 stone as shown in Section M.01.01 of the specifications.
- 5. Chain Link Fence: Materials for chain link fence shall conform to the requirements of Section 9.13 and Section M.10.05.
- 6. Roll-off/Storage Containers shall be of watertight, steel-body construction, of the size specified and able to handle the storage and subsequent transportation of material to the disposal facility. Roll-Off/Storage Containers shall be equipped with liners, covers, and/or tarp systems, as necessary, to prevent introduction of liquids to the contained materials.
- 7. Construction sign shall conform to Section 12.20 of the Specifications. Signage indicating the soil management stockpile areas will be used as described in Section 4 of the Phase 1 Addendum.

#### Natural Soil/Inert Material Temporary Stockpile

In addition to the general materials identified above, the Natural Soil/Inert Material Temporary Stockpile(s) will be subject to the following requirements:

Signage shall be posted approximately 25 feet at the Staging, Transfer and/or Temporary Storage Area entrance, identifying the name of the designated site contact, a contact phone number, the hours of operation, and the phrase: "Temporary Soil Staging Area – Natural Soil/Inert Material".

Contractor shall ensure erosion and sedimentation controls are installed around the temporary stockpile to prevent migration of material from the stockpile.

# Clean Fill Temporary Stockpile

In addition to the general materials identified above, the Clean Fill Temporary Stockpile(s) will be subject to the following requirements:

Signage shall be posted approximately 25 feet at the Staging, Transfer and/or Temporary Storage Area entrance, identifying the name of the designated site contact, a contact phone number, the hours of operation, and the phrase: Temporary Soil Staging Area – Clean Fill".

Unique identification of grid cells is shown on Figures 1-2A through 1-2C and is required for future reuse of material categorized as "Clean Fill". The Contractor shall record the grid cell identification information when material is added to the Clean Fill Temporary Stockpile and provide records to the Site LEP daily.

Polyethylene Sheeting: Polyethylene sheeting for underlayment shall have a minimum thickness of 10 mils. Polyethylene plastic sheeting for covering the Clean Fill Temporary Stockpile shall have a minimum thickness of ten (10) mil. Both shall be at least twenty (20) feet wide.

Sandbags: Sandbags used to secure polyethylene covers shall be at least thirty (30) pounds.

#### Soil Characterization Temporary Stockpile Area

Signage shall be posted approximately 25 feet at the Staging, Transfer and/or Temporary Storage Area entrance, identifying the name of the designated site contact, a contact phone number, the hours of operation, and the phrase: Temporary Soil Staging Area – Soil Characterization".

Contractor shall provide concrete construction bin blocks around the perimeter of each Soil Characterization Temporary Stockpile Area.

Polyethylene sheeting: Polyethylene sheeting for underlayment shall have a minimum thickness of 10 mils. Polyethylene sheeting for covering Soil Characterization Temporary Stockpiles shall be a thickness of at least ten (10) mils. Both shall be at least twenty (20) feet wide.

Sandbags: Sandbags used to secure polyethylene sheeting soil covers shall have a minimum weight of thirty (30) pounds.

Sorbent booms: Sorbent booms along the perimeter of the stockpile shall be conducted if soil is saturated with petroleum product.

#### Contaminated Soil Temporary Stockpile Area

In addition to the general materials identified above, the Contaminated Soil Temporary Stockpile(s) will be subject to the following requirements:

Signage shall be posted approximately 25 feet at the Staging, Transfer and/or Temporary Storage Area entrance, identifying the name of the designated site contact, a contact phone number, the hours of operation, and the phrase: Temporary Soil Staging Area – Contaminated Soil".

Polyethylene Sheeting: Polyethylene sheeting for underlayment shall have a thickness of 10 mils. Polyethylene sheeting for covering the Contaminated Soil Temporary Stockpile shall be a thickness of at least ten (10) mil. Both shall be at least twenty (20) feet wide.

Sandbags: Sandbags used to secure polyethylene covers shall be at least thirty (30) pounds.

Sorbent booms: Sorbent booms along the perimeter of the stockpile shall be conducted if soil is saturated with petroleum product.

# E. Soil Screening Methods

Soil Screening, consisting of visual and/or instrumental soil screening (photoionization detector [PID]) assessments, shall be performed by the Contractor during remediation, excavation, and any other development-related ground disturbance activities in known or potentially contaminated material. If field screening methods indicate that polluted or contaminated soil is present during the excavation of soil during Phase 1 activities that has not previously been characterized or otherwise described in the Phase 1 MMP, the Contractor shall immediately notify the LEP. At a minimum, the Contractor shall provide the soil screening results to the LEP daily.

Discovery of a new release may be based on soil screening results, as described above, or based on the indirect evidence of a release (e.g., chemical/petroleum free product, underground storage tanks, buried drums, etc.) observed while excavating in an area located outside of a known release area. The Contractor shall immediately notify the LEP if evidence of a new release is discovered.

# No claims for delay shall be considered based on the Contractor's failure to coordinate excavation activities as specified herein.

The Contractor is hereby notified that laboratory turnaround time for analytical samples collected by the LEP for soil characterization purposes is expected to be up to fifteen (15) working days; however actual turnaround times may be longer. The laboratory turnaround time is the period of time beginning when the LEP submits stockpile material samples to the analytical laboratory and ending with the Contractor's receipt of the laboratory analytical results. The Contractor shall notify the LEP promptly when material has been transported to a "Soil Characterization Bin" and the stockpile is ready for sampling. The Contractor shall allow up to five (5) working days for the LEP to perform material stockpile sampling from the initial notification.

# No delay claim will be considered based upon the LEP sampling time, the analytical laboratory turnaround time, or coordination with the Site LEP as identified above.

Management of asphalt and building material debris removed prior to the excavation of the soil beneath shall be characterized and disposed/recycled of appropriately by the Contractor. Building material debris is not anticipated to be generated during the Phase 1 redevelopment activities; however, historic foundations or slabs may be encountered in some locations. Management methods involving the reuse or recycling of these asphalt and building material debris are preferred.

## F. Transportation and Stockpiling

In addition to following all pertinent federal, state, and local laws or regulatory agency policies, the Contractor shall adhere to the following precautions during transport of non-hazardous materials:

1. Transported materials are to be covered prior to leaving the point of generation and are to remain covered until the arrival to the designated temporary stockpile area;

- 2. All vehicles departing the Site are properly logged to show the vehicle identification, driver's name, time of departure, destination, and approximate volume and content of materials carried;
- 3. All vehicles shall have secure, containers that are free of defects for material transportation;
- 4. No material shall leave the excavation area until there is adequate lay down area prepared in the appropriate temporary stockpile area and associated grid identification information recorded; and.
- 5. Documentation must be maintained indicating that all applicable laws have been satisfied and that the materials have been successfully transported and received at the disposal facility.

#### G. Temporary Stockpile Construction and Maintenance

## 1. General Stockpile Requirements

The General Stockpile Requirements apply to all stockpiles on-site.

The Contractor shall comply with the terms and conditions of the CTDEEP "General Permit for Contaminated Soil and/or Sediment Management (Staging and Transfer)," including the General Operating Conditions and the Specific Operating Conditions, except that the LEP will conduct all soil characterization and perform all record keeping of analytical results. In particular, the Contractor shall:

- a) Construct, maintain, and repair the stockpiles in conformance with the requirements of the Section 5 of the General Permit.
- b) The Contractor is responsible for the maintenance and protection of all utilities potentially affected during stockpile construction. The Contractor shall locate and mark all existing utilities potentially affected prior to initiating stockpile construction.
- c) The proposed location of the temporary stockpiles shall be cleared of any debris and vegetation as directed by the LEP. Any objectionable materials, which may result in damage to the polyethylene sheeting underlayment, shall be removed prior to stockpiling excavated potentially Contaminated Material.
- d) Sediment and erosion control measures shall be in place in accordance with the best management practices (Section 5 of the Contaminated Soil General Permit) prior to stockpiling and shall be maintained until the stockpiles have been removed and the Staging, Transfer and/or Temporary Storage Area has been determined to be uncontaminated and ready for decommissioning. Stockpiles shall be placed on impervious surfaces and polyethylene with a minimum thickness of 10 mils to prevent or minimize the transfer or infiltration of contaminants from the soil stockpiles to the ground. The perimeter of the polyethylene sheeting underlayment shall extend over perimeter concrete construction blocks or erosion & sedimentation control measures per the specific requirements of each material stockpile type listed below in this Section. Care shall be exercised to prevent erosion and sedimentation control measures from causing concentrated flow, particularly near material stockpiles. Excessive stormwater runoff may be cause for issuance of a Stop Work Order (by the Contractor or Site LEP).

- e) No soil stockpiles shall be left uncovered or unsecured at the end of the workday. The polyethylene sheeting (10-mil thickness) cover shall be secured with staked straw bales, sand berms, sandbags, tires, rope, or other method that is sufficient to withstand a sustained wind of up to 25 mph. The stockpiled material shall be kept covered at all times to prevent formation of leachate from rainwater and the generation of dust on dry windy days, except for a stockpile to which material is being added to or removed from on a particular day. The Staging, Transfer and/or Temporary Storage Area shall be inspected daily to evaluate whether the cover and berms are intact and functioning as required. Repairs to the covers and berms shall be made as necessary to maintain the stockpiles in good condition and to prevent contact with rainwater or blowing of the stockpiled material.
- f) Stockpiles shall be inspected for presence of incidental excavation wastes, draining water, and materials and for any suspected contaminated soil that may contain hazardous wastes.
- g) Stockpiles shall be placed no closer than 50 feet from any property line. Stockpile area(s) shall be clearly delineated in order to prevent possible exposure to workers at the Site.
- h) Prevent unauthorized entry onto the stockpiles by the use of fences, gates, or other natural or artificial barriers.
- i) Install anti-tracking measures at the stockpile areas to ensure the vehicles do not track soil onto a public roadway at any time.
- j) The stockpiles shall be constructed at the location designated by the Site LEP and shall not prevent or impede access to a work area or existing buildings by emergency equipment or LANXESS employees.
- k) Construction of the temporary stockpile areas shall be completed prior to the initiation of construction activities. Polyethylene sheeting shall underlie all excavated material. Measures shall be implemented to effectively divert rainfall away from the stockpile areas.

#### 2. Natural Soil/Inert Material Temporary Stockpile Requirements

In addition to the General Stockpile Requirements identified above, the following requirements apply to the construction and maintenance of the Natural Soil/Inert Material Temporary Stockpiles, as shown on Figure 1-3 of the Phase 1 MMP.

- a) Post and maintain signs that is visible from a distance of at least 25' at the temporary stockpile area identifying the name of the Site LEP, the office phone number, the hours of operation for the stockpile, and the phrase, "Temporary Soil Staging Area Natural Soil/Inert Material".
- b) The cell identified (as shown on Figures 1-2A through 1-2C) from which the materials were removed and the date on which the material was first placed in the Natural Soil/Inert Material Temporary Stockpile Area shall be recorded and provided to the Site LEP daily.
- c) Erosion and sedimentation controls shall be installed around the temporary stockpile to prevent migration of material from the stockpile.

d) Material remaining stockpiled in the "Native Soil/Inert Material Temporary Stockpile Area" following the completion of Phase 1 activities will remain onsite for reuse during future phases of re-development. Following the completion of Phase 1 activities, any material that remains onsite shall be graded to minimize erosion, seeded, and stabilized in accordance with the Connecticut Guidelines for Soil Erosion and Sediment Control, effective March 30, 2024. The Natural Soil/Inert Material stockpile and associated erosion and sedimentation controls will be inspected periodically by the Site LEP.

#### 3. Clean Fill Temporary Stockpile Requirements

In addition to the General Stockpile Requirements identified above, the following requirements apply to the construction and maintenance of the Clean Fill Temporary Stockpiles, as shown on Figure 1-3 of the Phase 1 MMP.

- a) Post and maintain signs that is visible from a distance of at least 25' at the temporary stockpile area identifying the name of the Site LEP, the office phone number, the hours of operation for the stockpile, and the phrase, "Temporary Soil Staging Area Clean Fill".
- b) The grid cells identified (as shown on Figures 1-2A through 1-2C) from which the materials were removed and the date on which the material was first placed in the Clean Fill Temporary Stockpile Area shall be recorded and provided to the Site LEP daily.
- c) Placement of polyethylene sheeting as underlayment and covering the Clean Fill Temporary Stockpile materials shall be conducted in accordance with materials described in Section D.
- d) A 6-inch thick layer of bedding material shall be installed over the polyethylene sheeting underlayment and shall be replenished as needed. Natural Soil/Inert Material may be used as approved by the Site LEP.
- e) Erosion and sedimentation controls shall be installed around the temporary stockpile to prevent migration of material from the stockpile.
- f) Material remaining stockpiled in the "Clean Fill Temporary Stockpile Area" following the completion of Phase 1 activities will remain onsite for reuse during future phases of redevelopment. The Clean Fill stockpile shall remain covered with polyethylene sheeting and associated erosion and sedimentation controls will remain in place and will be inspected periodically by the Site LEP.

#### 4. Soil Characterization Stockpile Requirements

In addition to the General Stockpile Requirements identified above, the following requirements apply to the construction and maintenance of the Soil Characterization Temporary Stockpiles.

- a) Construction of the "Soil Characterization Temporary Stockpile Area" as shown on Figure 1-3 of the Phase 1 MMP shall be completed prior to the initiation of construction activities.
- b) Actual dimensions and shape/layout of the Soil Characterization Temporary Stockpile Bins (the "Soil Characterization Bins") shall be submitted on a sketch to be provided by Contractor for approval by the Site LEP prior to stockpiling material.

- c) Each Soil Characterization Temporary Soil Stockpile Area shall be constructed such that each bin does not exceed the maximum volume requirements presented in the Phase 1 MMP.
- d) A 6-inch thick layer of bedding material shall be installed over the polyethylene sheeting underlayment and shall be replenished as needed. Natural Soil/Inert Material may be used as approved by the Site LEP.
- e) Placement of polyethylene sheeting as underlayment and covering of each Soil Characterization Temporary Soil Stockpile shall be conducted in accordance with materials described in Section D.
- f) Each soil characterization temporary soil stockpile area shall be constructed with the required polyethylene sheeting installed over a series concrete bin blocks and erosion and sedimentation controls (as necessary) placed around the perimeter of the stockpile area to establish a berm system that is capable of capturing water that could potentially drain from the interior of the stockpile material. Polyethylene sheeting for covering each Soil Characterization Temporary Soil Stockpile shall extend over the perimeter bin block and erosion and sedimentation control system to promote drainage away from the temporary stockpile.
- g) Sorbent boom shall be placed around the perimeter of the stockpile shall be conducted if soil is saturated with petroleum product.
- h) The Contractor shall provide all necessary materials, equipment, tools, and labor for the anticipated activities with the Soil Characterization Temporary Stockpile Area. Such activities include, but are not limited to, handling and management of stockpiles (storage bin materials or roll-offs); drummed CPC/PPE; uncovering and recovering stockpiles; maintenance of stockpile; replacement of damaged components (i.e., sandbags, polyethylene sheeting, etc.); and waste inventory record management. The Contractor shall manage all materials in the Soil Characterization Temporary Stockpile Area in such a way as to minimize tracking of potential contaminated materials across the site and off site and minimize dust generation.
- i) The Contractor shall record and provide to the Site LEP daily the grid cells (as shown on Figures 1-2A through 1-2C) from which the materials were removed and the date on which the material was first placed in the Soil Characterization Temporary Stockpile Area. The date that material is removed from the Soil Characterization Temporary Stockpile Area and where the material was moved to (i.e., materials from Soil Characterization Temporary Stockpile bins to the Contaminated Soil Temporary Stockpile Area); shall also be recorded and provided to the Site LEP daily.
- j) Each stockpile shall be securely covered when not in active use with a cover of sufficient size to prevent generation of dust and infiltration of precipitation. The cover system shall be maintained, as necessary, to prevent wind erosion.
- k) The staged Soil Characterization Temporary Stockpile bins shall be inspected at least daily by the Contractor to ensure that the cover and containment have not been damaged and that there is no apparent leakage from the piles. If the cover has been damaged, or there is evidence of leakage from the piles, the Contractor shall immediately replace the cover or containment as needed to prevent the release of materials to the environment from the stockpiles.

- 1) An inventory of stockpiled materials and drummed PPE shall be conducted on a daily basis. Inventory records shall indicate the approximate volume of material stockpiled per day; the approximate cumulative volume of material stockpiled to date; material loaded and transported off site for disposal (if any); any materials transported to another stockpile area (i.e., materials from Soil Characterization Temporary Stockpile bins to the Contaminated Soil Temporary Stockpile Area); any materials loaded and transported for onsite reuse; and identification of stockpiles relative to their points of generation.
- m) Following the removal of stockpiled material within a particular Soil Characterization Temporary Stockpile bin or area, the Contractor shall use dry decontamination procedures to remove residuals from surfaces of the bin for all surfaces. Dry decontamination procedures shall include but are not limited to the use of hand tools, shovels, brooms, mechanical sweepers, or a combination thereof to remove residual material from on top of, around, and the surface of the concrete blocks. Residual materials shall be managed as determined by the analytical results characterizing the stockpile. Additional polyethylene sheeting and/or bedding material shall be placed as necessary in preparation for re-use of the Soil Characterization Temporary Stockpile bin area prior to stockpiling additional material.
- n) Upon completion of the Project and following removal of all residual material, the Contractor shall dismantle the "Soil Characterization Bins" and return the area to its original condition. During dismantling, the Contractor shall remove all materials such as polyethylene sheeting and sand bags. Contractor shall inspect condition of polyethylene sheeting prior to removal and notify the LEP of the condition. Additional excavation of underlying soils (minimum of 6 inches) may be required if polyethylene sheeting is found to not operate as intended. Temporary stockpile areas shall be graded and restored to pre-construction conditions unless otherwise directed by the Site LEP. Materials shall be disposed of by the Contractor as solid waste in accordance with the Contract and all Federal, State and local regulations.

#### 5. Contaminated Soil Temporary Stockpile Requirements

In addition to the General Stockpile Requirements identified above, the following requirements apply to the construction and maintenance of the Contaminated Soil Temporary Stockpiles, as shown on Figure 1-3 of the Phase 1 MMP.

- a) Post and maintain signs that is visible from a distance of at least 25' at the temporary stockpile area identifying the name of the Site LEP, the office phone number, the hours of operation for the stockpile, and the phrase, "Temporary Soil Staging Area Contaminated Material".
- b) Placement of polyethylene sheeting as underlayment and covering of the Contaminated Soil Temporary Stockpile Area shall be conducted in accordance with materials described in Section D.
- c) A 6-inch thick layer of bedding material shall be installed over the polyethylene sheeting underlayment and shall be replenished as needed. Natural Soil/Inert Material may be used as approved by the Site LEP.

- d) The Contractor shall record and provide to the Site LEP daily the grid cells (as shown on Figures 1-2A through 1-2C) from which the materials were removed and the date on which the material was first placed in the Contaminated Soil Temporary Stockpile Area will be recorded and provided to the Site LEP daily.
- e) The Contaminated Soil Temporary Stockpile Area shall be constructed with the required polyethylene sheeting installed over erosion and sedimentation controls (i.e., wattles) placed around the perimeter of the stockpile area to establish a berm system that is capable of capturing water that could potentially drain from the interior of the stockpile material. Polyethylene sheeting for covering the Contaminated Soil Temporary Stockpile shall extend over the perimeter erosion and sedimentation control system to promote drainage away from the temporary stockpile.
- f) Sorbent booms shall be placed around the perimeter of the stockpile shall be conducted if soil is saturated with petroleum product.
- g) Material remaining stockpiled in the "Contaminated Soil Temporary Stockpile Area" will remain onsite and will be managed under future remedial actions. The Contaminated Soil Temporary Stockpile will remain covered with polyethylene sheeting and associated erosion and sedimentation controls will remain in place and will be inspected periodically by the Site LEP.
- h) If necessary, upon completion of the Project and following the removal of all residual material, the Contractor shall dismantle the "Contaminated Soil Temporary Stockpile Area" and return the area to its original condition. During dismantling, the Contractor shall remove all materials such as polyethylene sheeting and sandbags. Contractor shall inspect condition of polyethylene sheeting prior to removal and notify the LEP of the condition. Additional excavation of underlying soils (minimum of 6 inches) may be required if polyethylene sheeting is found to not operate as intended. Temporary stockpile areas shall be graded and restored to pre-construction conditions unless otherwise directed by the Site LEP. Materials shall be disposed of by the Contractor as solid waste in accordance with the Contract and all Federal, State and local regulations.

#### e) Dewatering

Dewatering activities are not expected as part of this project.

#### f) Decontamination

Decontamination of equipment and vehicles that come in contact with Contaminated Material during site activities is required as described in the Phase 1 Addendum. The Contractor shall be responsible for establishing and maintaining a decontamination pad for the purpose of removing dirt, mud, sediment, and soil from construction equipment and tooling prior to exiting the Work area and Site. The decon pad shall be large enough such that the largest expected piece of construction equipment will fit completely within the pad. All equipment, tools, and vehicles entering the limits of the construction areas and utilized for remedial activities shall be decontaminated prior to leaving the Site. This shall include, but not be limited to, truck tires, equipment tracks and undercarriage, interior, buckets, blades,

hand tools, and any portions of the equipment that could possibly retain contaminated materials. The Contractor shall take responsibility for verifying that no contaminants leave the Site.

The decontamination pad shall be designed and constructed to collect and contain all wash waters, sludges, mud, and sediment generated during the equipment decontamination activities, and that it will prevent these materials from migrating into the surrounding soil. A collection sump of adequate size and design to collect all fluids shall be provided as an integral part of the decontamination pad. A detailed description discussion of the decontamination pad construction and specific decontamination procedures shall be developed by the Contractor and submitted for approval by the Site LEP.

Liquids (wash water), sediments or sludges, and PPE and debris generated during cleaning and decontamination activities shall be pumped or drained from the decontamination pad sump and collected in either DOT approved 55-gallon drums (solids and/or liquids) or holding tanks (liquids only). To the extent possible, the amount of liquids in the sludge collection drums shall be kept to a minimum. The Contractor shall be responsible for collecting and analyzing samples of the containerized wash water and solids in accordance with the requirements of the recycling or disposal facility identified by the Contractor.

All equipment shall be provided to the work site free of contamination. The Owner or the Site LEP may prohibit from the Site any equipment that has not been thoroughly decontaminated prior to arrival. Any decontamination of the Contractor's equipment prior to arrival at the site shall be at the expense of the Contractor. The Contractor is prohibited from decontaminating equipment on the Project that has not been thoroughly decontaminated prior to arrival.

The Contractor shall furnish labor, materials, tools, and equipment for decontamination of all equipment and supplies that are used to handle Controlled Materials. Decontamination shall be conducted at an area approved by the Site LEP and may be required prior to equipment and supplies leaving the Site.

Dry decontamination procedures are recommended. Residuals from dry decontamination activities shall be collected and managed in the same manner as the contents of the bin material. If dry methods are unsatisfactory as determined by the Owner or Site LEP, the Contractor shall modify decontamination procedures as required subject to the Owner's or Site LEP's approval.

#### g) Waste Management

Wastewater: Wastewater that may potentially be generated during the work includes the following: groundwater removed from excavations; water accumulated in below ground basements, vaults and chambers; water draining from saturated stockpiled materials; and decontamination fluids and wastewater generated from decontamination activities. The Contractor shall be responsible for characterizing the wastewater and the identification of acceptable facilities for treatment and disposal of wastewater, and sludge, generated at the Site. The Contractor shall be responsible for legally transporting the liquids, and sludge, to the identified disposal facility. The Contractor shall provide information on both the treatment and/or disposal facility, and transporters to the LEP for acceptance prior to treating or removing wastewater and sludge.

Waste Material: Waste material may consist of: "Contaminated Material" that cannot or will not be reused in accordance with Section 22a-133k-2(h) of the RSRs and wastewater generated as described

above. Potentially impacted waste materials (soil and wastewater) shall be characterized in accordance with the requirements of the disposal facility identified by the Contractor. The Contractor shall comply with all applicable federal, state, and local regulations applicable to hauling soil, water, and sludge including but not limited to: CTDEEP, Connecticut Department of Public Health (CTDPH), DOT, OSHA, RCRA, and TSCA regulations.

#### h) Dust Control

The Contractor shall control dust and air-borne materials generated during the work on a daily basis to protect the health of on-site workers and to minimize the release of dust into surrounding areas and shall meet applicable local and State requirements. General site dust control (e.g., roadways, exposed soils) shall be accomplished using a uniform spray of water. The Contractor shall be responsible for securing a supply of water in accordance with applicable regulations. The Contractor is responsible for obtaining hydrant use permits from Borough of Naugatuck Water Department prior to utilizing any fire hydrants. Water used to suppress dust shall be applied so as to minimize pooling, erosion, or runoff. Water shall not be used if it results in hazardous or objectionable conditions such as, but not limited to, ice, flooding, erosion, sediment transport, or pollution. The Contractor shall be responsible for arranging for connection and meeting the metering and flow control requirements of the water supplier. The Contractor shall be responsible for costs for water used on the project.

The Contractor shall implement a fugitive dust suppression program in accordance with the Contract to prevent the offsite migration of particulate matter and/or dust resulting from excavation, loading, and operations associated with Phase 1 material handling activities. It shall be the Contractor's responsibility to supervise fugitive dust control measures and to monitor airborne particulate matter and included herein at no additional cost to the Owner. The Contractor shall:

- 1. Employ reasonable fugitive dust suppression techniques.
- 2. Visually observe the amounts of particulate and/or fugitive dust generated during the handling of Phase 1 material handling activities. If the apparent amount of fugitive dust and/or particulate matter is not acceptable to the Owner or Site LEP, the Owner may direct the Contractor to implement corrective measures at his discretion, including, but not limited to, the following:
  - a. Apply water to pavement or exposed surfaces;
  - b. Apply water to equipment and excavation faces; and
  - c. Apply water during excavation, loading, and dumping.

#### i) Permit Compliance

The Contractor shall comply with the terms and conditions of the CTDEEP "General Permit for Contaminated Soil and/or Sediment Management (Staging and Transfer)," including the General Operating Conditions and the Specific Operating Conditions, except that the Site LEP will conduct all

soil characterization and perform all record keeping of analytical data generated. In particular, the Contractor shall:

- 1. Construct, operate, maintain, and repair the temporary stockpiles in conformance with the requirements of the General Permit.
- 2. Maintain a communications system capable of summoning fire, police, and/or other emergency service personnel.
- 3. Prevent unauthorized entry into temporary stockpile management areas or onto the stockpiles by the use of fences, gates, or other natural or artificial barriers.
- 4. Separate incidental excavation waste to the satisfaction of the receiving facility or to an extent that renders the contaminated soil and/or sediment suitable for its intended reuse.
- 5. Isolate and temporarily store incidental waste in a safe manner prior to offsite transport to a facility lawfully authorized to accept such waste.
- 6. Not store more than 100 cubic yards of incidental waste at any one time.
- 7. Sort, separate, and isolate all hazardous waste from contaminated soil and/or sediment.
- 8. Prevent or minimize the transfer or infiltration of contaminants from the stockpiles to the ground as detailed in Section F Transportation and Stockpiling above.
- 9. Securely cover each stockpile of soil as detailed in Section G Stockpile Maintenance above. No soil stockpiles shall be left uncovered at the end of the workday.
- 10. Minimize wind erosion and dust transport as detailed in Section E Dust Control above.
- 11. Use anti-tracking measures in the area of the temporary stockpile to ensure the vehicles do not track soil from the stockpile areas onto a public roadway at any time.
- 12. Instruct the transporters of contaminated soil and/or sediment of best management practices for the transportation of such soil (properly covered loads, removing loose material from dump body, etc.).
- 13. Control all traffic related to the operation of the facility in such a way as to mitigate the queuing of vehicles off site and excessive or unsafe traffic impact in the area where the facility is located.
- 14. Ensure that except as allowed in section 22a-174-18(b)(3)(C) of the Regulations of Connecticut State Agencies, trucks are not left idling for more than three (3) consecutive minutes.

# j) Method of Measurement:

The work of "MATERIAL HANDLING" consisting of the excavation and stockpile of material will be measured for payment by the number of cubic yards, as determined by Phase 1 "Net" value as indicated

on the Earth Work Estimate prepared by Civil1 (September 20, 2024). This measurement shall be in accordance with and in addition to the quantity measured for payment of the applicable excavation item in the Standard Specifications 2.02, 2.03, 2.05, 2.06, or the Contract Special Provisions, as applicable. Excess excavations made by the Contractor beyond the payment limits specified in the Contract will not be measured for payment and the Contractor assumes all costs associated with the appropriate handling, management, and disposal of this material.

There shall be no separate measurement for the Temporary Stockpile Management Areas. The construction, maintenance, repair, replacement, and resetting of items used for maintaining the Temporary Stockpile Management Areas, anti-tracking pads, and the cleaning of any nearby catch basins and/or pipe(s) will not be measured separately for payment.

Equipment decontamination, the collection of residuals, and the collection and disposal of liquids generated during equipment decontamination activities will not be measured separately for payment.

#### k) Basis of Payment:

This work shall be included in the lump sum bid price (the "Lump Sum Bid"), which shall include all materials, tools, labor, equipment, permits, and work needed to repair damaged asphalt, and placement and maintenance of anti-track pads; installation and maintenance of construction signs; site preparation, construction and maintenance of the Temporary Stockpile Management Areas; transport to the Temporary Stockpile Management Areas; stockpiling of materials at the Temporary Stockpile Management Areas; covering, securing, and maintaining the stockpiles within the Temporary Stockpile Management Areas throughout the duration of the Project; and site cleanup.

All materials, tools, labor, and equipment associated with compliance with the "General Permit for Contaminated Soil and/or Sediment Management (Staging and Transfer)," as well as permit fees, will not be measured separately, but will be considered incidental to "Materials Handling."

No separate payment will be made for Management of Materials, as this shall be considered incidental to the work described herein.

#### **Lump Sum Bid Scope Items:**

In addition to the items above, the material management in the lump sum bid shall include the following transportation and handling of the following material categories:

- 1. *Natural Soil/Inert Material* (green fill cell in Phase 1 MMP Figures 1-2a through 1-2c) shall be transported to *Natural Soil/Inert Material Temporary Stockpile Area* (green hatched area on Phase 1 MMP Figure 1-3).
- 2. *Clean Fill* (blue hatched cell in Phase 1 MMP Figures 1-2a through 1-2c) transported to *Clean Fill Temporary Stockpile Area* (blue hatched area in Phase 1 MMP Figure 1-3).
- 3. *No Sample* (no hatched cell in Phase 1 MMP Figures 1-2a through 1-2c) will be managed as *Natural Soil/Inert Material* (provided that Soil Screening observations support this

- classification) and shall be transported to *Natural Soil/Inert Material Temporary Stockpile Area* (green hatched area in Phase 1 MMP Figure 1-3).
- 4. Exceeds Converted GBPMC (tan hatched cells on Phase 1 MMP Figures 1-2A through 1-2C) shall be transported to the Soil Characterization Temporary Stockpile Area (tan hatched area in Figure 1-3).
- 5. If the Soil Screening observations indicate that contamination is present at concentrations that may negatively impact the environment or human heath, excavated material shall be transported *Soil Characterization Temporary Stockpile Area* (tan hatched area in Phase 1 MMP Figure 1-3).

This price shall also include equipment decontamination; the collection of residuals generated during decontamination and placement of such material in the Temporary Stockpile Management Areas; and the collection and disposal of liquids generated during equipment decontamination activities.

Under this item, the Contractor will be responsible for the cost of excavating ALL material and disposing of materials including but not limited to existing pavement structure (asphalt and subbase), rock, ledge, miscellaneous debris, utilities, structures, concrete, etc. shall be paid for under the overall lump sum bid price.

The Contractor shall be responsible for characterizing the wastewater and the identification of acceptable facilities for treatment and disposal of wastewater, and sludge, generated at the Site.

There shall be no separate measurement or payment for waste characterization, including independent laboratory sampling and testing costs and all work involving coordination for sampling, testing, and reporting.

#### **Unit Adjustment Bid Scope Items:**

The transportation and handling of material from the *Soil Characterization Temporary Stockpile Area* (tan hatched area in Phase 1 MMP Figure 1-3) to the following Temporary Stockpile Areas as determined by analytical results will be paid for on a cubic yard basis.

- 1. Contaminated Temporary Stockpile,
- 2. Clean Fill Temporary Stockpile,
- 3. Natural Soil/Inert Material Temporary Stockpile)

No separate payment will be made for consolidating previously tested individual stockpiles of Materials but shall be considered incidental to the work.

Pay ItemPay UnitLump Sum Bid Material HandlingLump SumUnit Adjustment Bid Scope Material HandlingC.Y.

### **TEST PIT**

## **Description:**

This work shall consist of the excavation of test pits where necessary to locate or examine subsurface structures, pipes, soils, groundwater, or any other obstacles or conditions as directed by the Engineer.

This work shall consist of the satisfactory removal of all materials including, but not limited to, sawcutting pavements and sidewalks, pavement and sidewalk removal, excavation, hand digging, shoring and bracing, water removal from within pit, stockpiling, satisfactory disposal of surplus or unsuitable material, backfilling, compacting, pavement repair, sidewalk repair, etc. and restoring the affected area to its condition prior to digging the test pit.

Test pits shall be dug as necessary for the Contractor to determine subsurface conditions as indicated on the Contract Drawings or as directed by the Engineer.

This work shall include coordination with the affected utility companies. Any damage caused by the Contractor or Subcontractors, as determined by the Engineer, shall be corrected by the Contractor in accordance with these specifications.

#### **Materials:**

- 1. Compacted Granular Fill shall meet the requirements of Article M.02.01.
- 2. Bituminous Concrete Materials shall meet the requirements of Article M.04 and applicable special provisions.

#### **Construction Methods:**

Keep affected utility owner apprised of proposed test pit excavation.

Coordinate excavation of test pits with respective utility company, or other owners having facilities in the vicinity.

Give sufficient notice and allow ample delay time for others to perform necessary work.

Notify the Engineer one-week in advance of digging each test pit.

Perform all work in conformance with applicable safety codes.

Sawcut pavement, sidewalk, curbs, or other hard surface materials in neat and straight line. Excavate pits, providing clean-cut vertical sides. Provide sheeting, bracing, and dewatering wherever necessary.

Dig test pits ensuring that underground utilities or structures are not damaged. The Contractor shall excavate by hand or by vac truck or methods where necessary to ensure that underground utilities or

Special Provisions TEST PIT

structures are not damaged. It shall be the Contractor's sole responsibility for any damages incurred during excavation operations. Any damages shall be repaired or replaced by the Contractor to the satisfaction of the Owner/Responsible Agency/Engineer at the Contractor's own expense.

The Contractor shall measure and record the size, configuration, exact horizontal and vertical location of all utilities, pipes or other obstacles uncovered in the pits. Submit information in written or sketch form to the Engineer and respective utility companies for review. Notify the Engineer of any revealed conflicts which may require design revisions, relocations and/or adjustments as early as possible to avoid unnecessary delays. No work shall be started within areas of conflict until so authorized.

Protect each pit with steel plates, other coverings, fences, barriers or other appropriate materials as deemed necessary.

Do not backfill pits until authorized. Compact backfill materials to at least 95% of maximum density to the subgrade elevation or as otherwise directed.

The surface of test pit areas shall be restored to a condition equal or better than original as approved by the Engineer.

If unsuitable backfill material is excavated, dispose as directed by the Engineer. Replace with suitable backfill and compact in accordance with Section 2.14.

Repair all damaged bituminous pavement in accordance with Section 4.06.03. Sawcut the edges to neat lines if there will be no subsequent excavation at the test pit for utility installation.

Special Provisions TEST PIT

#### SEDIMENTATION CONTROL SYSTEM AT CATCH BASIN

#### **Description:**

This work shall consist of furnishing, installing, cleaning, maintaining, replacing, and removing sedimentation control at catch basins at the locations and as shown on the plans and as directed by the Engineer.

#### **Materials**:

Sack shall be manufactured from a specially designed woven polypropylene geotextile sewn by a double needle machine, using a high strength nylon thread. Sack shall be manufactured by one of the following or an approved equal:

Siltsack® SI Geosolutions: www.sigeosolutions.com (800)621-0444

Dandy Sack<sup>TM</sup>
Dandy Products Inc.
P.O. Box 1980
Westerville, Ohio 43086
Phone: 800-591-2284

Fax: 740-881-2791

Email: dlc@dandyproducts.com Website: <u>www.dandyproducts.com</u>

FLeXstorm Inlet Filters
Inlet & Pipe Protection
24137 W. 111th St - Unit A
Naperville, IL 60564

Telephone: (866) 287-8655

Fax: (630) 355-3477

The sack will be manufactured to fit the opening of the catch basin or drop inlet. Sack will have the following features: two dump straps attached at the bottom to facilitate the emptying of sack and lifting loops as an integral part of the system to be used to lift sack from the basin. The sack shall have a restraint cord approximately halfway up the sack to keep the sides away from the catch basin walls, this cord is also a visual means of indicating when the sack should be emptied. Once the strap is covered with sediment, the sack should be emptied, cleaned and placed back into the basin.

#### **Construction Methods:**

Installation, removal, and maintenance shall be per manufacturer instructions and recommendations.

#### MAINTENANCE AND PROTECTION OF TRAFFIC

All the applicable provisions of Section 9.71 of the Standard Specifications shall apply, except as amended or supplemented herein:

**Article 9.71-01** – Description is supplemented by the following:

The Contractor shall adhere to the Borough of Naugatuck traffic, vehicular and pedestrian safey, and construction requirements at all times, for the duration of the project. The Contractor shall submit maintenance and protection of traffic plans, for ANY changes to the recommended work zone traffic operations, to the Owner for approval prior to implementing the M&PT plan and initiating work.

The Contractor may be allowed to barricade parking spaces within the project area in order to complete necessary work, during allowable periods and as approved by the Owner. The Contractor must seek approval atleast 7 days prior to barricading any parking spaces or areas where public access/parking is allowed.

The Contractor shall maintain a safe accessway for all pedestrians, wheelchairs to proceed thru or around the works zones. Proper signage will be included to direct pedestrians to an existing crosswalk, or to the safe path past a work zone. The path shall be ADA accessible.

The Contractor shall maintain and protect traffic as follows and as limited in the Special Provision "Prosecution and Progress."

# **ALL PROJECT ROADWAYS**

The Contractor shall maintain and protect the existing traffic operations.

Excepted therefrom will be those periods, <u>during the allowable periods</u>, when the Contractor is actively working, at which time the Contractor shall maintain and protect at least one lane of through traffic in each direction, each lane on a paved travelpath not less than 11 feet in width.

Where turn lanes exist, the Contractor shall provide an additional 10 feet of paved travel path to be used for turning vehicles only. This additional 10 feet of travel path shall be a minimum length of 150 feet. It shall be implemented so that sufficient storage, taper length, and turning radius are provided.

Excepted therefrom will be those periods, <u>during the allowable periods</u>, when the Contractor is actively working, at which time the Contractor will be permitted to maintain and protect at least an alternating one-way traffic operation on a paved travelpath not less than 12 feet in width. The length of the alternating one-way traffic operation shall not exceed 300 feet.

The Contractor will be allowed to halt traffic to perform necessary work, including installing utility relocations, with the approval of the Owner, for a period of time not to exceed five minutes between the hours of 9:00 a.m. and 3:00 p.m.

#### COMMERCIAL AND RESIDENTIAL DRIVEWAYS

The Contractor shall maintain access to and egress from all commercial and residential driveways throughout the project limits unless the Contractor has first negotiated alternate arrangements with the property owners or business proprietors or as otherwise noted on the plans. Driveway area construction shall be coordinated with the property owners. At a minimum, temporary graded surfaces shall consist of subbase, processed aggregate base, granular fill, or other suitable materials approved by the Owner. The Contractor will be allowed to close said driveways to perform the required work during those periods when the businesses are closed unless permission is granted from the business owner to close the driveway during business hours.

Notification shall be provided to the property owner and/or tenant at least 7 calendar days prior to start of driveway, parking lot, or temporary closure of any driveway.

If a temporary closure of a driveway or accessway is necessary, the Contractor shall coordinate with the owner to determine the time period of the closure. All temporary "Business Open" signs within the work zone will be required as part of the Contract Item "Maintenance and Protection of Traffic". The cost for installation and maintenance of all such temporary access shall be included in the Maintenance and Protection of Traffic item. If temporary access is to be provided longer than 5 calendar days, then a temporary bituminous concrete driveway will be installed in accordance with the specifications.

**Article 9.71.03 -** Construction Method is supplemented as follows:

#### **EXISTING SIGNING**

The Contractor shall maintain all existing signs throughout the project limits during the duration of the project. The Contractor shall temporarily relocate signs and sign supports as many times as deemed necessary, and install temporary sign supports if necessary and as directed by the Owner.

#### **GENERAL**

When unpaved travel paths are permitted by the Owner, the Contractor will be allowed to maintain traffic on compacted processed aggregate for a duration not to exceed 3 calendar days, at which time the roadways will be paved.

The Contractor is required to delineate any raised structures within the travel lanes, so that the structures are visible day and night, unless there are specific contract plans and provisions to temporarily lower these structures prior to the completion of work.

When the Contractor is excavating adjacent to the roadway, the Contractor shall provide a 3-foot shoulder between the work area and travel lanes, with traffic drums spaced every 12 feet. At the end of the workday, if the vertical drop-off exceeds 3 inches, the Contractor shall provide a temporary traversable slope of 4:1 or flatter that is acceptable to the Owner.

If applicable, when an existing sign is removed, it shall be either relocated or replaced by a new sign during the same working day.

The Contractor shall not store any material on-site which would present a safety hazard to motorists or pedestrians (e.g., fixed object or obstruct sight lines).

The field installation of a signing pattern shall constitute interference with existing traffic operations and shall not be allowed, except during the allowable periods.

The lane closure shall be of sufficient length to allow vehicles to enter or exit the work area at posted speeds, in order to merge with existing traffic.

# **Signing Patterns**

The Contractor shall erect and maintain all signing patterns in accordance with the traffic control plans contained herein. Proper distances between advance warning signs and proper taper lengths are mandatory.

#### Staging Area

The Contractor shall submit all proposed locations for a staging area to the Owner for approval.

#### **Pavement Markings - Local Roadways**

During construction, the Contractor shall maintain all pavement markings on paved surfaces on all roadways throughout the limits of the project.

# **Interim Pavement Markings**

The Contractor shall install painted pavement markings, which shall include centerlines, shoulder edge lines, lane lines (broken lines), lane-use arrows, and stop bars, on each intermediate course of bituminous concrete pavement and on any milled surface by the end of the work day/night. If the next course of bituminous concrete pavement will be placed within seven days, shoulder edge lines are not required. The painted pavement markings will be paid under the appropriate items.

If the Contractor will install another course of bituminous concrete pavement within 24 hours, the Contractor may install Temporary Plastic Pavement Marking Tape in place of the painted pavement markings by the end of the work day/night. These temporary pavement markings shall include centerlines, lane lines (broken lines) and stop bars; shoulder edge lines are not required. Centerlines shall consist of two 4-inch-wide yellow markings, 2 feet in length, side by side, 4 to 6 inches apart, at 40-foot intervals. Stop bars may consist of two 6-inch-wide white markings or three 4-inch-wide white markings placed side by side. The Contractor shall remove and dispose of the Temporary Plastic Pavement Marking Tape when another course of bituminous concrete pavement is installed. The cost of furnishing, installing and removing the Temporary Plastic Pavement Marking Tape shall be at the Contractor's expense.

If an intermediate course of bituminous concrete pavement will be exposed throughout the winter, then Epoxy Resin Pavement Markings should be installed unless directed otherwise by the Owner.

#### **Final Pavement Markings**

The Contractor should install painted pavement markings on the final course of bituminous concrete pavement by the end of the work day/night. The Contractor shall install permanent Epoxy Resin Pavement Markings in accordance with Section 12.10 entitled "Epoxy Resin Pavement Markings, Symbols, and Legends" after such time as determined by the Owner.

#### TRAFFIC CONTROL DURING CONSTRUCTION OPERATIONS

The following guidelines shall assist field personnel in determining when and what type of traffic control patterns to use for various situations. These guidelines shall provide for the safe and efficient movement of traffic through work zones and enhance the safety of work forces in the work area.

#### TRAFFIC CONTROL PATTERNS

Traffic control patterns shall be used when a work operation requires that all or part of any vehicle or work area protrudes onto any part of a travel lane or shoulder. For each situation, the installation of traffic control devices shall be based on the following:

Speed and volume of traffic Duration of operation Exposure to hazards

Traffic control patterns shall be uniform, neat and orderly so as to command respect from the motorist.

In the case of a horizontal or vertical sight restriction in advance of the work area, the traffic control pattern shall be extended to provide adequate sight distance for approaching traffic.

If a lane reduction taper is required to shift traffic, the entire length of the taper should be installed on a tangent section of roadway so that the entire taper area can be seen by the motorist.

Any existing signs that are in conflict with the traffic control patterns shall be removed, covered, or turned so that they are not readable by oncoming traffic.

When installing a traffic control pattern, a Buffer Area should be provided, and this area shall be free of equipment, workers, materials and parked vehicles.

Traffic control patterns will not be required when vehicles are on an emergency patrol type activity or when a short duration stop is made and the equipment can be contained within the shoulder. Flashing lights and appropriate trafficperson shall be used when required.

Although each situation must be dealt with individually, conformity with the typical traffic control plans contained herein is required. In a situation not adequately covered by the typical traffic control plans, the Contractor must contact the Owner for assistance prior to setting up a traffic control pattern.

#### **PLACEMENT OF SIGNS**

Signs must be placed in such a position to allow motorists the opportunity to reduce their speed prior to the work area. Signs shall be installed on the same side of the roadway as the work area.

# ALLOWABLE ADJUSTMENT OF SIGNS AND DEVICES SHOWN ON THE TRAFFIC CONTROL PLANS

The traffic control plans contained herein show the location and spacing of signs and devices under ideal conditions. Signs and devices should be installed as shown on these plans whenever possible.

The proper application of the traffic control plans and installation of traffic control devices depends on actual field conditions.

Adjustments to the traffic control plans shall be made only at the direction of the Owner to improve the visibility of the signs and devices and to better control traffic operations. Adjustments to the traffic control plans shall be based on safety of work forces and motorists, abutting property requirements, driveways, side roads, and the vertical and horizontal curvature of the roadway.

The Owner may require that the traffic control pattern be located significantly in advance of the work area to provide better sight line to the signing and safer traffic operations through the work zone.

Table I indicates the minimum taper length required for a lane closure based on the posted speed limit of the roadway. These taper lengths shall only be used when the recommended taper lengths shown on the traffic control plans cannot be achieved.

POSTED SPEED LIMIT MINIMUM TAPER LENGTH IN FEET FOR MILES PER HOUR A SINGLE LANE CLOSURE 30 OR LESS 180 35 250 40 320 45 540 50 600 55 660 65 780

TABLE I – MINIMUM TAPER LENGTHS

#### **SECTION 1. WORK ZONE SAFETY MEETINGS**

- 1.a) Prior to the commencement of work, a work zone safety meeting will be conducted with representatives of Municipal Police, the Contractor (Project Superintendent) and the Traffic Control Subcontractor (if different than the prime Contractor) to review the traffic operations, lines of responsibility, and operating guidelines which will be used on the project. Other work zone safety meetings during the course of the project should be scheduled as needed.
- 1.b) A Work Zone Safety Meeting Agenda shall be developed and used at the meeting to outline the anticipated traffic control issues during the construction of this project. Any issues that can't be resolved at these meetings will be brought to the attention of the District Owner and the Office of Construction. The agenda should include:
  - Review Project scope of work and time
  - Review Section 1.08, Prosecution and Progress
  - Review Section 9.70, Trafficpersons
  - Review Section 9.71, Maintenance and Protection of Traffic
  - Review Contractor's schedule and method of operations.

- Review areas of special concern: ramps, turning roadways, medians, lane drops, etc.
- Open discussion of work zone questions and issues
- Discussion of review and approval process for changes in contract requirements as they relate to work zone areas

## **SECTION 2. GENERAL**

- 2.a) If the required minimum number of signs and equipment are not available; the traffic control pattern shall not be installed.
- 2.b) The Contractor shall have back-up equipment (TMAs, High Mounted Internally Illuminated Flashing Arrow, Changeable Message Sign, construction signs, cones/drums, etc.) available at all times in case of mechanical failures, etc. The only exception to this is in the case of sudden equipment breakdowns in which the pattern may be installed but the Contractor must provide replacement equipment within 24 hours.
- 2.c) Failure of the Contractor to have the required minimum number of signs, personnel and equipment, which results in the pattern not being installed, shall not be a reason for a time extension or claim for loss time.
- 2.d) In cases of legitimate differences of opinion between the Contractor and the Inspection staff, the Inspection staff shall err on the side of safety. The matter shall be brought to the District Office for resolution immediately or, in the case of work after regular business hours, on the next business day.

# SECTION 3. INSTALLING AND REMOVING TRAFFIC CONTROL PATTERNS

- 3.a) Lane Closures shall be installed beginning with the advanced warning signs and proceeding forward toward the work area.
- 3.b) Lane Closures shall be removed in the reverse order, beginning at the work area, or end of the traffic control pattern, and proceeding back toward the advanced warning signs.
- 3.c) Stopping traffic may be allowed:
  - As per the contract for such activities as blasting, steel erection, etc.
  - During paving, milling operations, etc. where, in the middle of the operation, it is necessary to flip the pattern to complete the operation on the other half of the roadway and traffic should not travel across the longitudinal joint or difference in roadway elevation.
  - To move slow moving equipment across live traffic lanes into the work area.
- 3.d) The Contractor must adhere to using the proper signs, placing the signs correctly, and ensuring the proper spacing of signs.

3.e) Prior to installing a pattern, any conflicting existing signs shall be covered with an opaque material. Once the pattern is removed, the existing signs shall be uncovered.

# SECTION 4. USE OF HIGH MOUNTED INTERNALLY ILLUMINATED FLASHING ARROW (NOT APPLICABLE)

- 4.a) On limited access roadways, one Flashing Arrow shall be used for each lane that is closed. The Flashing Arrow shall be installed concurrently with the installation of the traffic control pattern and its placement shall be as shown on the traffic control plan. For multiple lane closures, one Flashing Arrow is required for each lane closed. If conditions warrant, additional Flashing Arrows should be employed (i.e.: curves, major ramps, etc.).
- 4.b) On non-limited access roadways, the use of a Flashing Arrow for lane closures is optional. The roadway geometry, sight line distance, and traffic volume should be considered in the decision to use the Flashing Arrow.
- 4.c) The Flashing Arrow shall not be used on two lane, two-way roadways for temporary alternating one-way traffic operations.
- 4.d) The Flashing Arrow board display shall be in the "arrow" mode for lane closure tapers and in the "caution" mode (four corners) for shoulder work, blocking the shoulder, or roadside work near the shoulder. The Flashing Arrow shall be in the "caution" mode when it is positioned in the closed lane.
- 4.e) The Flashing Arrow shall not be used on a multi-lane roadway to laterally shift all lanes of traffic, because unnecessary lane changing may result.

# SECTION 5. USE OF TRUCK MOUNTED IMPACT ATTENUATOR VEHICLES (TMAs) (NOT APPLICABLE)

- 5.a) For lane closures on limited access roadways, a minimum of two TMAs shall be used to install and remove traffic control patterns. If two TMAs are not available, the pattern shall not be installed.
- 5.b) On non-limited access roadways, the use of TMAs to install and remove patterns closing a lane(s) is optional. The roadway geometry, sight line distance, and traffic volume should be considered in the decision to utilize the TMAs.
- 5.c) Generally, to establish the advance and transition signing, one TMA shall be placed on the shoulder and the second TMA shall be approximately 1,000 feet ahead blocking the lane. The flashing arrow board mounted on the TMA should be in the "flashing arrow" mode when taking the lane. The sign truck and workers should be immediately ahead of the second TMA. In no case shall the TMA be used as the sign truck or a work truck. Once the transition is in

- place, the TMAs shall travel in the closed lane until all Changeable Message Signs, signs, Flashing Arrows, and cones/drums are installed. The flashing arrow board mounted on the TMA should be in the "caution" mode when traveling in the closed lane.
- 5.d) A TMA shall be placed prior to the first work area in the pattern. If there are multiple work areas within the same pattern, then additional TMAs shall be positioned at each additional work area as needed. The flashing arrow board mounted on the TMA should be in the "caution" mode when in the closed lane.
- 5.e) TMAs shall be positioned a sufficient distance prior to the workers or equipment being protected to allow for appropriate vehicle roll-ahead in the event that the TMA is hit, but not so far that an errant vehicle could travel around the TMA and into the work area. For additional placement and use details, refer to the specification entitled "Type 'D' Portable Impact Attenuation System". Some operations, such as paving and concrete repairs, do not allow for placement of the TMA(s) within the specified distances. In these situations, the TMA(s) should be placed at the beginning of the work area and shall be advanced as the paving or concrete operations proceed.
- 5.f) TMAs should be paid in accordance with how the unit is utilized. When it is used as a TMA and is in the proper location as specified, and then it should be paid at the specified hourly rate for "Type 'D' Portable Impact Attenuation System". When the TMA is used as a Flashing Arrow, it should be paid at the daily rate for "High Mounted Internally Illuminated Flashing Arrow". If a TMA is used to install and remove a pattern and then is used as a Flashing Arrow, the unit should be paid as a "Type 'D' Portable Impact Attenuation System" for the hours used to install and remove the pattern, typically 2 hours (1 hour to install and 1 hour to remove), and is also paid for the day as a "High Mounted Internally Illuminated Flashing Arrow".

# SECTION 6. USE OF TRAFFIC DRUMS AND TRAFFIC CONES

- 6.a) Traffic drums shall be used for taper channelization on limited-access roadways, ramps, and turning roadways and to delineate raised catch basins and other hazards.
- 6.b) Traffic drums shall be used in place of traffic cones in traffic control patterns that are in effect for more than a 36-hour duration.
- 6.c) Typical spacing of traffic drums and/or cones shown on the Traffic Control Plans in the Contract are maximum spacings and may be reduced to meet actual field conditions as required.

# <u>SECTION 7. USE OF (REMOTE CONTROLLED) CHANGEABLE MESSAGE SIGNS (CMS)</u> (NOT APPLICABLE)

7.a) For lane closures on limited access roadways, one CMS shall be used in advance of the traffic control pattern. Prior to installing the pattern, the CMS shall be installed and in operation, displaying the appropriate lane closure information (i.e.: Left Lane Closed - Merge Right).

#### MOBILIZATION AND PROJECT CLOSEOUT

All the applicable provisions of Section 9.75 of the Standard Specifications shall apply, except as amended or supplemented herein:

## **9.75.01 - Description:** Add the following:

This item shall include the cost to furnish and install an anti-tracking pad at the staging/stockpile area. The Contractor is responsible for negotiating with landowners and obtaining a staging/stockpile/field office location prior to commencement of work. The staging/stockpile/field office location shall be approved by the Borough prior to initiation of mobilization. See "NTC-Staging and Laydown Area" for information regarding construction staging area plan requirements, submissions and approvals. This item will include any additional mobilization required by subcontractors involved in the Contract items, including their field office and storage containers. There will be no separate payment for items listed above.

## **9.75.02 - Materials:** Add the following:

Anti-Tracking pad materials shall be in accordance with Section 2.11.02 of the Standard Specifications.

#### **9.75.03 – Construction Methods:** Add the following:

Anti-Tracking pad shall in installed in accordance with Section 2.11.03 of the Standard Specifications.

#### **BREAK-AWAY FUSE HOLDER**

## **Description:**

This item shall consist of furnishing and installing break-away fuse holders and connections, complete in place, at each decorative light pole, and as described herein.

### **Materials:**

Branch circuit wiring connections at all pole lights shall be connected via break-away fuse holders. Fuse holders shall be equal to Bussmann No. HET-AW-RLC-J or Mersen FEBN-11-11-BA with insulating boots. Fuses shall be Bussman LP-CC-10, Mersen ATDR-10 or equal.

#### **Construction Methods**:

Insulating boots shall be sealed at the conductor interface using heat shrink tubing. Fuses shall be provided at all hot and neutral connections. Continuity of all circuit connections shall be verified after installation.

## **PVC SCHEDULE 80 IN TRENCH**

All the applicable provisions of Section 10.08 of the Standard Specifications shall apply, except as amended or supplemented herein:

## **10.08.02 – Materials:**

*Add the following:* 

### CONDUIT:

General: PVC (80), manufactured to NEMA TC-2 and UL 651 specifications. Schedule 80.

Manufacturer: AFC, Carlon, Hubbell, or Thomas and Betts.

### 10.08.03 Construction Methods:

Add the following:

The contractor shall install and leave in place a pull/cord with high strength in all conduits for future use. Each length should be continuous from one pull box, or handhole, to the next. No knotting or splicing is allowed.

## RIGID METAL CONDUIT IN TRENCH RIGID METAL CONDUIT UNDER ROADWAY

All the applicable provisions of Section 10.08 of the Standard Specifications shall apply, except as amended or supplemented herein:

### **10.08.02 – Materials:**

Add the following:

### **Conduit:**

General: RMC, manufactured to ANSI C80.1 and UL 6 specifications.

Manufacturer: Allied, O-Z Gedney, or Wheatland Tube Company.

## **10.08.03 Construction Methods:**

Add the following:

The contractor shall install and leave in place a pull/cord with high strength in all conduits for future use. Each length should be continuous from one pull box, or handhole, to the next. No knotting or splicing is allowed.

Special Provisions RIGID METAL CONDUIT

## **AWG COPPER CONDUCTOR**

All the applicable provisions of Section 10.12 of the Standard Specifications shall apply, except as amended or supplemented herein:

## **10.12.02 – Materials:**

Add the following:

### CONDUCTOR:

### General:

Single insulated conductor consisting of a stranded (Class B) copper conductor, #8AWG with 600 volt, 90 degree C insulation, UL Listed as Type XHHW-2.

General: Single insulated conductor consisting of a stranded (Class B) copper conductor, #10AWG with 600 volt, 90 degree C insulation, UL Listed as Type XHHW-2.

Manufacturer: American Insulated Wire Corp, General Cable Corp, Senator Wire & Cable Company, or Southwire Company.

## ELECTRICAL SERVICE ENCLOSURE, FOUNDATION AND EQUIPMENT

All of the provisions of Section 10.00 of the Standard Specifications shall apply with the following modifications:

## **Description**:

Work under these Items shall consist of furnishing, installing and coordination of new utility service and distribution system to power new loads as indicated on the drawings. The work shall include providing all material, labor, tools, equipment, wiring, fees and coordination with Eversource, and the Borough of Naugatuck.

## **Required Submittals**

Material Certificate of Compliance:

Submit 5 copies of material certificate of compliance for service equipment in accordance with the contract general requirements.

**Shop Drawings:** 

Submit 5 copies of shop drawings for service equipment in accordance with the contract general requirements. Include meter socket, fused disconnect, GFI service receptacle, panelboard, lighting controls, breakers, fuses, enclosure and concrete base.

## **Utility Service Connections**

General: The necessary work, coordination and CRS submission required to meet Eversource requirements per the latest Information and Requirements issued by Eversource. Contractor shall pay all Utility fees associated with new service.

### **Materials**

**General:** The Service enclosure shall include the following pieces of equipment: meter socket, fused disconnect switch, GFI service receptacle, lighting controls, panelboard with main breaker, breakers and fuses. Utility service shall be 208/120V, 3-phase, 4-wire and will be provided from an existing Eversource structure as indicated on the drawings. Service conduit shall be furnished and installed by Contractor. Service cable shall be furnished and installed by Eversource unless otherwise coordinated with Eversource. All wire and labor for connection from meter to panelboard shall be by the Contractor.

### **Hinged Door Service Enclosure**

Manufacturers shall be equal to Hoffman, Marlin Controls or McKinstry and shall be constructed of NEMA 3R enclosure; 12 gauge stainless steel (304) with continuously welded seams. The door shall be continuous hinge with stainless steel pin held closed by three-point latching

mechanism with recessed cylinder lock and latch dead bolt with protective shroud. Lock shall be keyed as directed by the Town of Ridgefield. Provide 5 keys for the lock. The door shall be provided with a 90 degree locking door stop to prevent the door from opening more than 90 degrees and to prevent the door from closing on workers. Provide door with a drawing pocket. The interior shall be provided with 12 gauge metal panel for mounting electrical equipment; finish with white enamel. Provide grounding lug on panel for bonding.

### Circuit Breaker Panelboard

Manufacturers shall be equal to Square D or GE with ratings as indicated on drawings. Pane1board bus shall be Tin-plated copper, ratings as indicated. Provide with Copper ground bus. Minimum short circuit rating: 100,000 amperes RMS symmetrical for 240 volt panelboards. Molded case circuit breakers shall be NEMA AB1. Provide circuit breakers with integral thermal and instantaneous magnetic trip in each pole. Provide circuit breakers UL Listed as SWD for control of high-intensity discharge lighting. Provide cabinet front in surface type hinged front construction, fastened with screws. Circuit breaker operating handle access door shall have key locks, with all panels keyed alike. Finish in manufacturer's standard gray enamel.

### **Electric Meter Socket**

Manufacturer shall be as listed for approved manufacturers by the Utility Company.

#### **Ground Rods**

Service Pedestal shall be provided with a Copper, 3/4 inch Diameter, 10 feet long ground rod equal to Erico Products Company.

## **Concrete Base**

Poured concrete base shall be sized to provide a minimum 3" lip on all sides of enclosure. Base shall be provided with formed opening for conduit entry or conduits shall be coordinated and cast in place. Exact dimensions, reinforcement and materials shall be as detailed on Drawings.

## **Construction Methods:**

All electrical work shall be installed in accordance with the latest edition of the national electrical code. All electrical equipment utilized shall be U.L. listed.

The Contractor shall coordinate all final electrical service connection with Eversource and meet utility company's requirements. Coordination with the Borough's Electrical Inspector is required.

### REMOVAL AND RELOCATION OF EXISTING SIGNS

All the applicable provisions of Section 12.06 of the Standard Specifications shall apply, except as amended or supplemented herein:

## Article 12.06.01 – Description is supplemented with the following:

Work under this item shall consist of the removal and/or relocation of designated side-mounted extruded aluminum and sheet aluminum signs, sign posts, sign supports, and foundations where indicated on the plans or as directed by the Engineer. Work under this item shall also include furnishing and installing new sign posts and associated hardware for signs designated for relocation.

## **Article 12.06.03 – Construction Methods is supplemented with the following:**

The Contractor shall take care during the removal and relocation of existing signs, sign posts, and sign supports that are to be relocated so that they are not damaged. Any material that is damaged shall be replaced by the Contractor at no cost to the State.

Foundations and other materials designated for removal shall be removed and disposed of by the Contractor as directed by the Engineer and in accordance with existing standards for Removal of Existing Signing.

Sheet aluminum signs designated for relocation are to be re-installed on new sign posts.

## **ADJUST GATE BOX (GAS)**

## **Description:**

This specification shall apply to the adjustment of gas gate boxes. The Contractor shall adjust to final grade, the gate boxes and covers as required and install extension rings, stems and valve extensions (provided by the gas company), if necessary, as shown an the Contract Drawings or as directed by the Owner in accordance with these specifications.

Work under this item shall conform to the specific requirements of each utility company and to the applicable provisions of the Standard Specifications.

### **Materials:**

The gas company shall furnish gate box sections as required and extension stems if necessary.

All additional materials, including any resurfacing materials and any additional fill required, shall be furnished and placed by the Contractor. Gravel shall conform to Article M.02.01 of the Standard Specifications.

### **Construction Methods:**

The Contractor shall carefully excavate around the gate boxes, remove the boxes, install extension stems and air valve extensions, if necessary, reinstall the present gate box, if reusable, adjust the box to final grade using extension rings, if necessary, and refill the excavation, as required by the utility or Owner. Care shall be taken to prevent material from filling the inside of the gate box.

Extension stems will be required if the gate box is raised 2 feet or more or as required by the utility. Any damage done to facilities by the Contractor shall be repaired or replaced by the Contractor at his expense.

### REPLACE AND RESET MANHOLE FRAME AND COVER (SANITARY SEWER)

## **Description**:

Work under this item shall consist of removing and replacing sanitary manhole frame and cover at the locations and in conformity with the lines, grades, dimensions and details shown on the plans or as directed by the Engineer. Included in this work shall be removal and salvage of existing frames and covers, to the Borough of Naugatuck

### **Materials:**

<u>Frame and cover</u>: All manhole frames and covers shall be cast-iron and shall conform to the details, types and styles as specified and shown on the drawings. Manhole frame and cover shall be gray cast iron meeting the requirements of ASTM A48-83, Class 35 and shall be load rated for HS20-44. Manhole cover shall be 133 lb. or greater and shall have two 5/8-inch dia. recessed non-penetrating pick holes. Manhole cover shall have raised pattern and lettering in accordance with detail shown on the plans. Manhole frame and covers shall be furnished by the Borough at no cost to the Contractor.

Manhole Frame Sealing: Manhole frame sealing includes the sealing of the frame joint area and the chimney above the cone of the manhole with an applied flexible seal. The seal shall be designed to prevent leakage of water into the manhole through these areas throughout a 20-year design life. The seal shall remain flexible, allowing repeated vertical and horizontal movement up to ½-inch. The seal may not be applied to corbel that has been altered until 2 hours minimum has elapsed to allow for the mortar to properly cure.

All surfaces to be sealed shall be clean, dry and free from dust, rust, oil, loose material and other contaminants. The sealing product shall be applied in a thickness not less than 250 mils (1/4-inch). The sealing material shall be as manufactured by Parson Environmental Products, Inc. (800-356-9023) (Parson Poxy FG) or approved equal.

<u>Brick</u>: Building brick shall be number one, hard grade brick. These brick, when made from clay or shale, shall conform to AAASHTO "Standard Specification for Building Brick (Solid Masonry Units made from Clay or Shale)", Serial Designation M114. All brick shall be new and whole, of uniform standard size and with substantially straight and parallel edges and square corners. Bricks shall be tough and strong and free from holes, injurious cracks and flaws. Bricks shall be culled after delivery, if required, and all culls shall be removed from the work site.

The Contractor may be required to furnish the Owner with at least five bricks of the character and make he proposes to use, at least one week before any bricks are delivered for use. All bricks shall be of the same quality as the accepted samples.

Mortar: shall be composed of the following mixture: One part Portland cement, two parts sand, hydrated lime not to exceed ten percent of the cement used. Water shall be added to the mixture in such quantity as to form a stiff paste. The mortar shall be hand-mixed or machine-mixed. In the preparation of hand-mixed mortar, the sand, cement and hydrated lime shall be thoroughly mixed together in a clean, tight, mortar mix until the mixture is of uniform color, after which water shall be

added. Machine-mixed mortar shall be prepared in an approved mixer and shall be mixed not less than 1-1/2 minutes. Mortar shall be used within thirty (30) minutes after mixing. Re-tempering of mortar will not be permitted.

Materials used shall conform to the following Specifications:

Portland Cement ASTM C150, Type II Hydrated Lime ASTM C207, Type N

Sand ASTM C-33 for fine aggregate

Water: Use only water which is clean and free from deleterious amounts of acid, alkali, salt and organic matter.

### **Construction Methods:**

Cast-iron manhole frames shall be set on the manhole top to the finished grade indicated or directed. At least 3-inches is required between the manhole top and the frame. The joint between the frame and the precast concrete grade ring shall be made watertight by a flexible seal as described in Manhole Frame Sealing in the paragraph above. For any necessary ring adjustment, no more than two rings will be permitted. Meaning, if the manhole to be adjusted already has two rings, then the whole frame must be raised.

The following materials and methods shall be used when bringing the manhole cover and frame to grade:

- 1. In excess of twelve (12) inches, or whenever possible, a precast concrete grade ring will be used to bring the frame to the desired height as specified on the plans and this specification. Manhole grade rings shall be manufactured by United Concrete, Arrow Concrete Products, or equal.
- 2. In cases less than twelve (12) inches, where a precast concrete grade ring cannot be used, a high density polyethylene grade ring shall be used. Acceptable products shall be as manufactured by LadTech, E.J. Prescott or approved equal.

In roadway areas where permanent pavement has been applied over existing manhole frames, the manhole frames are to be adjusted to the grade of the existing pavement in accordance with the tolerances outlined above.

In some cases when the manhole frame and cover are in a poor and deteriorated condition, as determined by the Borough, a new frame and cover will be supplied by the Borough and be picked up by the Contractor at the designated location(s).

A neat circular line shall be cored/cut in the pavement around the existing frames with a shell manhole cutter. A jack hammer or pavement saw cut is not acceptable. During construction, the Contractor is to keep debris from entering the inside of the manhole. The material-gravel, pavement and concrete collar (if there) shall be removed down to six (6) inches below the frame. The frame shall be freed from its existing grout bed and shimmed with steel or HPDE shims of the appropriate

thickness at a minimum of four (4) alternate locations, so as to insure that the frame or course of brick will not rock. The necessary courses of brick and frame shall then be set into a full bed of mortar and the exterior of the masonry shall be plastered with 3/8-inch thick mortar coating. The frame shall be protected from traffic damage until the mortar has taken a firm set.

Backfill material around the outside perimeter of the frame shall be bituminous concrete compacted in two (2) inch lifts with a jumping-jack compactor, tack edges as required. No other method of compaction shall be accepted.

All manholes shall be thoroughly cleaned of all excess mortar and accumulations of silt, clay, debris or foreign matter of any kind and shall be free from such at the time pavement is to be laid.

When using the existing frame and cover, the frame and cover shall be thoroughly cleaned of all asphalt and corrosion. Any existing grade rings shall be removed and the inside of the frame shall be thoroughly cleaned of corrosion and other foreign matter.

The Contractor is to protect the invert and table from falling debris by the means of a minimum five (5) foot diameter circular canvas debris catcher or other approved method. This method must be approved by the Borough prior to work. Any debris that falls into the invert or on the table must be removed.

### **Method of Measurement:**

Removing and replacing manhole frames and covers will be measured for payment by the actual number of frames with cover installed. There will be no measurement made for incidental work including but not limited to excavation, saw cutting, removal and replacement of pavement; mortar and masonry fill and backfill.

### **Basis of Payment:**

Work under this item will be paid for at the contract unit price bid for each "Replace and Reset Manhole Frame and Cover (Sanitary Sewer)," complete in place, which price shall include excavation, pervious material, backfill, saw cutting of pavement, removal and replacement of pavement structure, mortar and masonry fill, and all materials, equipment, tools and labor incidental thereto.

Pay ItemPay UnitReplace and Reset Manhole Frame and Cover (Sanitary Sewer)EA.

## TEMPORARY BYPASS (SANITARY SEWER)

## **Description:**

Work under this item shall consist of the handling of sanitary sewage necessary to maintain service and system flows throughout construction including sewage, wet weather flows and any infiltration. The Contractor shall be responsible for continuity of sanitary sewer service to each facility connected to the affected section(s) of sewer main. The main sewer flow around the pipe to be replaced shall be bypassed as necessary or diverted into temporary or adjacent sanitary sewers, if available. The Contractor shall furnish all labor, materials, equipment, and supplies and shall perform all work related to the control of sewage flow. Work under these items shall include but not be limited to:

- Developing and furnishing a temporary bypass plan for approval;
- Furnishing and installing the sanitary pipe, bends, and fittings of the size and type at all depths in accordance with the Contractor's own approved plan or as indicated on the plans;
- Coring and grouting at connection to existing sanitary manholes (if required);
- Temporary plugging of existing pipes at manholes;
- Forming of inverts at manholes (if required);
- Handling and bypass pumping of sanitary sewage necessary to maintain service throughout construction including electric service, metering, and backup power source as may be necessary.

Also as part of this item the Contractor shall maintain service laterals along the proposed sewer pipe alignment and shall coordinate any short-term and temporary outages with the Borough and affected customers.

Also as part of this work any standing water in manholes and chambers shall be pumped out when necessary to perform scheduled alterations, and as directed by the Owner.

In connection with this work it is expressly understood and agreed that any approvals given by the Owner shall not relieve the Contractor of full responsibility for any injury or damage resulting from the Contractor's operations or for complying with all regulations or requirements of State or Local authorities.

It shall be the responsibility of the Contractor to make provisions to meet all requirements of these specifications and to correct any problems which may arise as a result of pumping and bypassing operations.

### **Materials:**

Materials for temporary sewer lines shall conform to applicable sections of Article M.08 and Borough standards.

### **Construction Methods:**

### A. Flow Control Plan:

The Contractor shall submit to the Owner for approval a detailed plan for handling sanitary sewage and/or controlling flow in accordance with the following:

- (1) The Contractor shall submit flow control and sewage bypassing arrangement plans to the Owner for review and approval at least one week prior to commencing work on each portion of the system. Flow control includes, but is not limited to, plugging, bypass pumping or trucking as appropriate for the work performed. The plans must be specific and complete, and shall include, but not be limited to, the following details:
  - (a) Capacities of equipment.
  - (b) Road crossing details.
  - (c) Protection against pipe breaks.
  - (d) Sewer plugging methods and bypass time duration for each sewer section.
  - (e) Size, length, material, and method of installation for suction and discharge piping.
  - (f) Method noise control for each pump and/or generator.
  - (g) Bypass pumping locations.
  - (h) Backup pumping equipment, including backup power source, shall be held in reserve on the job site and must be included in the submittal.
  - (i) Inventory of affected customers, schedule and duration or timeframe for planned service interruptions, and methods for notifying individual buildings of the proposed work
- (2) Bypassed flows must be discharged to the sanitary sewer system, appropriate watertight vehicle, or appropriate watertight container.
- (3) Flows shall be diverted, trucked, or otherwise handled to prevent flows from interfering with the work to be performed on that portion of the system.
- (4) When pumping/bypassing is required, the Contractor shall supply the necessary pumps, conduits, engines, and other equipment to divert the flow of sewage as appropriate. The Contractor shall have backup equipment available should the primary system fail, and the pumping/bypass system shall be adequate in size to handle the existing peak use flows and additional flows that occur with rainstorms.
- (5) The Contractor shall also furnish the labor and supervision to set up, operate, and maintain the pumping/bypass system. The Contractor shall select pumping/bypass equipment that will not have excessive noise levels from a maximum of sixty-nine decibels (69 db) at a distance of 30 feet.

### B. Flow Control Precautions:

- (1) When flow in a sewer line is plugged, blocked, or bypassed by the Contractor, he shall take precautions to protect the public health and to protect the sewer lines from damage that might result from sewer surcharging. Further, the Contractor shall take precautions to ensure that sewer flow control operations do not cause flooding or damage to public or private property being served by the sewers involved and he shall be responsible for any damage resulting from his flow control operations. The Contractor shall be solely responsible for clean-up, repair, property damage costs and claims resulting from failure of the diversion system.
- (2) When flow in a sewer line is plugged or blocked by the Contractor, he shall monitor the conditions upstream of the plug and shall be prepared to immediately start bypass pumping, if needed. Any liquid or solid matter which is bypass pumped from the sewer collection system shall be discharged to another sewer manhole or appropriate watertight vehicle or container only. No such liquid or solid matter shall be allowed to be discharged, stored, or deposited on the ground, swale, road, stormwater drainage system, or open environment. The Contractor shall protect all pumps, conduit, and other equipment used for bypass from traffic.
- (3) Should any liquid or solid matter from the sewer collection system be spilled, discharged, leaked, or otherwise deposited to the open environment as a result of the Contractor's flow control operations, he shall immediately clean up and disinfect the affected area and assume all costs associated with same. The Contractor shall also notify the sewer system operating personnel and appropriate regulatory agencies and perform required cleanup operations at no additional cost to the Owner.



## TECHNICAL MEMORANDUM

**TO: Borough of Naugatuck, Connecticut** 

CC: Civil 1, Inc.

PREPARED BY: Woodard & Curran, Inc.

**DATE: June 25, 2024** 

RE: Materials Management Plan - Summary of Responsibilities for CONTRACTORs

Woodard & Curran, Inc. (Woodard & Curran) has prepared the Site-Wide Materials Management Plan (MMP), dated August 2023, for soil management related to the remediation and redevelopment of the properties located at 280 Elm Street and 12 Spencer Street, Naugatuck, Connecticut (herein referred to as the "Site"). The MMP establishes the management procedures and practices that will apply to soil excavated from the Site for the purpose of remediation and/or redevelopment. This memorandum summarizes the responsibilities of CONTRACTORs during activities that require the disturbance of soil (grading, utility installation, building construction, etc.) established in the MMP.

All contractors and their subcontractors conducting subsurface activities (here after identified as "CONTRACTOR") shall be responsible for being familiar with the Site and for understanding and adhering to the contents and details of the MMP as well as applicable regulations and contract documents. The CONTRACTOR shall also comply with the guidance of the Site Licensed Environmental Professional (LEP) (Woodard & Curran) regarding the characterization, handling, and management of potentially impacted soil. The responsibilities of the CONTRACTOR shall include, but are not limited to the following:

- 1) Implementation of Site-Specific Health and Safety Procedures, including the preparation of a Site-Specific Health and Safety Plan (HASP), prepared in compliance with the requirements of the OSHA HAZWOPER regulations (29 CFR Standard 1910.123). The HASP shall be maintained on-site when work is being conducted. The CONTRACTOR is responsible for ensuring that all workers and visitors to the Site are aware of the presence of hazards in the areas designated by the HASP prepared by the CONTRACTOR.
- 2) **Designation of a Health and Safety Manager** (HSM) to prepare and be responsible for the implementation of the HASP. The CONTRACTOR's HSM shall keep the HASP up to date. The HSM shall have authority to issue a Stop Work Order.
- 3) Protective Measures shall be implemented by the CONTRACTOR whenever managing soil known or suspected to contain pollution based on analytical results or based on field observations made during excavation activities. The CONTRACTOR shall be responsible for reducing the risk of potential exposure by requiring employees and subcontractors to implement the precautions identified in the MMP and any requirements established by the Site-Specific HASP.
- 4) **Site Security** including measures that prevent workers, visitors, off-site population, and trespassers from contacting impacted soil, whether in-place, in temporary stockpiles, or from material migration.



The Site will be secured along the Site perimeter and ingress and egress points will be barriered during work hours and securely locked during off hours with appropriate signage maintained by the CONTRACTOR.

- 5) **Temporary Site Fencing** will be installed by the CONTRACTOR along the perimeter of the limit of work.
- 6) **Management of Soil and Material** excavated from the Site must be performed in accordance with the requirements of the MMP, and with federal, state, and local regulations and the responsibility of the CONTRACTOR. Items 8, 10, 14, and 17 below describe certain management requirements.
- 7) **Soil Screening** consisting of visual, olfactory, and instrumental soil screening (photoionization detector [PID]) assessments will be performed by the CONTRACTOR during remediation and development-related ground intrusive activities in known or potentially contaminated material. If field screening methods indicate that polluted or contaminated soil is present during the excavation of soil that has not previously been characterized, the CONTRACTOR shall immediately notify the LEP.
- 8) **Discovery of a New Release** may be based on soil screening results, as described above (item 7), or based on the indirect evidence of a release (e.g. chemical/petroleum free product, underground storage tanks, buried drums, etc,) observed while excavating in an area located outside of a known release area. The CONTRACTOR shall immediately notify the LEP if evidence of a new release is discovered.
- 9) Management of Asphalt and Building Material Debris removed prior to the excavation of the soil beneath shall be characterized and disposed/recycled of appropriately by the CONTRACTOR. Building material debris is not anticipated to be generated during the redevelopment; however, historic foundations or slabs may be encountered in some locations. Management methods involving the reuse or recycling of these asphalt and building material debris are preferred.
- 10) **Management of Fluids** and other liquids generated during the remedial activities will be characterized, handled, transported, and disposed of by the CONTRACTOR in accordance with applicable local, state and federal regulations.
- 11) **Spill Response** shall be implemented by the CONTRACTOR and will include: containing the spill material with absorbent materials; preventing the spill material from entering storm water catch basins, water sources, or other preferential pathways; ensure recovered spill material is collected, containerized, labeled, properly characterized, and disposed of in accordance with all applicable state and federal regulations; and notifying the CTDEEP Emergency Response Unit as required under the Spill Reporting Regulations (CGS Section 22a-440); and the Site LEP of the spill and associated response activities..
  - In addition, any non-aqueous phase liquid (NAPL) that is encountered during excavation activities will be recovered by the CONTRACTOR with a combination of passive recovery technologies including oil absorbent materials (booms, socks, pads, etc.), and active recovery technologies, including pumps and/or vacuum-truck, depending on the quantity, location and Site conditions. Recovered NAPL will be characterized and disposed of at an appropriately permitted offsite disposal facility.
- 12) **Inspections** of disturbed areas, material storage areas exposed to precipitation, and in-place erosion control measures will be inspected by the CONTRACTOR once every seven days, within 24 hours after



any storm event greater than one half (0.5) inch of rainfall, and at least once during prolonged rainfall or snowmelt.

- 13) **Dust Suppression** and control of dust air-borne materials generated during Site activities shall be implemented by the CONTRACTOR to protect the health of on-site workers and to minimize the release of dust into surrounding areas. General Site dust control in work areas (e.g., roadways, exposed soils) shall be accomplished using a uniform spray of water. Water used to suppress dust shall be applied so as to minimize pooling or runoff. The CONTRACTOR shall be responsible for meeting the metering and flow control requirements of the water supplier. The CONTRACTOR shall be responsible for developing an air-monitoring program to ensure that the dust suppression methods are sufficient.
  - Dust generated from the disturbance or handling of impacted and non-impacted soils shall be controlled to the satisfaction of the Site LEP, Owner, and regulatory authorities with jurisdiction. Excessive wind-blown dust, including any that blows off-site may be cause for a Stop Work Order to be issued.
- 14) **Management of Stockpiles** of material excavated from the Site will be managed according to the results of any analytical data previously collected from the location, soil screening conducted during excavation, and the intended reuse. As discussed in Section 1.5 of the MMP, all material on site will be managed as either *Contaminated Material* or *Clean Fill*. The CONTRACTOR is responsible for the management of stockpiles based on these designations as described in Section 3 of the MMP.
- 15) **Decontamination of Equipment** and vehicles that come in contact with Contaminated Material during site activities is required as described in the MMP. All equipment, tools, and vehicles entering the limits of the construction areas and utilized for remedial activities will be decontaminated prior to leaving the site. A detailed discussion of the specific decontamination procedures will be developed by the CONTRACTOR.
  - For decontamination of equipment used in the excavation and handling of PCB-impacted materials, decontamination will be performed local to the excavation area within the decontamination zone. Decontamination of such equipment will be performed in accordance with 40 CFR §761.79(c), which identifies specific procedures that are applicable to movable equipment, porous surfaces, and non-porous surfaces that come into contact with PCB remediation waste. Certain materials utilized in PCB remediation, not amendable to decontamination, will be disposed of in accordance with Toxic Substances Control Act (TSCA) requirements.
- 16) Establishment and Maintenance of a Decontamination Pad for heavy equipment is required under the MMP and shall be the responsibility of the CONTRACTOR. Details regarding the location, design and construction of the decontamination pad are provided in the MMP and shall be subject to the approval of the LEP. The CONTRACTOR shall be responsible for collecting and analyzing samples of the containerized wash water in accordance with the requirements of the recycling or disposal facility identified by the CONTRACTOR.
- 17) **Management of Wastewater** generated during the removal of groundwater from excavations; water accumulated in below ground basements, vaults and chambers; and decontamination fluids and wastewater from decontamination activities. In the event dewatering of excavations is necessary, the



CONTRACTOR shall provide appropriate pumps, hoses and drums, tanks or other suitable containers as required based on the estimated volume of water to be managed. Water generated by dewatering operations shall be containerized until it can be characterized, and the proper method of treatment and disposal determined. The CONTRACTOR shall be responsible for characterizing the wastewater and the identification of acceptable facilities for treatment and disposal of wastewater, and sludge, generated at the Site. The CONTRACTOR shall be responsible for legally transporting the liquids, and sludge, to the identified disposal facility. The CONTRACTOR shall provide information on both the treatment and/or disposal facility, and transporters to the LEP for acceptance prior to treating or removing wastewater and sludge.

18) **Waste Characterization** may consist of the characterization of Contaminated Material that cannot or will not be reused onsite and wastewater generated as described in MMP. The CONTRACTOR is responsible for identifying permitted disposal facility(ies) for offsite disposal and adhering to the characterization requirements of the facility. No soil shall be transported off-site for disposal without prior approval from the LEP.

Sample identification, chain of custody procedures, data management, and tracking for waste characterization samples will be conducted by the CONTRACTOR in accordance with the applicable laws, regulations, and standards of practice. The CONTRACTOR shall inform the LEP when material samples for waste characterization analysis are being collected. The stockpiles and containers of materials that require characterization sampling and analysis shall be sampled at a minimum frequency of the potential destination recycling, treatment, and/or disposal facility. Composite and/or discrete samples shall be collected from the materials in the stockpile(s)/container(s) following an appropriate protocol. All analyses shall be conducted in a manner consistent with USEPA analytical methods appropriate for the waste.

If it is necessary to dispose of potentially impacted media (e.g., soil, fill, groundwater) excavated from the Site, LANXESS, BON, or their designated representative will sign manifests, bills of lading, or other documents as the materials generator at the Site.

19) **Transportation of Waste Materials** shall comply with all applicable federal, state, and local regulations applicable to hauling soil, water, and sludge including CTDEEP, Connecticut Department of Public Health (CTDPH), DOT, OSHA, RCRA, and TSCA regulations. The CONTRACTOR shall provide the Site LEP documentation showing that the haulers who will transport the soil to the disposal facility or recipient are properly licensed in CT, the state where the disposal facility or recipient is located, and all states through which the soil will be transported.

The CONTRACTOR shall be responsible for inspecting haul vehicles for the presence of waste material and soil on the wheels and under carriage, ensure tarpaulin covers are provided for transport vehicles, which shall cover excavated materials during transport, and ensuring that vehicles are not overfilled. The CONTRACTOR is responsible for any and all actions and costs necessary to remedy waste spilled in loading or transit. The CONTRACTOR shall maintain Transport Records and disposal manifests or receipts and provide copies to the LEP in accordance with the MMP.

20) **Green Remediation Best Management Practices** identified in the Site-wide Remedial Action Plan shall be incorporated into the Site remediation/ redevelopment activities as appropriate:



- Where appropriate, language encouraging anti-idling will be incorporated into contractor's documents and signage will be posted to promote voluntary compliance.
- Utilize local backfill sources for 3-inch processed stone, topsoil, organics, and blended organically enriched topsoil.
- Use of a dedicated sprinkler network and/or water tower to provide dust suppression, eliminating the energy demand to conduct dust suppression with alternate more energy-intensive methods (i.e., water truck).
- Use of solar-powered real-time monitoring equipment with remote telemetry capability eliminates the need for additional staff onsite, reducing the number of trips to the Site and safety concerns (e.g., slips/trips).
- Implementation during the seasonal low water table timeframe as well as a phased approach, to reduce the amount of water being generated requiring treatment and minimizing energy demands required for continuous groundwater dewatering.
- Biodegradable erosion control and restoration products: Install biodegradable erosion and sedimentation control products and restoration stabilization products including straw wattles and straw bales, biodegradable erosion control blankets, and biodegradable staples.



# MATERIALS MANAGEMENT PLAN

# ADDENDUM 1: PHASE 1 REDEVELOPMENT AREA

Remediation
Activities and Site
Redevelopment
Former Uniroyal
Chemical Facility

280 Elm Street and 18 Spencer Street Naugatuck, CT

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woodardcurran.com

LANXESS
Corporation &
Borough of
Naugatuck
September 2024



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Figure 1-3: Phase 1 Proposed Soil Management Areas

## **APPENDICES**

Appendix A: Materials Management Plan – ResponsibiLIties For Contractors



# **Glossary of Abbreviations**

AOC Area of Concern

BMP Best Management Practice
BON Borough of Naugatuck

CTDEEP Connecticut Department of Energy and Environmental Protection

EUR Environmental Use Restriction

GBPMC GB Pollutant Mobility Criteria

GP General Permit

HASP Health and Safety Plan

HAZWOPER Hazardous Waste Operations and Emergency Response

IC/DEC Industrial/Commercial Direct Exposure Criteria

LANXESS Corporation

LEP Licensed Environmental Professional

MMP Materials Management Plan

MPH Miles per Hour

NAPL Non-aqueous Phase Liquid

OSHA Occupational Safety and Health Administration

PID Photoionization Detector

RAP Remedial Action Plan RCP Reinforced Concrete Pipe

RCSA Regulation of Connecticut State Agencies
RDEC Residential Direction Exposure Criteria
RSR Remediation Standard Regulations

SVOC Semi-Volatile Organic Compounds

VOC Volatile Organic Compounds

Woodard & Curran Woodard & Curran, Inc.



## 1. INTRODUCTION AND BACKGROUND

### 1.1 Introduction

Woodard & Curran, Inc. (Woodard & Curran) has prepared this addendum (Phase 1 Addendum) to the Site-Wide Materials Management Plan (Site-Wide MMP) (Woodard & Curran, 2023b) to provide specific details for soil management related to the Phase 1 redevelopment area, as shown in the Naugatuck Industrial Park, Phase 3 Infrastructure Bidding Plan, revised August 29, 2024 and prepared by Civil1. The MMP establishes the management procedures and practices that will apply to soil excavated from the redevelopment area (Site) for the purpose of remediation and/or redevelopment. This addendum references the MMP and provides details on the Phase 1 redevelopment activities that were not available at the time that the MMP was submitted to the Connecticut Department of Energy and Environmental Protection (CTDEEP). In addition to the Site-Wide MMP and this addendum, a Site-Wide Remedial Action Plan (Site-Wide RAP), dated June 29, 2023, and revised July 14, 2023 (Woodard & Curran, 2023a) was approved by CTDEEP on March 27, 2024. An addendum to the Site-Wide RAP (Woodard & Curran, 2024) covering the Phase 1 redevelopment activities has been submitted to the CTDEEP for review. Together, these documents describe the remedial activities and procedures related to the Phase 1 redevelopment activities.

## 1.2 Objective

The Site-Wide MMP and this addendum provide procedures for minimizing risks to human health and the environment while excavating and conducting other subsurface activities at the Site. All Contractors conducting work at the Site shall be familiar with and responsible for implementing the practices described in the Site-Wide MMP and this addendum and must be familiar with the contents of both documents prior to the commencement of excavation activities. This addendum to the Site-Wide MMP is designed to provide additional details and specifics regarding the Phase 1 redevelopment that were not available when the Site-Wide MMP was completed.

### 1.3 Location & Setting

The Site location and setting are discussed in Section 1.3.1 of the Site-Wide MMP and apply to this addendum. Since the submittal of the Site-Wide MMP, Lot 1A, owned by the Borough of Naugatuck (BON), has been subdivided into 12 lots. The Phase 1 redevelopment boundary and the subdivision lot lines are shown in **Figure 1-1** and are based on the Infrastructure Bidding Plans, revised July 19, 2024, and prepared by Civil1. Phase 1 consists of the following Site improvements:

- Installation of the 60-inch Reinforced Concrete Pipe (RCP) storm drain and sewer line.
- Construction of the access road from the southern section of the LANXESS Corporation (LANXESS) driveway to the existing haul road.
- Construction of Elm Street Extension.
- Construction of the northern section of LANXESS Driveway and parking improvements.
- Construction of the natural gas loop (location has been adjusted to the north).



## 1.4 Definitions & Regulatory Framework

The Site is comprised of multiple parcels owned by BON and Lot 1B owned by LANXESS. All parcels on-site are subject to the Class GB Pollutant Mobility Criteria (GBPMC) and the Residential Direction Exposure Criteria (RDEC). The Industrial/Commercial Direct Exposure Criteria (I/CDEC) may be applied to parcels containing one or more substance at concentrations that exceed the RDEC following the execution of an Environmental Use Restriction (EUR) restricting residential activity as described in the Site-Wide RAP.

The definitions of key terms from the Remediation Standard Regulations (RSRs), the Regulation of Connecticut State Agencies (RCSA) Section 22a-209 (the Solid Waste Management Regulations), or the Contaminated Soil General Permit (GP) are provided in the MMP.

#### 1.5 Environmental Conditions

Section 1.3.2 of the Site-Wide MMP provides a brief description of the environmental conditions at the Site. A description of the environmental conditions at each of the areas of concern (AOCs) where soil disturbance may occur is provided in the Phase 1 RAP Addendum.

## 1.6 Roles & Responsibilities

The roles and responsibilities are established in Section 1.4 of the Site-Wide MMP and apply to this addendum and the Phase 1 redevelopment activities. A memo summarizing the responsibilities of the Contractor under the Site-Wide MMP is included as **Appendix A**.



## 2. WORKER AND ENVIRONMENTAL PROTECTION

As discussed in Section 2 of the Phase 1 RAP Addendum, soil impacted with volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and metals have been identified at multiple AOCs within the Phase 1 Boundary; all AOCs identified have been delineated. Details on Worker and Environmental Protection are provided in Section 2 of the Site-Wide MMP.



## 3. SOIL MANAGEMENT

This section focuses on the implementation of the soil management strategy as it relates to the Phase 1 development area. The soil management strategy is provided in Section 3 of the Site-Wide MMP and includes details and references to specific regulatory requirements. Material excavated during Phase 1 activities must be managed in accordance with the requirements of the Site-Wide MMP, this addendum, and with federal, state, and local regulations.

As stated in the Site-Wide MMP, soil management practices must consider the following:

- Coordination with the Licensed Environmental Professional (LEP) during Site construction activities. The LEP will also provide on-site review of materials being excavated during the excavation process;
- Potential exposure to humans and the environment must be mitigated;
- Field screening of soils must be conducted during excavation activities;
- Segregating different waste materials from one another;
- Minimizing the amount of soil requiring disposal off-site;
- Utilizing the existing Site characterization where feasible when determining the final disposition or reuse of soil;
- If off-site disposal is necessary, laboratory analysis of excess or waste soil/fill must occur prior to disposal off-site; and
- The original location, waste characterization laboratory test results, and final disposition or on-site reuse of the soil must be documented including disposal manifests and/or other applicable records.

### 3.1 Soil Management Categories

Analytical samples have been collected from the Site for the purpose of investigating releases or potential releases from identified AOCs. Consistent with the soil management strategy presented in the Site-Wide MMP, a grid consisting of 20 feet by 20 feet cells has been overlain across the entire Site. Cells that intersect the Phase 1 development area are shown in **Figures 1-2A** through **1-2C** and include cell identifications that will be used to track clean fill and contaminated material excavated during the Phase 1 activities.

The proposed elevations of the ground surface following the completion of Phase 1 activities were provided by Civil1 in the "Overall Grading, Drainage, and Utility Plan", revised July 30, 2024. An analysis based on the proposed elevations was performed by Civil1 and values representing the changes in elevation (the "cut/fill analysis") were provided for each grid cell. Samples collected from intervals that will be excavated during the Phase 1 activities, as determined by the cut/fill analysis, are shown on **Figures 1-2A** through **1-2C**.

Requirements for the handling of material from the soil management categories are provided in **Section 3.4**. The soil management categories established in the Site-Wide MMP have been applied to cells based on the analytical results as described below:

 Transparent cell: Outside of AOCs – Cell is located outside of known or suspected releases and no sample has been collected. Material excavated from these cells shall be managed as Natural Soil or Inert Material unless visual soil screening observations (see Section 3.2) indicate otherwise.



- Green cell: Natural Soil or Inert Material Cell contains, or is adjacent to a cell containing, an analytical sample with metals concentrations less than or equal to all naturally occurring values for metals, or for all other substances, below the laboratory reporting limits.
- Blue cell: Clean Fill Cell contains, or is adjacent to a cell containing, an analytical sample containing one or more substance(s) at concentrations that are greater than naturally occurring concentrations of metals (as discussed in **Section 1.4**), or above laboratory reporting limits for all other substances but less than all applicable criteria.
- Tan hatched cell: Contaminated Material: Cell contains, or is adjacent to a cell containing, an analytical sample where substances have been detected at concentrations that have the potential to impact the groundwater (Exceeds Converted GBPMC).

Sample locations may contain multiple samples collected from different intervals that will be excavated during Phase 1 activities. If multiple categories are possible, the most conservative soil management categories are indicated. A location with at least one sample containing substance(s) above one or more criteria are shown as Contaminated Material. Similarly, sample locations that contain one or more value above the laboratory report limits or naturally occurring values for metals (see Section 4 of the Phase 1 RAP) but no values that exceed the applicable criteria are categorized as Clean Fill. Sample locations where all concentrations are below the laboratory reporting limit and metals are equal to or less than the naturally occurring values (see Section 4 of the Phase 1 RAP) are those categorized as Natural Soil or Inert Material.

A cell containing a sample is categorized as described above based on the results of that sample. Cells that do not contain a sample that are located adjacent to a cell containing a sample are assigned the soil management category and fill color of the adjacent cell. If a cell is adjacent to more than one cell containing samples the most conservative category is applied to the cell, as discussed above.

Cells that do not contain a sample and are not adjacent to one containing a sample are assigned the category of "No Sample" and are shown on **Figures 1-2A through 1-2C** with no fill color. The majority of the cells within the Phase 1 limits fall into this category as the work is primarily located outside of known AOCs. Material that is excavated from these cells is subject to soil screening, as described in the Site-Wide MMP and provided below as **Section 3.2** and may be managed as natural soil or inert material provided that the results of screening soil support this determination.

### 3.2 Soil Screening Methods

The Soil Screening methods are provided in Section 3.8 of the Site-Wide MMP and are summarized below.

Visual and instrumental soil screening (photoionization detector [PID]) assessments will be performed initially by the Contractor during remediation and development-related ground intrusive activities into known or potentially contaminated material, if applicable. If field screening methods indicate that polluted or contaminated soil is present during the excavation of soil that has not been previously characterized, the Contractor shall notify the LEP. The LEP or their designee will determine if the soil from this location will be managed as Contaminated Material as described in **Section 3.1**. The LEP will also provide on-site review and, potentially, additional screening and testing of materials being excavated during the excavation process.



## 3.3 Excavation and Classification of Soil for On-Site Reuse

During the Phase 1 activities, the Contractor shall prioritize the reuse of material on-site as excavation backfill or fill material whenever possible. Soil excavated from the Site will be eligible for reuse in accordance with Section 22a-133k-2(h). Natural soil and inert material are eligible for reuse on-site with the approval of the LEP. This includes the following soil categories as shown in **Figure 1-2A and 1-2C**:

- Material that is removed from cells categorized as "No Detection" (green filled cell).
- Material that is removed from cells categorized as "No Sample" (transparent cell), provided that visual soil screening is completed, and observations support this classification.

Cells categorized as "Clean Fill" (blue filled cell), or "Contaminated Material" (tan hatched cell) require the Commissioner's approval for reuse and will not be eligible for reuse during the Phase 1 activities. Material excavated from these cells will be stockpiled in the appropriate soil management areas as described **Section 3.4** below.

## 3.4 Soil Management Areas

During the Phase 1 activities, the Contractor shall prioritize the reuse of material on-site as excavation backfill or fill material whenever possible. Material that cannot or will not be reused on-site during the Phase 1 activities as described in **Section 3.3** will be transported to the appropriate soil management area shown in **Figure 1-3** and described below:

- Material that is removed from a cell categorized as "No Detection" (green filled cell) that cannot or
  will not be reused on the parcel from which it is excavated will be stockpiled in the "Natural
  Soil/Inert Material Temporary Stockpile Area".
- Material that is removed from a cell categorized as "No Sample" (transparent cell) may be stockpiled
  in the Natural Soil/Inert Material Temporary Stockpile Area if:
  - o Material cannot or will not be reused as fill on the parcel from which it is excavated; and
  - o Soil screening has been conducted as described in **Section 3.2** and the observations support the classification as Natural Soil/Inert Material.
- Material that is removed from a cell categorized as "No Sample" (transparent cell) will be stockpiled
  in the Soil Characterization Area and characterization samples collected if soil screening
  observations indicate that contamination is present at concentrations that can be reasonably
  expected to exceed the applicable criteria.
- Material that is removed from a cell that is categorized as "Clean Fill" (blue fill cell) will be stockpiled
  in the "Clean Fill Temporary Stockpile Area for reuse during future development following the
  Commissioner's approval.
- Material that is removed from a cell that is categorized as "Exceeds Converted GBPMC" (tan hatched cell) will be stockpiled in the Soil Characterization Area and characterization samples collected.

## 3.5 Discovery of a New Release

The soil management strategy discussed above and shown on **Figures 1-2A** through **1-2C** was developed using data gathered for the purpose of investigating specific AOCs. The majority of the cells within the



Phase 1 boundary are categorized as "No Sample" (transparent cell) and are located outside of known AOCs. The Contractor shall perform field screening as described in **Section 3.2** during the excavation of material on the Site. The LEP will also provide on-site review of materials being excavated during the excavation process. If evidence of a release (underground storage tank, visual staining, strong odor, etc.) is observed while excavating in an area located outside of a known AOC (No Sample) the Contractor shall notify the LEP. The LEP, or their designee, will determine if the field observations indicate a new release area and if the levels of pollution indicated through field screening should be quantified through analytical testing. If confirmed by analytical results, a new release must be reported by the LEP/Permittee(s) under the Stewardship Permit. The LEP may recommend this material be managed as Contaminated Material and segregated in a stockpile for characterization in the Soil Characterization Stockpile Area.

### 3.6 Excavation of Soil for Off-Site Reuse

The Contractor shall endeavor to minimize the generation of excess soil that may require off-site reuse. Additional details on the requirements for off-site reuse are provided in Section 3.4 of the Site-Wide MMP. The off-site reuse of material is not anticipated during Phase 1 activities.

## 3.7 Excavation of Contaminated Material for Off-Site Disposal

The Contractor shall endeavor to minimize the generation of Contaminated Material that may require off-Site disposal. Additional details regarding the off-site disposal of Contaminated Material are provided in Section 3.5 of the Site-Wide MMP. Off-site disposal of contaminated material is not anticipated as part of the Phase 1 activities.

## 3.8 Management of Asphalt and Building Material Debris

Asphalt and/or building material debris consisting of historic building foundations or slabs may be encountered during Phase 1 activities. Asphalt that is removed prior to excavating soil shall be disposed of at a facility permitted to accept asphalt waste material. Management methods involving the reuse or recycling of these asphalt and building material debris are preferred. No further specific measures for the disposal of asphalt are included in this document.

While building material debris is not anticipated to be generated during the redevelopment, it is possible that historic concrete foundations or slabs may be encountered. If necessary, building material debris will be disposed of at a permitted facility approved by LANXESS and BON.

## 3.9 Temporary Site Fencing

Temporary construction fencing will be installed along the perimeter of the active work area. The Site will be secured along the Site perimeter. Ingress and egress points will be barriered during work hours and securely locked during off hours with appropriate signage maintained by the Contractor.

## 3.10 Fluids Management

Fluids and other liquids generated during the remedial activities will be handled, transported, and disposed of in accordance with applicable local, state and federal regulations. Decontamination procedures will be followed in accordance with state and local regulations and the Site-Wide MMP.



## 3.11 Spill Response

The spill response is discussed in Section 3.10 of the Site-Wide MMP and provided below.

In the event that there is an on-site spill, the following protocols will be implemented by the Contractor:

- Eliminate ignition sources that may be present.
- Avoid contact with spilled product.
- Keep unprotected personnel upwind of spill area.
- Stop the source of the release if it is safe to do so.
- Contain the released oil or spilled material with absorbent materials.
- Prevent released material from entering storm water catch basins, water sources, or other preferential pathways.
- Restrict access to impacted and potentially threatened areas.
- If a spill occurs on an unpaved area, remove and dispose of all contaminated soil in accordance with applicable state and federal regulations.
- Ensure recovered spill material is collected, containerized, labeled, properly characterized, and disposed of in accordance with all applicable state and federal regulations.
- Notify the Site LEP, who will determine if notification to CTDEEP Emergency Response Unit is required.

In addition, although not anticipated, any non-aqueous phase liquid (NAPL) that is encountered during excavation activities will be recovered with a combination of passive recovery technologies including oil absorbent materials (booms, socks, pads, etc.), and active recovery technologies, including pumps and/or vacuum-truck, depending on the quantity, location and Site conditions. Recovered NAPL will be characterized, if appropriate, and disposed of at an appropriately permitted off-site disposal facility.

## 3.12 Inspections

Disturbed areas, material storage areas exposed to precipitation and in-place erosion control measures will be inspected by the Contractor once every seven days, within 24 hours after any storm event greater than one half (0.5) inch of rainfall, and at least once during prolonged rainfall or snowmelt.

### 3.13 Health and Safety Plan

All subsurface site activities will be conducted in accordance with a Site-Specific Health and Safety Plan (HASP), prepared by the Contractor in compliance with the requirements of the Occupational Safety and Health Administration (OSHA) Hazardous Waste Operations and Emergency Response (HAZWOPER) regulations (29 CFR Standard 1910.123).

### 3.14 Dust Suppression

The Contractor shall control dust and air-borne materials generated during the Work to protect the health of on-site workers and to minimize the release of dust into surrounding areas. General Site dust control



(e.g., roadways, exposed soils) shall be accomplished using a uniform spray of water. Water used to suppress dust shall be applied so as to minimize pooling or runoff. The Contractor shall be responsible for meeting the metering and flow control requirements of the water supplier. A Project-Specific Soil Management Plan developed by the Contractor shall include a description of the air-monitoring program implemented to ensure that the dust suppression methods are sufficient.

Soil stockpiles shall be maintained in a covered condition to minimize wind-blown dust. Dust generated from the disturbance or handling of impacted and non-impacted soils shall be controlled to the satisfaction of the Site LEP, Owner, and regulatory authorities. Excessive wind-blown dust, including any that blows off-site may be cause for a Stop Work Order to be issued.



### 4. STOCKPILE MANAGEMENT

Soil excavated from the Site will be managed according to the results of analytical data collected from the location, soil screening conducted during excavation, and the intended reuse. As discussed in Section 3.1 of the Site-wide MMP, all material on the Site will be managed as either Contaminated Material or Clean Fill. The General Permit for Contaminated Soil and/or Sediment Management (CTDEEP, 2013) (the "Contaminated Soil GP") expired on September 19, 2018, and as a result, CTDEEP is unable to issue registrations and approval of registrations for the activities authorized by the general permit. CTDEEP is in the process of updating this general permit and anticipates its reissuance and anyone managing contaminated soil or sediment is requested to follow the Best Management Practices (BMPs) that are outlined in Section 5 of the Contaminated Soil GP. General stockpile management and stockpile management for each of these categories of materials are described below.

## 4.1 General Stockpile Management

- The locations of all stockpiles shall be approved by the LEP and shall not prevent or impede access to a work area or existing buildings by emergency equipment or LANXESS employees.
- Sediment and erosion control measures shall be in place in accordance with the BMPs (e.g. Section 5 of the Contaminated Soil GP) prior to stockpiling and shall be maintained until the stockpiles have been removed and the Staging, Transfer and/or Temporary Storage Area (as defined in the Contaminated Soil GP) has been determined to be uncontaminated and ready for decommissioning. Stockpiles shall be placed on polyethylene sheeting (10 mil), to prevent or minimize the transfer or infiltration of contaminants from the soil stockpiles to the ground. Care shall be exercised to prevent erosion and sedimentation control measures from causing concentrated flow, particularly near material stockpiles. Excessive stormwater runoff may be cause for issuance by the Contractor or Site LEP of a Stop Work Order.
- No soil stockpiles shall be left uncovered or unsecured at the end of the workday. The polyethylene sheeting (min. 10-mil thickness) cover shall be secured with staked straw bales, sand berms, sandbags, tires, rope, or other method that is sufficient to withstand a sustained wind of up to 25 miles per hour (mph). The stockpiled material shall be kept covered at all times to prevent formation of leachate from rainwater and the generation of dust on dry windy days, except for a stockpile to which material is being added to or removed from on a particular day. The Staging, Transfer and/or Temporary Storage Area shall be inspected daily to evaluate whether the cover and berms are intact and functioning as required. Repairs to the covers and berms shall be made as necessary to maintain the stockpiles in good condition and to prevent contact with rainwater or blowing of the stockpiled material.
- Each stockpile of material shall be labeled (e.g., signage posted in front of stockpile) to identify the
  area from which the materials were removed and the date on which the material was first placed in
  the stockpile. The markers shall remain in place until the material is ready for on-site reuse or
  transport for off-site disposal.
- Stockpiles shall be inspected for presence of incidental excavation wastes and materials and for any suspect contaminated soil that may contain hazardous wastes.
- Stockpiles shall be placed no closer than 50 feet from any property line. Stockpile area(s) shall be clearly delineated in order to prevent exposure to workers at the Site.



• An inventory of the stockpiles, consisting of source of material, staging locations, and final disposition of the material shall be maintained.

The LEP will occasionally review implementation of the stockpile management and segregation measures. Unless specific knowledge indicates otherwise, all stockpiled materials shall be managed as non-hazardous. When characterization of the material is known, the Contractor shall make necessary adjustments to comply with applicable labeling, handling, and storage requirements.

## 4.2 Stockpile Management of Natural Soil/Inert Material and Clean Fill

In addition to the BMPs identified in the General Stockpile Management described in **Section 4.1**, stockpiles consisting of Natural Soil/Inert Material or Clean Fill will be subject to the following additional requirements:

- Signage shall be posted approximately 25 feet at the Staging, Transfer, and/or Temporary/Storage Area entrance, identifying the name of the designated site contact, a contact phone number, the hours of operation, and depending on the soil category either the phrase:
  - o "Temporary Soil Staging Area Natural Soil/Inert Material;" or
  - o "Temporary Soil Staging Area Clean Fill".

## 4.3 Stockpile Management of Soil Characterization Temporary Stockpile Area

In addition to the BMPs identified in the General Stockpile Management described in **Section 4.1**, the following requirements apply to material excavated during the Phase 1 activities that will require additional characterization and includes soil excavated from cells categorized as:

- "Exceeds Converted GBPMC" (tan hatched cell); or
- "No Sample" (transparent) if soil screening observations indicate that contamination is present at concentrations that can be reasonably expected to exceed the applicable criteria.

At a minimum, the following stockpile management procedures shall be employed for all excavated soil stockpiled in the Soil Characterization Temporary Stockpile Area, as shown on **Figure 1-3**:

- Stockpiles will not exceed 1,000 cubic yard cells as described in Subsection (b)(5) of the Contaminated Soil GP, unless a Project Specific Soil Management Plan has been approved by the Commissioner. The Contractor shall be responsible for ensuring that the maximum volume requirements for individual stockpiles is not exceeded.
- Stockpiles will remain separated by concrete barrier, pile spacing, or other method to ensure storage piles remain physically separated as described in Subsection (b)(4) of the Contaminated Soil GP. The Contractor shall be responsible for ensuring that the maximum volume requirements and physical separation requirements are adhered to.
- A layer of bedding material will be installed and maintained beneath the excavated soil to protect the polyethylene underlayment during the removal of material from the stockpile.
- The Staging, Transfer and/or Temporary/Storage Area shall be designed, operated, maintained, and repaired in accordance with the expired general permit specification requirements and applicable regulations, prior to excavation.



- Signage shall be posted approximately 25 feet at the Staging, Transfer, and/or Temporary/Storage
  Area entrance, identifying the name of the designated site contact, a contact phone number, the
  hours of operation, and the phrase "Temporary Soil Staging Area Potentially Contaminated Soil".
- Stockpile area(s) shall be clearly delineated in order to prevent exposure to workers at the Site.
- Each soil stockpile staged at the Contaminated Soil Staging, Transfer and/or Temporary/Storage
  Area must be characterized by the LEP or their designee prior to transporting such stockpile for soil
  reuse or disposal.

## 4.4 Stockpile Management of Contaminated Material

The samples that have been collected that are located within the Phase 1 boundary do not exceed the applicable criteria. Therefore, none of the cells where soil disturbance is expected have been categorized as Contaminated Material (i.e., known exceedances of the GBPMC, the I/CDEC, or both). However, soil characterization may be required if soil screening indicates that contamination may be present at concentrations that are likely to exceed the criteria, see **Section 4.3**. If soil screening observations are confirmed, then this material will be transported from the Soil Characterization Temporary Stockpile Area to the Contaminated Soil Temporary Stockpile Area, as shown on **Figure 1-3**. In addition to the BMPs identified in the General Stockpile Management described in **Section 4.1**, the following requirements apply to material excavated during the Phase 1 activities that will be managed as Contaminated Material.

The Contaminated Soil GP expired on September 19, 2018, and as a result, CTDEEP is unable to issue registrations and approval of registrations for the activities authorized by the general permit. CTDEEP is in the process of updating this general permit and anticipates its reissuance and anyone managing contaminated soil or sediment is requested to follow the BMPs that are outlined in Section 5 of the Contaminated Soil GP. At a minimum, the following stockpile management procedures shall be employed for all excavated soil managed as Contaminated Material:

- The Staging, Transfer and/or Temporary/Storage Area shall be designed, operated, maintained, and repaired in accordance with the expired general permit specification requirements and applicable regulations, prior to excavation.
- Signage shall be posted approximately 25 feet at the Staging, Transfer, and/or Temporary/Storage Area entrance, identifying the name of the designated site contact, a contact phone number, the hours of operation, and the phrase "Temporary Soil Staging Area Contaminated Soil".
- Stockpile area(s) shall be clearly delineated in order to prevent exposure to workers at the Site.
- Each soil stockpile staged at the Contaminated Soil Staging, Transfer and/or Temporary/Storage Area must be characterized by the LEP or their designee prior to transporting such stockpile for soil reuse or disposal.



# 5. **DECONTAMINATION**

The decontamination procedures and requirements are provided in Section 5 of the Site-Wide MMP and apply to the Phase 1 site improvements.

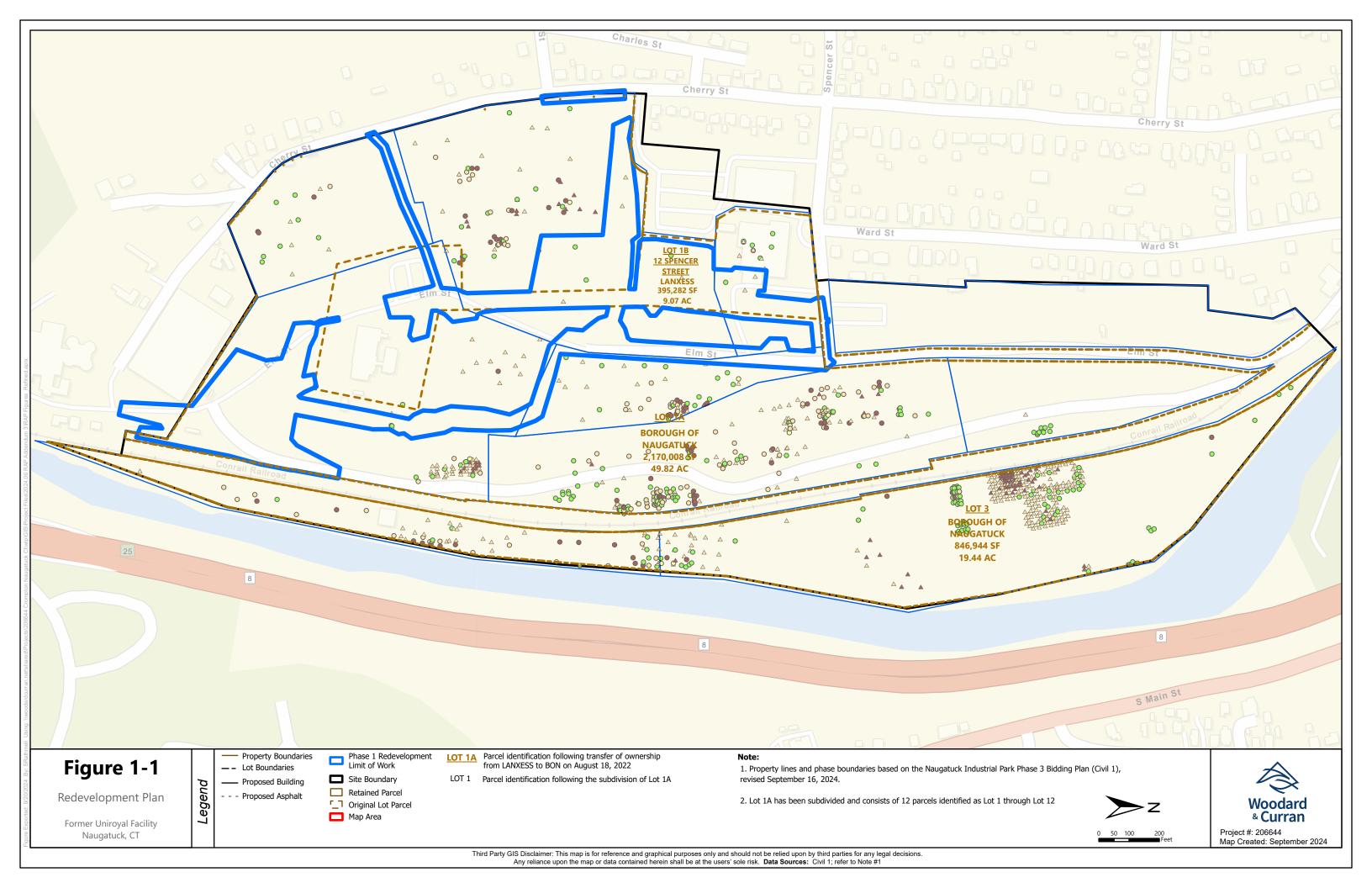


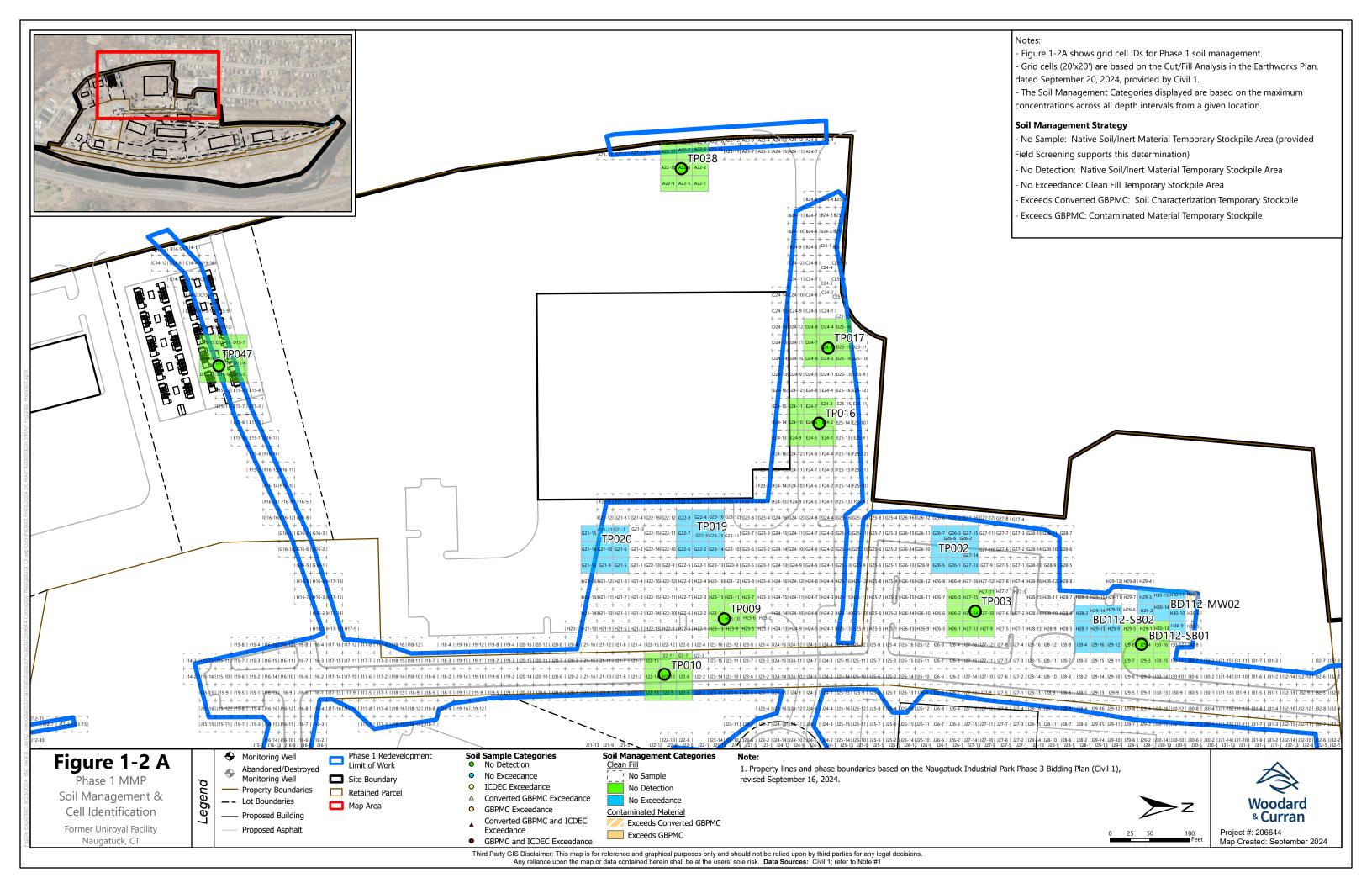
## 6. WASTE MANAGEMENT

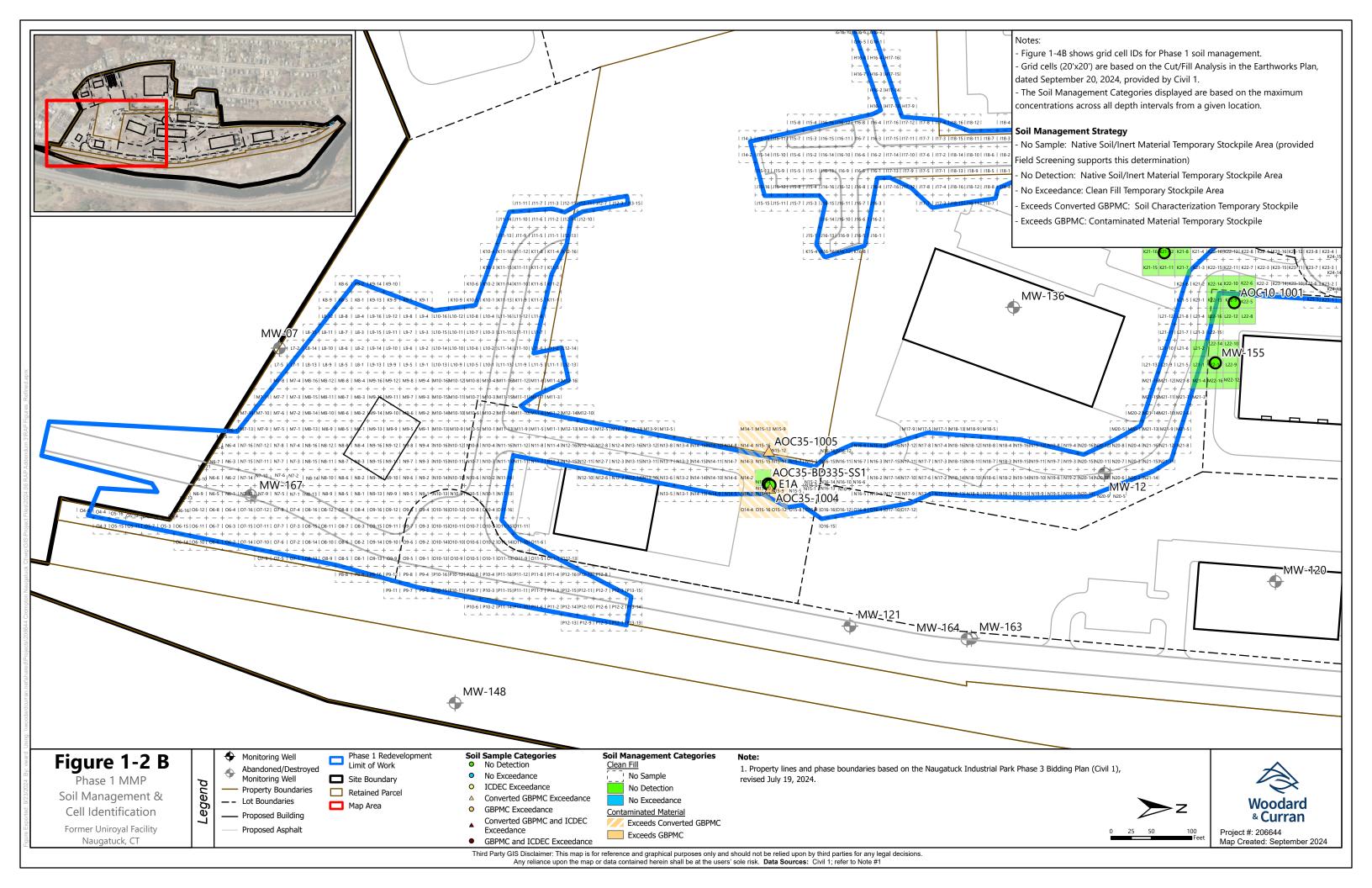
Management protocols and requirements for soils and solids are included in **Section 3** and **Section 4**. The management of wastewater is provided in Section 6 of the Site-Wide MMP.

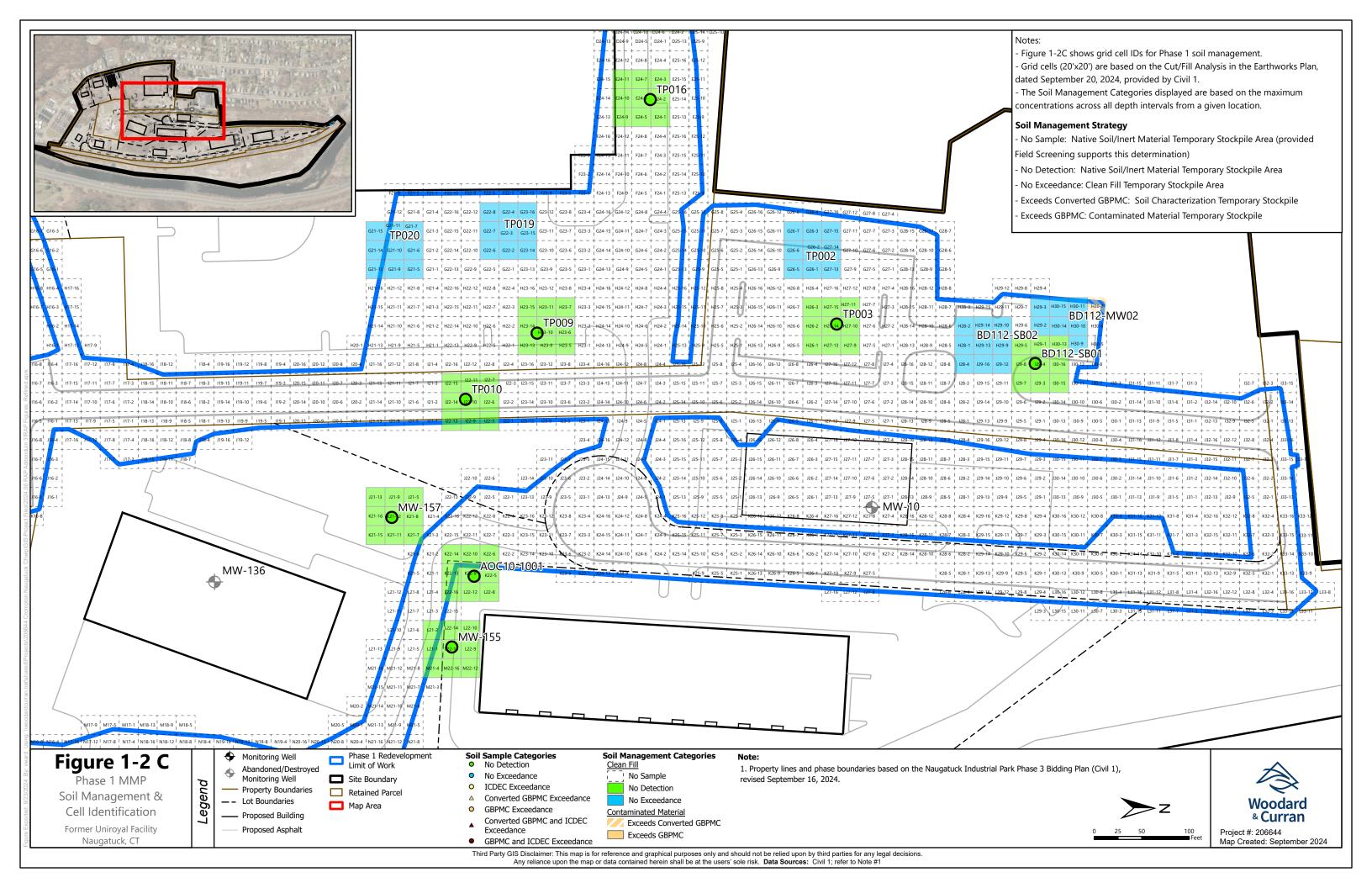


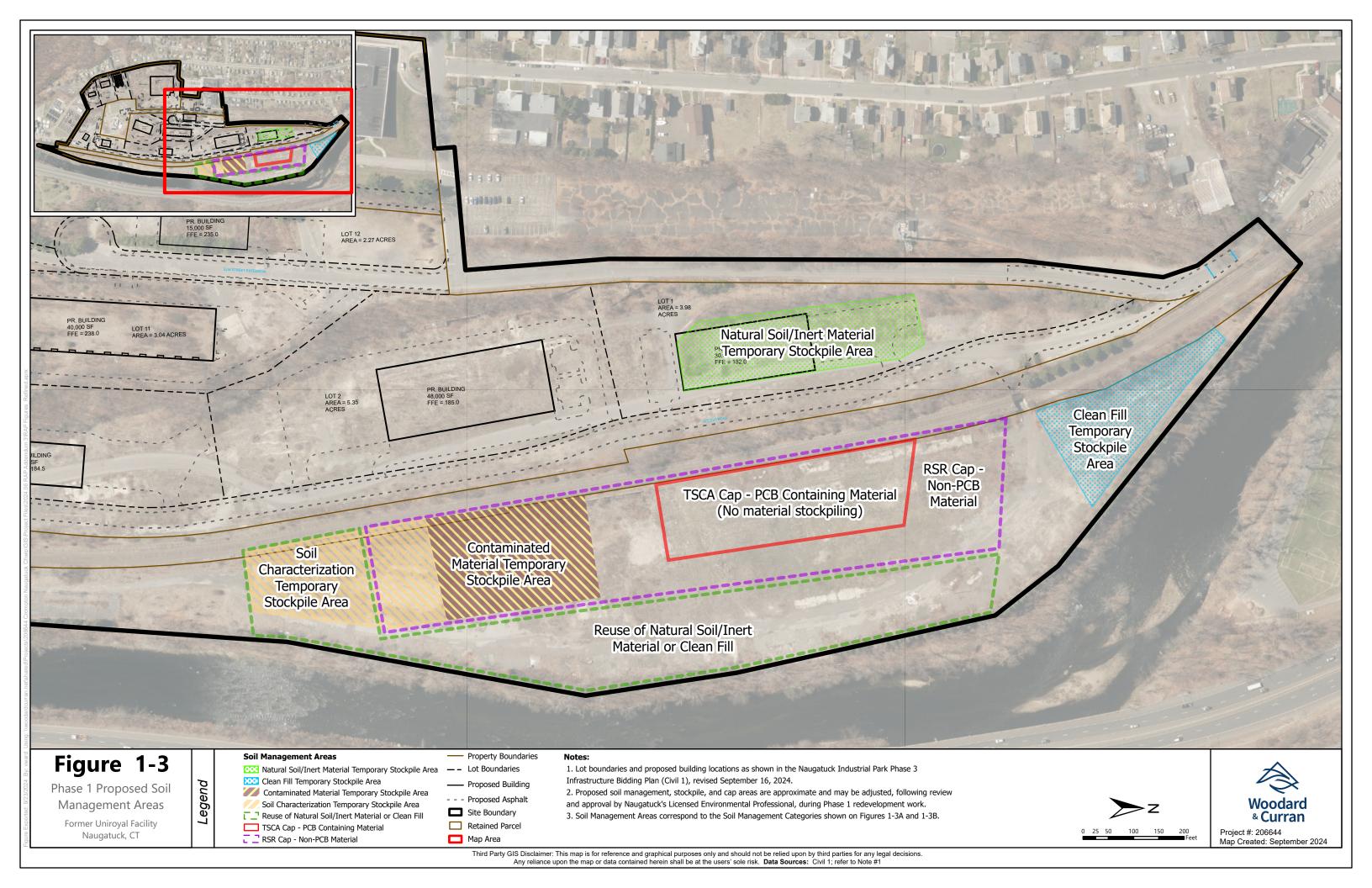
# **FIGURES**













# REMEDIAL ACTION PLAN ADDENDUM 1 PHASE 1 REDEVELOPMENT AREA

Former Uniroyal Chemical Facility 280 Elm Street and 12 Spencer Street Naugatuck, CT

Middlesex Corporate Center 213 Court Street | 4<sup>th</sup> Floor Middletown, Connecticut 06457 800.426.4262

woodardcurran.com

Lanxess Corporation and Borough of Naugatuck September 2024



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Figure 1-4:	Phase 1 Proposed Soil Management Areas



#### **GLOSSARY OF ACRONYMS**

ABC Abandoned Brownfield Cleanup

AOC Area of Concern

APS Additional Polluting Substances

BGS Below Ground Surface BON Borough of Naugatuck

CGS Connecticut General Statutes
CSM Conceptual Site Model
COC Constituents of Concern

CTDEEP Connecticut Department of Energy and Environmental Protection

DEC Direct Exposure Criteria

EPH Extractable Petroleum Hydrocarbons

EUR Environmental Use Restriction

FT Feet

GBPMC GB Pollutant Mobility Criteria
GWVC Groundwater Volatilization Criteria

I/C Industrial/Commercial

LANXESS Corporation

LEP Licensed Environmental Professional

MMP Materials Management Plan MG/KG Milligrams per Kilogram MG/L Milligrams per Liter

PCB Polychlorinated Biphenyl

PFAS Per- and Polyfluorinated Alkyl Substances

PMC Pollutant Mobility Criteria

QAPP Quality Assurance Project Plan

RAP Remedial Action Plan RCP Reinforced Concrete Pipe

RDEC Residential Direct Exposure Criteria RSR Remediation Standard Regulations



SPLP Synthetic Precipitation Leachate Procedure

SVOC Semi-volatile Organic Compounds SWMU Solid Waste Management Unit SWPC Surface Water Protection Criteria

VOC Volatile Organic Compounds



#### 1. INTRODUCTION

Woodard & Curran, Inc. (Woodard & Curran) has prepared this Addendum to the Remedial Action Plan (RAP) for the Phase 1 Redevelopment Activities as described in Section 1.1, below. This RAP Addendum follows the approval of the sitewide RAP (the "Approved RAP")(Woodard & Curran, 2023a) for the properties located at 280 Elm Street and 12 Spencer Street, Naugatuck, Connecticut (the "Site"). The purpose of this document is to provide details on the proposed remedial activities that will be completed concurrently with the Phase 1 Redevelopment Activities.

On August 18, 2022, a portion of the Site, identified in **Figure 1-1**, was transferred to the Borough of Naugatuck (BON). As a condition of the transaction, a Stewardship Permit (DEEP/REM/SP/2022-5030) (CTDEEP, 2022a), covering the portion of the Site owned by BON, was approved, and issued by the Commissioner of the Connecticut Department of Energy and Environmental Protection (CTDEEP). A separate Stewardship Permit (DEEP/REM/SP/2022-5030-2) (CTDEEP, 2022b) was approved for Lot 1B, which is owned by LANXESS (identified as "the retained parcel" in **Figure 1-1**). Additionally, the Site was awarded a Brownfield Cleanup Revolving Loan Fund grant and entered into the Abandoned Brownfield Cleanup (ABC) Program and Voluntary Remediation Program (Connecticut General Statutes [CGS] 22a-133x) in 2022. In conjunction with the Approved RAP, this addendum is designed to meet the requirements set forth in Section II, Subsection A(2)(b) of both Stewardship Permits and the requirements established under the ABC Program and associated Voluntary Remediation Program.

The Stewardship Permit requires that the permittees identify a Connecticut Licensed Environmental Professional (LEP) to prepare and submit documents related to the investigation and remediation of the Site. LANXESS and BON have identified Nicholas Hastings (Woodard & Curran) as the LEP for the Site (Site LEP).

The Stewardship Permits require that one or more documents be submitted detailing the remedial actions to address one or more environmental media at the Site. The permits indicate that the following items must be included in a RAP:

- Identification of the area(s) of concern (AOC) to be remediated and a description of the areas and media to be remediated;
- Identification of alternative remediation actions considered;
- Identification and justification of the selected remedial approach;
- Proposed implementation plan and schedule to perform the selected remedial action and collect data;
- Identification and rationale supporting predesign investigation at an AOC;
- Identification of areas exceeding remedial criteria and a proposal for the investigation to collect additional characterization data needed to complete the remedial design to achieve compliance with CTDEEP Remediation Standard Regulations (RSRs); and
- Identification of ecologically based and human health-based criteria for sediment, an identification
  of all areas exceeding such criteria, and a proposed implementation plan and schedule addressing
  such areas.



The Approved RAP (Woodard & Curran, 2023a) contains some items identified above for AOCs located within the Phase 1 Redevelopment Area. Where appropriate, the sections of the Approved RAP containing these items are referenced in this addendum.

#### 1.1 Description of the Phase 1 Redevelopment Area

Phase 1 of the Site-Wide Redevelopment consists of infrastructure updates to support the redevelopment of the Site as shown on **Figure 1-1**. Phase 1 consists of the following site improvements:

- Installation of the 60-inch Reinforced Concrete Pipe (RCP) storm drain and sewer line.
- Construction of the access road from the Southern Section of the LANXESS driveway to the existing haul road.
- Construction of Elm Street Extension.
- Construction of the Northern Section of LANXESS Driveway and parking improvements.
- Construction of the natural gas loop.

The items presented in the list above represent the most complete list of improvement activities to be performed as part of Phase I at this time. Changes to utility locations and final grades are possible and may result in changes to the estimates of soil volume and stockpiles' locations shown in this addendum. Therefore, the estimates and locations presented in this document are presented for administrative purposes. Any future revisions to the Phase 1 redevelopment plan will be evaluated to determine if the changes made will result in a significant deviation from the concepts presented in this document. If necessary, additional authorization will be requested to implement any changes that would require Commissioner approval. All remedial actions completed under this Addendum will be reported in the Annual Stewardship Report for the year during which the activity was completed.

#### 1.2 Environmental Setting

A detailed description of the environmental setting of the Site is provided in Section 1.2 of the Approved RAP (Woodard & Curran, 2023a) and is applicable to the Phase 1 Redevelopment Area.



#### 2. CONCEPTUAL SITE MODEL

A sitewide conceptual site model (CSM) is provided in Section 2 of the Approved RAP (Woodard & Curran, 2023a). The CSMs for the specific AOCs that may be disturbed as a result of the Phase 1 improvements are provided below. Sample locations that fall within the Phase 1 boundary are summarized on **Table 1-1** and shown in **Figures 1-2A through 1-2C**.

#### 2.1 AOC-48: Building 112 Laboratory Waste Storage Area

Laboratory waste generated in Building 112 was consolidated and temporarily stored at the designated storage area (Former Solid Waste Management Unit (SWMU)#35) prior to offsite disposal. Laboratory waste containers (Former SWMU#38) and a parts cleaner (Former SWMU#45) were identified in this building during a 1992 inspection. No visual evidence of a release was observed from these units at the time of the inspection. Laboratory operations historically resulted in the generation of small amounts of hazardous wastes. Waste oil and solvents were stored in the waste storage area prior to being shipped offsite for disposal. The waste storage area measured approximately 6 feet by 10 feet and was located adjacent to the loading dock on the south side of Building 112. The waste storage area was closed following the inspection and collection of concrete samples in October 2007 as reported in the Closure Report: Former Hazardous Waste Accumulation Area, dated April 3, 2008. The proposed LANXESS driveway and parking lot improvements will not result in the disturbance of any portion of the former Building 112 Laboratory Waste Storage Area.

The Phase II/III subsurface investigation of Building 112 and the surrounding area was completed by LANXESS in 2008 as part of a potential property sale. A total of 23 samples were collected from 14 locations within and around the Building 112 footprint. Low concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and metals were detected in some samples, indicating that a minor release has occurred. Samples collected from borings BD112-07 and BD112-08 contained concentrations of cobalt that exceed the Residential Direct Exposure Criteria (RDEC) of 20 milligrams per kilogram (mg/kg); however, all concentrations detected are below the Industrial/Commercial Direct Exposure Criteria (I/C DEC) of 610 mg/kg. The Phase II/III Subsurface Investigation Report, (August 2008) was included as Appendix A of the Approved RAP.

Under the RSRs, metals analyzed by synthetic precipitation leachate procedure (SPLP) are directly comparable to the Class GB Pollutant Mobility Criteria (GBPMC). A sample from boring BD112-SB07 collected from 0 to 2 feet beneath the building slab, which is outside the limits of work for Phase 1 and therefore not shown on the figures, contained leachable cobalt at a concentration of 0.079 milligrams per liter (mg/L), which exceeds the GBPMC (0.020 mg/L) pre-evaluated criteria available for statewide use (Commissioner's approval required).

Samples (BD112-MW02, BD112-SB01, and BD112-SB02), collected from outside of the building footprint and within the Phase 1 limits of work, were analyzed for metals, VOCs and SVOCs. Metals concentrations detected in these samples were compared to the naturally occurring values provided in the Draft Risk-based Cleanup Regulations as described in **Section 4**. Antimony and selenium were detected at concentrations slightly greater than the background concentrations identified in the draft regulations; however, the concentrations of these metals are below the applicable criteria. Samples BD112-SB01 and BD112-SB02 were analyzed for select metals by SPLP. With the exception of aluminum, all concentrations of leachable metals detected were below the GBPMC. The concentration of leachable aluminum exceeds the GBPMC



approved for the Site of 0.5 mg/L; however, the total concentration of aluminum is consistent with concentrations detected across the Site and is well below the concentrations attributed to naturally occurring minerals. Aluminum is not believed to have been used at Building 112; therefore, the concentrations detected are attributed to naturally occurring minerals.

#### 2.2 AOC-51: Building 310 Laboratory Waste Storage Area

The Building 310 Waste Storage Area (AOC-51) is located at the southern end Lot 1B (LANXESS owned). A visual inspection was performed of this AOC as part of the 1995 Phase 1 Investigation and no visual evidence of a release was observed at that time.

#### 2.3 AOC-11: Tire Lot

The Tire Lot (AOC-11) is a 19-acre earthen lot that was used from 1915 to the mid-1950s for the storage of tires and tire beads, as well as for the disposal of a wide variety of solid wastes, including boiler ash, construction debris, scrap rubber, iron sludge, and chemical waste. Included within the limits of work of Phase 1 of the redevelopment, a portion of the Tire Lot will be disturbed during the installation of the 60-inch stormwater pipe that will serve to convey stormwater from Cherry Street (west of the Site) through the Site to the Naugatuck River (east of the Site).

Based on the data collected during investigations completed since 1993, metals (arsenic and lead) and SVOCs (benzo(a)pyrene, benzo(b)fluoranthene, dibenzo(a,h)anthracene and n-DPA) have been detected at various locations across the Tire Lot at concentrations that exceed the I/C DEC. Samples collected also contain elevated concentrations of metals (lead, chromium, cadmium, barium, mercury, and arsenic) and SVOCs (aniline, DPA, n-DPA, carbazole, benzo(a)anthracene, chrysene, bis (2-ethylhexyl) phthalate, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, and dibenzo(a,h)anthracene) at concentrations that have the potential to impact the groundwater. However, based on SPLP analysis performed on a subset of these samples, only aniline and n-DPA at a limited number of locations were present at concentrations above the applicable GBPMC. All locations where I/C DEC exceedances have been detected are outside the Phase 1 limits of work and remedial actions for these locations will be included in a future addendum when development plans for Lot 9 have been established.

Samples from AOC-11 collected within the Phase 1 area are limited to the northern (TP016 and TP017), and western (TP038) property boundaries and to the east of this AOC (TP010, TP019, and TP020), see **Figure 1-2A**. Metals concentrations detected in samples collected from these locations are consistent with naturally occurring values as described in **Section 4**. Samples collected from TP016 and TP017 were also analyzed by SPLP for lead and chromium. The leachable concentrations detected were less than the applicable GBPMC. Concentrations of acetone and methylene chloride were detected just above the reporting limits in some samples; however, these compounds are known to be laboratory contaminates at low concentrations and the absence of other substances in these samples indicates that the detections are not indicative of a release. Aniline was detected in a sample collected from TP019 at a concentration above the detection limit but below the applicable criteria.

Samples were collected from two locations on the LANXESS property (TP002 and TP003 on **Figure 1-2A**) to investigate the extents of AOC-11. Soil disturbance is anticipated at these locations as part of the improvements to the LANXESS parking area that will be completed during the Phase 1 redevelopment activities. One sample was collected from TP002 at 1 foot below ground surface (ft bgs) and contained multiple VOCs at concentrations just above the reporting limits. All concentrations detected are below the



applicable criteria. Metals were detected in a sample collected from TP003; however, the concentrations are consistent with the naturally occurring values provided in the Draft Risk-based Cleanup Regulations (CTDEEP, 2024) as described in **Section 4**.

#### 2.4 AOC-53: Building 321/ Building 321 Tank Farm

The sanitary sewer and 60-inch stormwater systems will be extended from the south end of Elm Street across Lots 10 and 4 and will connect to the existing sanitary sewer and stormwater infrastructure located in the southeastern portion of the Site. This work will pass to the north of AOC-53; however, there is the potential for the disturbance of soil in the vicinity of sample MW-157 as shown on **Figure 1-2C**.

Historically, Building 321 and the associated tank farm were used for onsite manufacturing. Samples collected in 2020 from this AOC contain elevated concentrations of multiple SVOCs including a shallow sample collected from boring AOC53-1004 contained benzo(a)pyrene at a concentration that exceeds the I/C DEC. With the exception of MW-157, sample locations associated with AOC-53 are outside of the Phase 1 limits of work and impacts attributed to this AOC are not expected to be disturbed during the redevelopment activities identified in **Section 1.1**, as such are not shown on **Figures 1-2A through 1-2C**.

Soil sample MW-157 was collected from 5 to 9 ft bgs during the installation of this monitoring well in 2001. This sample was analyzed for VOCs, SVOCs and metals. All VOCs and SVOCs were non-detect and metals were detected at concentrations typical of naturally occurring values.

#### 2.5 AOC-10: Drum Lot

The drum lot was historically used to clean and store empty chemical drums and is located to the east of the proposed Elm Street Extension. Samples collected from this AOC during the 2020 investigation were analyzed for metals, VOCs, SVOCs, extractable petroleum hydrocarbons (EPH) and polychlorinated biphenyls (PCBs).

Multiple SVOCs were present in samples collected from AOC-10 at concentrations below the applicable criteria. One shallow soil sample collected from AOC10-1015 contained pentachloronitrobenzene at a concentration that exceeds the GBPMC. The results of soil samples collected from multiple boring locations during the 2020 investigation indicate that metals may be present at concentrations high enough to impact the groundwater. Several VOCs were detected in samples collected from this AOC at concentrations just above the laboratory detection limits. VOCs detected were well below the applicable criteria. Multiple samples were analyzed for PCBs and all results were below the laboratory detection limit except for samples AOC10-1008 collected from 0 to 2 feet below grade and AOC10-1013 collected from 0 to 2 feet below grade, where PCBs were detected at low concentrations below RSR criteria (less than 1 mg/kg).

The improvements to Elm Street Extension included as part of the Phase 1 redevelopment work coincide with the existing paved driveway leading to Building 310. Historically, this roadway was identified as part of Elm Street and is believed to predate the drum storage and cleaning activities at AOC-10. Therefore, this roadway serves as the western boundary for AOC-10 and the improvements to the Elm Street Extension are not anticipated to disturb soil from this AOC. The stormwater and sewer improvements will extend past Elm Street Extension through Lot 10, as shown on **Figure 1-1** and may have the potential to disturb soil in this portion of AOC-10. Only samples associated with AOC-35 that have the potential to be disturbed by the Phase 1 redevelopment work are shown on **Figures 1-2A through 1-2C**.



#### 2.6 AOC-35: Building 75 and Building 335

Building 75 and Building 335 were historically leased to Modern Metal Finishes Co. and are collectively identified as AOC-35. A portion of the sanitary sewer line extension and stormwater system to be completed as part of Phase 1 activities may disturb a portion of AOC-35 (near former Building 335).

The investigation of Building 75 and the historic tank farm associated with this building show that known releases from this AOC are located outside of the Phase 1 limit of work, to the east of Elm Street Extension. The proposed location of Elm Street Extension coincides with the driveway to Building 310 (LANXESS owned) and historic Elm Street prior to that. Therefore, the roadway serves as the western boundary to AOC-35 in this area and the construction of Elm Street Extension will not disturb soil in this AOC.

A soil investigation was completed in the vicinity of the former Building 335 footprint during 2020. Samples collected from this AOC were analyzed for VOCs, SVOCs, metals, PCBs and EPH. Two shallow soil samples (0 to 2 ft bgs) were collected from borings AOC35-1004 and AOC35-1005. Both samples contained lead and mercury at concentrations greater than the naturally occurring values provided in the Draft Risk-based Cleanup Regulations as described in **Section 4**. These concentrations divided by 20 also exceed the GBPMC, indicating that lead and mercury have the potential to impact groundwater at these locations. Additional samples may be collected from these locations and analyzed for lead and mercury by SPLP to determine if the leachable concentrations at these locations exceed the GBPMC.

Samples collected during January 2024 from this AOC were analyzed for per- and polyfluorinated alkyl substances (PFAS). All concentrations detected in samples collected from the vicinity of former Building 335 were below the soil criteria currently recommended for use by CTDEEP. No additional sampling for PFAS in this area is recommended at this time.

#### 2.7 AOC-70: Less than 90-day Container Storage Area #3

The sanitary sewer line extension may also disturb a portion of AOC-70: Less than 90-day Container Storage Area. This AOC was located within the former Building 306 footprint and was used for the temporary storage of investigation and remediation wastes generated onsite. The closure of this temporary storage area was documented in a report dated February 2009. The report was submitted to CTDEEP, and a letter of concurrence was issued on March 22, 2017. This AOC has been closed and no additional investigation is required.



#### 3. REMEDIATION OBJECTIVES

The remediation objectives for the Site are discussed in Section 3 of the Approved RAP and apply to the AOCs discussed in this addendum. As stated in the Approved RAP (Woodard & Curran, 2023a), the following criteria apply to the Site:

- Class GB Pollutant Mobility Criteria (GBPMC)
- Residential Direct Exposure Criteria (RDEC)
  - May apply to parcels where no RDEC exceedance has been detected.
- Industrial/Commercial Direct Exposure Criteria (I/C DEC)
  - o Requires that an Environmental Use Restriction (EUR) prohibiting residential activities be in place.
- Surface Water Protection Criteria (SWPC)
- Residential Groundwater Volatilization Criteria (GWVC)
  - o May apply to parcels where no Residential GWVC exceedance has been detected.
- Industrial/Commercial Groundwater Volatilization Criteria (I/C GWVC)
  - o Requires that an EUR prohibiting residential activities be in place.

Specific numerical standards applicable to a site are based on the RSRs and groundwater classification. Analytes detected at the Site for which criteria have not been established are identified in the RSRs as Additional Polluting Substances (APS). Criteria for APS have been proposed by CTDEEP for state-wide use (APS Fast-track Form) and were approved on May 31, 2023, for APS detected onsite. Site-specific criteria for criteria not provided on the APS Fast-track Form were developed and submitted for the Commissioner's approval on June 26, 2024. A copy of site-specific criteria for this submittal is included as **Attachment A**.



#### 4. REMEDIAL APPROACH AND ACTIVITIES

A discussion of remedial approaches that may be implemented to address one or more environmental media is included as Section 4 of the Approved RAP (Woodard & Curran, 2023a). A discussion of the specific remedial actions identified for each AOC is presented in **Section 7** of this Addendum. As described in the Material Management Plan (MMP) (Woodard & Curran, 2023b) submitted to CTDEEP for review, soil will be managed as either "Clean Fill" or "Contaminated Material" based on analytical data collected during the investigation of a known release or field screening observations performed during the excavation as part of the redevelopment activities (see Section 3.8 of the MMP). Material excavated from the Phase 1 Redevelopment Area will be managed in accordance with Section 3.3 of the MMP as follows:

- Clean Fill/LEP Approval: Excavated material that meets the definition of "natural soil" or "inert material" (see Section 3.3 of the MMP for definitions) may be reused on site with the approval of the Site LEP. Cells containing no samples will be managed as Clean Fill/LEP Approval provided that field screening observations support this determination.
- Clean Fill/Commissioner's Approval: Excavated material that has been impacted by a release and contains substances above the laboratory detection limits but below the Site criteria may be reused:
  - On the same parcel provided that notification is provided to the Commissioner as described in Section 3.3 Of the MMP.
  - o On a different parcel with the written approval of the Commissioner provided that the conditions described in Section 3.3 of the MMP are met.
- Contaminated Material: Excavated material that contains substances at concentrations above the Site criteria will be managed as Contaminated Material and may only be reused if a variance or exemption is granted by the Commissioner, rendering the soil inaccessible and/or environmentally isolated.

It is assumed that material that is excavated from outside of known release areas will meet the definition of natural soil or inert material and will be managed as "Clean Fill/LEP Approval." These locations are represented on **Figure 1-3A** by cells containing no coloring or hatching. Provided that field screening results described in Section 3.8 of the MMP support this conclusion, material excavated from these locations will be stockpiled for future reuse onsite with the approval of the Site LEP, as discussed in **Section 7**.

Material excavated from the cells where analytical samples containing one or more substances from a release were detected at concentrations below both the I/C DEC and the GBPMC will be managed as "Clean Fill/Commissioner's Approval" and are represented on **Figure 1-3A** by cells shaded blue. Under the RSRs, soil excavated from these locations may be reused on the same parcel from which it was excavated if notification is provided to the Commissioner. If it is not reused on the same parcel, it will be stockpiled separately in the "Clean Fill Temporary Staging Area" (located on the parcel to the east of the railroad tracks as shown in **Figure 1-4**) and may be reused onsite during future development activities with the Commissioner's approval.

Material excavated from cells where analytical samples containing one or more substance was detected at concentrations that exceed the I/C DEC or the GBPMC will be managed as "Contaminated Material" and are represented on **Figure 1-3A** by cells shaded yellow or tan. Note that there are no samples with concentrations exceeding the I/C DEC located within the Phase I limits of work, therefore this soil



management category is not shown on **Figures 1-2A through 1-2C**. In addition to the general stockpiling requirements identified in Section 4.1 of the MMP, Contaminated Material is subject to specific stockpiling requirements identified in Section 4.3 of the MMP. An addendum to the MMP covering the Phase 1 activities will be submitted under a separate cover.

The concentration of metals detected were compared to the values provided in the *Naturally Occurring Background Metals Values for Connecticut* included in the Draft Proposed Risk-based Cleanup Regulation, released December 29, 2023. The values identified as "Option 2 Upper Limits" were selected because the number of samples required to use these values (at least three samples) were met for all metals detected at the Site. Concentrations of metals that are less than or equal to these values are considered to be naturally occurring unless they are a constituent of concern (COC) for a specific release area.

For inorganic substances (i.e., metals), the RSRs allow for mass-based results divided by twenty to be compared to the PMC (the "twenty-times rule"). Samples containing concentrations divided by 20 that are less than the applicable criteria do not require analysis by SPLP to demonstrate compliance with the GBPMC. Samples containing metals at concentrations greater than the background limits were evaluated by the twenty-times rule to determine if the potential for leachable metals above the criteria exists. Cells containing analytical samples that are elevated relative to typical background concentrations and have the potential to exceed the GBPMC are indicated on **Figure 1-3A** by cells containing tan hatching.

Material excavated during the Phase 1 redevelopment activities may be stockpiled for reuse during future development on the parcel from which the material was generated or a different parcel. A discussion of the temporary stockpile locations is provided in **Section 7**. As discussed in **Section 10.2** of the MMP, written approval from the Commissioner will be required prior to reuse of material containing substances above the laboratory reporting limits, or the background concentrations for metals. The reuse of material under the RSRs on specific lots will be determined as development plans are completed. Requests for the Commissioner's approval to reuse soil under the RSRs on a specific lot will be included in a future RAP addendum covering the remedial actions of that parcel.

#### 4.1 AOC-48: Building 112 Laboratory Waste Storage Area

As discussed in the Approved RAP, compliance with the DEC for this AOC will be achieved through the use of the I/C DEC. This remedial action is discussed in Section 4.1.1 of the Approved RAP and requires an EUR prohibiting residential activity on Parcel 1B (LANXESS owned).

An EUR will be used to render this soil environmentally isolated beneath the existing building as discussed in Section 4.3.1 of the Approved RAP. Environmentally isolated soil is not subject to the GBPMC; therefore, compliance will be achieved through this remedial action.

Samples collected from BD112-SB02, BD112-MW02, (located outside of the building footprint) are within the Phase I limits of work, as shown on **Figure 1-3A**. Antimony and/or selenium were detected in samples collected from these locations at concentrations above the Upper Limit background values, indicating that these concentrations are not consistent with values typically associated with background concentrations. As stated in the MMP, the RSRs soil reuse policy allows for the reuse of excavated material that exceeds the GBPMC provided that it has been rendered environmentally isolated. Material excavated from this location will be temporarily stockpiled on the parcel to the east of the railroad tracks (refer to **Figure 1-4**) in



accordance with the MMP, as described in **Section 7** of this addendum pending future placement below a building or engineered control to render it environmentally isolated.

#### 4.2 AOC-11: Tire Lot

As discussed in **Section 2.3**, samples TP016, TP017, and TP038 are within the Phase I redevelopment boundary. Metals were detected at concentrations less than the values contained within the Naturally Occurring background Metals Values for Connecticut, see **Section 4**. Acetone and methylene chloride were detected just above the reporting limits and are attributed to laboratory contaminates. Therefore, material excavated from this area during the Phase I redevelopment may be reused as Clean Fill (Native Soil or Inert Material) provided field screening has been performed.

The sample collected from TP-002 contained low concentrations of VOCs and SVOCs, all below the applicable criteria. Under the soil reuse policies contained within the RSRs, material that contains substances above the laboratory detection limit may be reused on another parcel with approval by the Commissioner. Material excavated from this area will be temporarily stockpiled on Parcel 3 as discussed in **Section 7**.

Samples collected from TP-019 and TP-020 are located within the Phase 1 limits of work and contained low concentrations of VOCs and SVOCs, all below the applicable criteria. The reuse of material excavated from these locations will require approval from the Commissioner. Material excavated from this area will be temporarily stockpiled on Parcel 3 as discussed in **Section 7**.

Remedial activities for the remaining portion of AOC-11, including an EUR restricting residential activity, will be included in a separate RAP addendum to be completed once redevelopment plans for Lot 9 have been developed.

#### 4.3 AOC-53: Building 321/ Building 321 Tank Farm

All samples collected from AOC-53 fall outside of the Phase 1 limits of work, as shown on **Figure 1-2C**. A portion of the 60-inch stormwater RCP and sewer line will pass to the north of this area. Material excavated from this area during the Phase I redevelopment may be reused as Clean Fill (Native Soil or Inert Material) with approval from the LEP provided field screening has been performed and no evidence of a release is observed.

Remedial activities for AOC-53 will be included in a separate RAP addendum to be completed once redevelopment plans for Lot 10 have been developed.

#### 4.4 AOC-10: Drum Lot

As shown on Figures 1-3A and 1-3B, samples collected from boring AOC10-1001 and MW-155 are in the immediate vicinity of the Phase 1 limits of work. These samples were analyzed for VOCs, SVOCs, and metals. All organic results were below the laboratory reporting limits and all metals were detected at concentrations less than the values contained within the Naturally Occurring background Metals Values for Connecticut, see **Section 4**. Therefore, material excavated from this area during the Phase I redevelopment may be reused as Clean Fill (Native Soil or Inert Material) provided field screening has been performed.



#### 4.5 AOC-35: Building 75 and Building 335

Two shallow soil samples collected from borings advanced in the vicinity of Building 335 (AOC35-1004 and AOC35-1005) are located within the Phase 1 boundary. Both samples contained lead and mercury at concentrations greater than those typically associated with natural sources. These concentrations divided by 20 also exceed the GBPMC, indicating that lead and mercury have the potential to impact groundwater at these locations, as indicated by tan triangles on **Figure 1-3A**. An additional sample may be collected and analyzed by SPLP for lead and mercury from this location to determine if leachable metals are present at concentrations that exceed the GBPMC. If a sample is not collected, soil excavated from these locations will be characterized and stockpiled for future placement according to the analytical results as described in **Section 7**.

The concentration of lead detected at AOC35-1004 exceeds the RDEC but not the I/C DEC. The soil reuse policy in the RSRs allows for reuse of this material on a parcel when the I/C DEC applies. Material excavated from this location will be stockpiled in the Clean Fill Temporary Stockpile Area (shown on **Figure 1-4** on the parcel located to the east of the railroad tracks) as discussed in **Section 7** until future redevelopment plans have been established.

Remedial activities for the remaining portion of AOC-35, including an EUR restricting residential activity, will be identified in a separate RAP addendum to be completed once redevelopment plans for Lot 4 and Lot 11 have been completed.

#### 4.6 AOC-70: Less than 90-day Container Storage Area #3

The sanitary sewer line extension may also disturb a portion of AOC-70: Less than 90-day Container Storage Area. The closure of this temporary storage area was documented in a report dated February 2009. The report was submitted to CTDEEP, and a letter of concurrence was issued on March 22, 2017. This AOC has been closed and material excavated from this AOC may be reused as Clean Fill with the LEP's approval, provided that soil screening is performed, and the results indicate that the material meets the definition of natural soil or inert material, as discussed above.



# 5. REMEDIAL ALTERNATIVES

Alternative remedial activities for the AOCs within the Phase 1 Redevelopment Area are discussed in Section 5 of the Approved RAP (Woodard & Curran, 2023a).



#### 6. REMEDIAL ACTIONS SELECTED

The rationale and selection of the remedial actions to be performed under this Addendum are presented in Section 6 of the Approved RAP (Woodard & Curran, 2023a). Briefly, the following remedial actions proposed in the Approved RAP (Woodard & Curran, 2023a) required for the Phase 1 Redevelopment Area were selected:

- Restriction of residential activities allows the application of the I/C DEC to Lot 1B (see Section 6.1 of the Approved RAP (Woodard & Curran, 2023a)).
- Rendering the soil beneath AOC-48: Building 112 environmentally isolated (see Section 6.2 of the Approved RAP (Woodard & Curran, 2023a))
- Excavation of soil from AOCs and temporary stockpiling. Commissioner approval for reuse will be requested under a separate cover as redevelopment plans are finalized for specific lots.

As discussed in **Section 1**, Phase 1 of the site-wide redevelopment consist entirely of infrastructure updates to support the future redevelopment of the Site, see **Figure 1-1**. Redevelopment requires removal of excess material, which will be managed according to Section 4 of the MMP, as shown on **Figure 1-3A**. Samples collected from intervals below the proposed elevation (the "cut") are shown on **Figure 1-3B**.

Material excavated from an AOC as part of Phase 1 will be managed based on the soil categories identified in the MMP and may be temporarily stockpiled as specified in Section 3 of the MMP. If required, remedial actions designed to address soil that is stockpiled will be included in the RAP addendum for the Lot receiving the soil.

Soil excavated from outside of an AOC will be field screened as described in Section 3.8 of the MMP (Woodard & Curran, 2023b). Material that meets the definition of Natural Soil or Inert Material may be reused pending approval from the Site LEP as allowed under the RSRs (CTDEEP, 2021) (see Section 3.3 of the MMP). Where required, the Commissioner's approval will be received prior to the reuse of excavated material as described in **Section 7**.



#### 7. IMPLEMENTATION OF REMEDIAL ACTIONS

Designated soil management areas will be used to temporarily stockpile material while redevelopment activities are underway. The soil management areas are defined below and follow the soil management strategy presented in Section 3.1 of the MMP. The approximate locations of the areas are shown in **Figure 1-4**; however, the final locations will be based on redevelopment activities. Additional details regarding these locations will be provided in the Phase 1 Addendum to the MMP.

The *Native Soil/ Inert Material Temporary Stockpile* will be located on Lot 1 and will receive the following types of material excavated from the Site during the Phase 1 activities:

- Soil from which samples have been collected and all results are below the laboratory reporting limits or background (identified as green shaded cells on **Figure 1-3A**).
- Material from excavated areas located outside of known release areas (indicated by transparent cells on Figure 1-3A) provided field screening as described in Section 3.2 of the MMP supports this determination.

The *Soil Characterization Area* will be located on Lot 2 and will consist of 1,000 cubic yard bins where soil requiring additional characterization may be temporarily stockpiled while awaiting results. This location has been selected in part because releases have occurred that have impacted the soil and groundwater in this area. The following types of material excavated during Phase 1 activities may be transported to this area:

- Soil with limited existing analytical data and where the results divided by 20 exceed the GBPMC, indicating a potential exceedance of the criteria (identified as a tan hatched cell on **Figure 1-3A**).
- Material from excavated areas located outside of known release areas (indicated by transparent cells on **Figure 1-3A**) where field screening observations indicate a previously unidentified release may have occurred.

The Clean Fill Stockpile Area will be located on the northern-most portion of the parcel to the east of the railroad tracks, as shown on **Figure 1-4** to the north of the railroad underpass. This location has been selected in part because releases have occurred that have impacted the soil and groundwater in this area. This material will require approval from the Commissioner prior to reuse. It is anticipated that this soil may be suitable for reuse as cover on the caps to be constructed to the south of this location during future phases of redevelopment to render Contaminated Material inaccessible or environmentally isolated. The following types of material excavated during Phase 1 activities may be transported to this area:

- Material that has been characterized during the investigation of a release where the results are below all applicable criteria (indicated by a blue cell on **Figure 1-3A**).
- Material that was previously stockpiled in the Soil Characterization Area and characterized where all results were below the applicable criteria.

The Contaminated Material Temporary Stockpile Area will be located on the parcel to the east of the railroad tracks, as shown on **Figure 1-4**. This area was selected for the stockpiling of contaminated material in part because soil and groundwater in this area have been impacted from known releases and the proposed cap, to be built during future phases of redevelopment, will extend over the area, as shown on **Figure 1-4**. The cap will be an engineered control and serve to render the soil beneath environmentally isolated and inaccessible. Approval from the Commissioner is required for the engineered control and will be requested



under a separate cover. The following types of material excavated during Phase 1 activities may be transported to this area:

- Material that has been characterized during the investigation of a release and the concentrations
  of one or more substances exceeds the criteria (identified as a tan cell on Figures 1-3A and 1-3B).
- Material that was previously stockpiled in the Soil Characterization Area has been characterized and the results of one or more substances exceeds the criteria.

Remedial actions selected for the AOCs that may be disturbed during the Phase 1 Redevelopment Area are presented below and in Section 6 of the Approved RAP (Woodard & Curran, 2023a). Estimates of volumes and locations provided below are approximate and for administrative purposes. Soil volumes and locations will be further refined in the Phase 1 Addendum to the MMP, which will be provided under a separate cover.

#### 7.1 AOC-48: Building 112 Laboratory Waste Storage Area

As shown **Figure 1-2A**, one sample (BD112-SB07) collected from 0 to 2 feet beneath the building slab contained cobalt at a concentration that exceeds the GBPMC (see Section 7.3 of the Approved RAP (Woodard & Curran, 2023a)). An EUR will be used to render this soil environmentally isolated beneath the existing building as discussed in Section 4.3.1 of the Approved RAP (Woodard & Curran, 2023a). Environmentally isolated soil is not subject to the GBPMC; therefore, compliance with the GBPMC will be achieved through this remedial action. An EUR rendering soil environmentally isolated beneath Building 112 will be completed and submitted under a separate cover.

The cobalt concentration detected in the sample collected from BD112-SB07 also exceeds the RDEC. A EUR restricting residential activity on Lot 1B (LANXESS owned parcel), allowing the use of the I/C DEC. An application for the EUR prohibiting residential activities on Lot 1B will be submitted under a separate cover.

Metals (antimony and selenium) were detected in a sample collected from BD112-SB02 at a depth of 6 ft bgs at concentrations that are above those attributed to naturally occurring minerals but below the applicable criteria. Some VOCs (n-propyl benzene and 1,4-dichlorobenzene) were also present in this sample at concentrations just above the laboratory reporting limit, but below all applicable criteria. This location is within the Phase 1 limits of work and the cell containing this boring and the adjacent cells surrounding it have been categorized as "No Exceedance" on **Figure 1-3B.** The redevelopment plans indicate that material will be excavated from this location down to depths between 1 and 2 ft bgs. Material excavated from these cells will be transported to the Clean Fill Temporary Stockpile, on the parcel located to the east of the railroad tracks, as shown on **Figure 1-4**. This material will be stockpiled in a 1,000 cubic yard bin and characterization samples will be collected and analyzed for the metals and VOCs identified above. Based on the analytical results, this material will be transported to an appropriate stockpile area.

Samples were from BD112-MW02 at 0 to 2 ft bgs that contained antimony above the background concentration for naturally occurring minerals and 1,4-dichlorobenzene just above the reporting limit but below the applicable criteria. A sample collected from boring TP002 at 1 ft bgs contained diphenylamine just above the reporting limit but below the applicable criteria. The development plans show that material will be excavated to a depth of 1 to 2 ft bgs in both of these areas. Material excavated from the cell containing BD112-MW02 and TP002 and the cells immediately adjacent will be transported to the Clean Fill Temporary Stockpile located in the northern portion of the Site, located to the east of the railroad tracks,



as shown on **Figure 1-4**. Material stockpiled in this area will be available for reuse as cover material for the capped areas constructed to the south following approval from the Commissioner.

Material that is excavated from this area located outside of these cells specified above may be transported to the Native Soil/ Inert Material Temporary Stockpile located on Lot 1 provided field screening observations (as described in the MMP) support this classification. Assuming no evidence of a release is observed, this material may be used as backfill for utility excavation if deemed structurally suitable.

In the event that field screening indicates that an area has been impacted by a release, material excavated from this area will be transported to the Soil Characterization Temporary Stockpile Area located on Lot 2, see **Figure 1-4**, where it will be temporarily stockpiled in 1,000 cubic yard bins and characterized to determine the appropriate stockpiling area.

## 7.2 AOC-53: Building 321

The Phase 1 limit of work is located to the north and east of this AOC. Material excavated from this area will be field screened, as discussed in the MMP and may be transported to the Native Soil or Inert Material Stockpile for future reuse with the approval of the LEP. Material that is structurally suitable for use as backfill may be reused as backfill for the utility trench. Excess material from this area will be transported to the Native Soil/Inert Material Temporary Stockpile Area, located on Lot 1, as shown in **Figure 1-4**.

In the event that field screening observations indicate that material excavated from this area has been impacted by a release, the potentially impacted material will be transported to the *Soil Characterization Area*, located on Lot 2. The suspected material will be temporarily stockpiled in 1,000 cubic yard bins and characterization samples will be collected to determine the appropriate storage area as described above.

Remedial actions for the portion of AOC-53 located outside of the Phase 1 limit of work will be identified in a future RAP addendum that will be submitted under a separate cover once development plans for Lot-10, located in this area, have been developed.

#### 7.3 AOC-35: Building 79 and Building 335

The construction of Elm Street Extension will pass to the east of the former location of Building 79; however, based on the redevelopment plans soil may be disturbed in the vicinity of boring E7 during the construction of the roadway. Samples collected from this location contain cadmium and lead at concentrations that exceed the values provided in the *Naturally Occurring Background Metals Values for Connecticut*, as discussed in **Section 4**. The concentrations of these metals divided by 20 exceed the GBPMC (the "20-times rule"), indicating the potential for impacts to the groundwater. Approximately 500 cubic yards of material will be transported to Soil Characterization Stockpile, located on Lot 2, as shown in **Figure 1-4**.

The extension of the sanitary sewer line and stormwater system may disturb a portion of AOC-35 associated with Building 335. Samples collected from boring AOC35-1004 and AOC35-1005 at 0 to 2 ft bgs contained concentrations of metals (lead and mercury) above background concentrations that may impact groundwater, as indicated on **Figure 1-3A**. A sample collected from a deeper interval (4 to 6 ft bgs) at AOC35-1004 did not contain metal concentrations elevated to the background values. An additional sample may be collected from one of these locations (0 to 2 ft bgs) to determine if leachable concentrations of metals are present at these locations.



The cell containing each of the borings and the cells immediately adjacent to those cells are identified on **Figure 1-3A** as "Converted GBPMC Exceedance". Based on the excavation depths shown in the redevelopment plans, approximately 1,000 cubic yards of material will be excavated from these locations during the Phase 1 activities. If a sample is collected and the results demonstrate that leachable concentrations of lead and mercury are below the GBPMC, this material may be excavated and transported to the Clean Fill Temporary Stockpile Area located in the northern portion of Lot 3 (see **Figure 1-4**). If the sample indicates that leachable metals are present at concentrations that exceed the GBPMC, this material will be transported to the Contaminated Material Temporary Stockpile area, located on the parcel to the east of the railroad tracks, see **Figure 1-4**. If a sample is not collected from this location prior to the excavation, this material will be transported to the Soil Characterization Area located on Lot 2 and temporarily stockpiled in a 1,000 cubic yard bin until characterization has been completed.

Additional remedial activities anticipated for AOC-35 may include an EUR restricting residential activity and the reuse of polluted soil. Remedial actions for AOC-35 will be submitted under a separate cover as redevelopment plans for this area, which includes Lot 11 and Lot 4, have been developed.



# 8. EVALUATION OF SUSTAINABLE AND RESILIENT REMEDIATION

An evaluation of the sustainability and resilience of the remediation options selected is provided in Section 8 of the Approved RAP (Woodard & Curran, 2023a).



# 9. PROJECT-SPECIFIC QUALITY ASSURANCE PROJECT PLAN

Details regarding the quality assurance program are provided in the Quality Assurance Project Plan (QAPP) (Woodard & Curran, 2023c).



#### 10. ADMINISTRATIVE AND MONITORING ACTIVITIES

The administrative and long-term monitoring tasks that will be required to meet the requirements set forth in the RSRs are discussed under Section 9 of the Approved RAP (Woodard & Curran, 2023a).

#### **10.1 Public Notice Requirements**

The public notice requirements have been met as discussed in Section 9.1 of the Approved RAP (Woodard & Curran, 2023a).

#### 10.2 Environmental Use Restrictions – I/C DEC: Lot 1B

The concentration of cobalt detected in analytical samples collected from Lot 1B exceeded the RDEC. The RSRs require that an EUR be in effect restricting residential activities and limiting access to individuals who work or visit the parcel for I/C activities (as discussed in Section 4.1.1 of the Approved RAP (Woodard & Curran, 2023a)). An EUR submittal form requesting a residential activity restriction for non-PCB contaminated soil for the LANXESS owned parcel with the address 12 Spencer Street (Lot 1B) will be submitted under separate cover.

#### 10.3 Environmental Use Restriction – Environmentally Isolated

A sample collected from within the Building 112 footprint contains leachable cobalt at a concentration that exceeds the GBPMC. The RSRs allow for the conditional exemption from the GBPMC for soil that meets the definition of environmentally isolated. As discussed in Section 4.3.1 of the Approved RAP (Woodard & Curran, 2023a), Building 112 will be used to render the impacted soil environmentally isolated. A form requesting approval for this EUR for the LANXESS owned building with the address 12 Spencer Street will be submitted under separate cover.

#### 10.4 Remedial Activity Reporting

The status of remedial activities performed under this RAP Addendum will be included in the Annual Stewardship Reports submitted by March 1<sup>st</sup> of each year. If necessary, notifications or requests for approvals for future reuse of soil under the RSRs may be included with this report.



### 11. SCHEDULE

A schedule outlining the sitewide remedial activities is presented in Section 10 of the Approved RAP (Woodard & Curran, 2023a). Phase 1 redevelopment activities are scheduled to begin November 2024 and are anticipated to be completed within one year.



#### 12. REFERENCES

- Connecticut Department of Energy & Environmental Protection (CTDEEP), 2021. Remediation Standard Regulations, Subtitle 22a-133k. February 18, 2021.
- CTDEEP, 2022a. Stewardship Permit, LANXESS Corporation and the Borough of Naugatuck, DEEP/REM/SP/2022-5030. August 18, 2022.
- CTDEEP, 2022b. Stewardship Permit, LANXESS Corporation, DEEP/REM/SP/2022-5030-02. August 18, 2022.
- Woodard & Curran, 2023a. Remedial Action Plan: Former Uniroyal Chemical Facility, 280 Elm Street and 12 Spencer Street, Naugatuck Connecticut. June 2023.
- Woodard & Curran, 2023b. Materials Management Plan. July 2023.
- Woodard & Curran, 2023c. Quality Assurance Project Plan. September 2023.
- CTDEEP, 2024. State of Connecticut Regulations of the Department of Energy and Environmental Protection Concerning Release-Based Cleanup Regulations, Connecticut eRegulations System, Tracking No. PR2024-025. July 24, 2024.



#### **TABLES**

**Table 1-1: Phase 1 Redevelopment Area Soil Summary Table** 

# Table 1-1 Phase 1 Redevelopment Area Soil Summary

Former Uniroyal Chemical Facitilty, Naugatuck, CT

					AOC10	AOC-11											
					7.0010		AGC-11										
Station Name								AOC10-1001	AOC10-1001	MW-155	TP002	ТР003	ТР003	TP010	TP010	TP016	TP016
Sample Date			Naturally	09/15/2020	09/15/2020	09/07/2001	06/02/1993	06/02/1993 6.0 ft	01/04/2024	06/03/1993	01/04/2024	06/03/1993 4.0 ft	06/03/1993				
Sample Depth			Occuring	0.0-2.0 ft	8.0-10.0 ft	2.0-10.0 ft	1.0 ft		0.0-6.0 ft	5.0 ft	0.0-5.0 ft		9.0 ft				
QC Sample Code			Option 2	0	0	0	0	0	0	0	0	0	0				
LongName	GB PMC	I/C DEC		Detections Consistent with Naturally Occuring Values	Detections Consistent with Naturally Occuring Values	Detections Consistent with Naturally Occuring Values	NoExceed	Detections Consistent with Naturally Occuring Values	No Detections	Detections Consistent with Naturally Occuring Values							
VOCs (mg/kg)																	
1,4-Dichlorobenzene	15	240	NS	<0.0044	<0.0042	<0.005	NT	NT	NT	NT	NT	NT	NT				
Acetone	140	1000	NS	<0.0088	<0.0084	NT	0.031	NT	NT	NT	NT	NT	NT				
Methylene chloride	1	760	NS	<0.0088	<0.0084	< 0.005	0.04	NT	NT	NT	NT	NT	NT				
Methyl ethyl ketone	80	1000	NS	<0.0044	<0.0042	<0.03	<0.0112	NT	NT	NT	NT	NT	NT				
Toluene	67	1000	NS	<0.0044	<0.0042	<0.005	0.001	NT	NT	NT	NT	NT	NT				
SVOCs (mg/kg)																	
Aniline	1.2	1000	NS	<0.34 D	<0.349 D	<0.33	<0.38	NT	NT	NT	NT	NT	NT				
Diphenylamine	35	2500	NS	<0.17 D	<0.174 D	<0.33	0.32	NT	NT	NT	NT	NT	NT				
Inorganic Substances (m	g/kg)																
Aluminum	NS	NS	85,040	NT	NT	5,750.0	NT	NT	NT	NT	NT	NT	NT				
Antimony	NS	8200	0.3	NT	NT	<1.0	NT	NT	NT	NT	NT	NT	NT				
Arsenic	NS	10	6	<1.57	<1.58	NT	NT	4.03	NT	NT	NT	NT	NT				
Barium	NS	140000	756	47.8	60.9	30.1	NT	<50	NT	NT	NT	NT	NT				
Cadmium	NS	1000	0.3	<0.313	<0.317	<0.5	NT	<2.5	NT	<2.57	NT	<2.3	<1.81				
Chromium	NS	NS	60	6.12	10.3	NT	NT	18.6	NT	16.6	NT	21.7	11.1				
Cobalt	NS	613	20	NT	NT	5.47	NT	NT	NT	NT	NT	NT	NT				
Copper	NS	76000	45	NT	NT	12.6	NT	NT	NT	NT	NT	NT	NT				
Iron	NS	50000	51,940	NT	NT	8,740.0	NT	NT	NT	NT	NT	NT	NT				
Lead	NS	1000	27	1.11	2.39	4.66	NT	9.67	NT	13.7	NT	9.04	4.45				
Mercury	NS	610	0.1	<0.0313	<0.0317	<0.25	NT	<0.11	NT	NT	NT	NT	NT				
Nickel	NS	7500	36	NT 2.61	NT 2.64	8.22	NT	NT	NT	NT	NT	NT	NT				
Selenium	NS	10000	0.8	<2.61	<2.64	<1.0	NT	<1.04	NT	NT	NT	NT	NT				
Total Organic Carbon	NS	NS	NS 103	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT				
Vanadium Zinc	NS NS	14000	102	NT NT	NT NT	12.7	NT	NT NT	NT NT	NT NT	NT NT	NT NT	NT NT				
Zinc pH	NS NS	610000 NS	104 NS	NT NT	NT NT	<b>29.8</b> NT	NT NT	NT NT	NT NT	NT NT	NT NT	NT NT	NT NT				
рн Inorganic Substances (m		INS	1/1/2	INI	INI	INT	INI	INI	INI	INI	INI	INI	INI				
Aluminum	0.5	NS	NS	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT				
Chromium	0.5	NS NS	NS	NT	NT	NT	NT	NT	<0.025	NT	<0.025	NT	NT				
Cobalt	0.02	NS NS	NS	NT	NT	NT	NT	NT	NT	NT	\\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	NT	NT				
Iron	49	NS NS	NS	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT				
Lead	0.15	NS	NS	NT	NT	NT	NT	NT	<0.0025	NT	0.01	NT	NT				
Leau	0.13	143	1173	INI	11/1	11/1	11/1	INI	\U.UUZJ	11/1	U.U I	INI	INI				

#### Notes:

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Detected results shown in bold

Shaded results exceed applicable standards

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Table 1-1
Phase 1 Redevelopment Area Soil Summary

Former Uniroyal Chemical Facitilty, Naugatuck, CT

			AOC35 Building 335												
Station Name				TP016	TP016	TP017	TP017	TP019	TP020	AOC35-1004	AOC35-1004	AOC35-1005	AOC35-BD335- SS1	AOC35-BD335- SS1	E1A
Sample Date			Naturally	01/04/2024	01/04/2024	06/03/1993	01/04/2024	06/03/1993	06/03/1993	09/21/2020 0.0-2.0 ft	09/21/2020 4.0-6.0 ft	09/21/2020	01/05/2023	01/05/2023 0.0-2.0 ft	04/22/2020
Sample Depth			Occuring	0.0-4.0 ft	0.0-9.0 ft	3.0 ft	0.0-3.0 ft	1.0 ft O	8.0 ft O			0.0-2.0 ft	0.0-2.0 ft		1.0-2.0 ft
QC Sample Code			Option 2	0	0	0	0			0	0	0	DUP	0	0
	GB PMC	I/C DEC			<b>Detections Consistent</b>	<b>Detections Consistent</b>	<b>Detections Consistent</b>		NoExceed NoExceed		Detections Consistent			<b>Detections Consistent</b>	
LongName				No Detections	with Naturally Occuring Values	with Naturally Occuring Values	with Naturally Occuring Values	NoExceed		Convert Exceed Detect	with Naturally Occuring Values	Convert Exceed Detect	No Detections	No Detections	with Naturally Occuring Values
VOCs (mg/kg)															
1,4-Dichlorobenzene	15	240	NS	NT	NT	NT	NT	NT	NT	<0.0045	<0.004	<0.0041	NT	NT	<0.0038
Acetone	140	1000	NS	NT	NT	0.005	NT	NT	0.005	<0.0089	<0.0081	<0.0082	NT	NT	<0.0076
Methylene chloride	1	760	NS	NT	NT	0.002	NT	NT	0.002	<0.0089	<0.0081	<0.0082	NT	NT	<0.0076
Methyl ethyl ketone	80	1000	NS	NT	NT	<0.0106	NT	NT	<0.0105	<0.0045	<0.004	<0.0041	NT	NT	<0.0038
Toluene	67	1000	NS	NT	NT	<0.0053	NT	NT	<0.00525	<0.0045	<0.004	<0.0041	NT	NT	<0.0038
SVOCs (mg/kg)															
Aniline	1.2	1000	NS	NT	NT	NT	NT	0.12	<0.343	NT	NT	NT	NT	NT	NT
Diphenylamine	35	2500	NS	NT	NT	NT	NT	<0.775	<0.343	NT	NT	NT	NT	NT	NT
Inorganic Substances (m															
Aluminum	NS	NS	85,040	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Antimony	NS	8200	0.3	NT	NT	NT	NT	NT	NT	NT 1.50	NT	NT	NT	NT	NT
Arsenic	NS	10	6	NT	NT	NT	NT	NT	NT	<1.58	<1.59	2.7	NT	NT	2.24
Barium	NS	140000	756	NT	NT	NT 1.66	NT	NT	NT	104	131	109	NT	NT	92
Characium	NS	1000	0.3 60	NT	NT	<1.66 <b>16</b>	NT	NT	NT NT	0.542	<0.318 <b>26.9</b>	0.828	NT	NT	<0.318 <b>22.2</b>
Chromium	NS NS	NS 613	20	NT NT	NT NT	NT	NT NT	NT NT	NT	<b>11.3</b> NT	26.9 NT	<b>49.1</b> NT	NT NT	NT NT	NT
Copper	NS NS	76000	45	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	20.4
Copper Iron	NS	50000	51,940	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Lead	NS	1000	27	NT	NT	13.2	NT	NT	NT	457	14.7	287	NT	NT	7.21
Mercury	NS	610	0.1	NT	NT	NT	NT	NT	NT	2.25	<0.0318	2.04	NT	NT	<0.0318
Nickel	NS	7500	36	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Selenium	NS	10000	0.8	NT	NT	NT	NT	NT	NT	<2.63	<2.65	<2.66	NT	NT	<2.65
Total Organic Carbon	NS	NS	NS	NT	NT	8610	NT	NT	NT	NT	NT	NT	NT	NT	NT
Vanadium	NS	14000	102	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Zinc	NS	610000	104	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
рН	NS	NS	NS	NT	NT	NT	NT	NT	NT	6.87	6.53	6.96	NT	NT	8.43
Inorganic Substances (m	ng/L) SPLP														
Aluminum	0.5	NS	NS	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Chromium	0.5	NS	NS	<0.025	<0.025	NT	<0.025	NT	NT	NT	NT	NT	NT	NT	0.00133
Cobalt	0.02	NS	NS	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Iron	49	NS	NS	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
Lead	0.15	NS	NS	<0.0025	0.0038	NT	0.0039	NT	NT	NT	NT	NT	NT	NT	<0.00111

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# Table 1-1 Phase 1 Redevelopment Area Soil Summary

Former Uniroyal Chemical Facitilty, Naugatuck, CT

				AOC48									
Station Name				BD112-MW02	BD112-MW02	BD112-MW02	BD112-MW02	BD112-SB01	BD112-SB01	BD112-SB02	BD112-SB02	BD112-SB02	MW-157
Sample Date			Naturally	10/02/2007	10/02/2007	10/03/2007	10/03/2007	10/03/2007	01/03/2024	10/04/2007	01/03/2024	01/03/2024	09/06/2001
Sample Depth			Occuring	0.0-2.0 ft	1.0 ft	10.0-12.0 ft	11.0 ft	6.0 ft	0.0-6.0 ft	6.0 ft	0.0-6.0 ft	0.0-6.0 ft	5.0-9.0 ft
QC Sample Code			Option 2	0	0	0	0	0	0	0	DUP	0	0
LongName	GB PMC I/C DEC			NoExceed	NoExceed	Detections Consistent with Naturally Occuring Values	No Detections	Detections Consistent with Naturally Occuring Values	Detections Consistent with Naturally Occuring Values		NoExceed	NoExceed	Detections Consistent with Naturally Occuring Values
VOCs (mg/kg)													
1,4-Dichlorobenzene	15	240	NS	NT	0.007	NT	<0.0052	<0.005	NT	0.012	NT	NT	<0.005
Acetone	140	1000	NS	NT	0.018	NT	<0.01	<0.01	NT	0.021	NT	NT	NT
Methylene chloride	1	760	NS	NT	0.007	NT	<0.0052	<0.005	NT	0.026	NT	NT	<0.005
Methyl ethyl ketone	80	1000	NS	NT	<0.01	NT	<0.01	<0.01	NT	<0.011	NT	NT	<0.03
Toluene	67	1000	NS	NT	<0.005	NT	<0.0052	<0.005	NT	<0.0054	NT	NT	<0.005
SVOCs (mg/kg)			•										
Aniline	1.2	1000	NS	<0.262	NT	<0.256	NT	<0.252	NT	<0.269	NT	NT	<0.33
Diphenylamine	35	2500	NS	<0.262	NT	<0.256	NT	<0.252	NT	<0.269	NT	NT	<0.33
Inorganic Substances (n			•										
Aluminum	NS	NS	85,040	5390	NT	9370	NT	6550	NT	15600	NT	NT	7,080.0
Antimony	NS	8200	0.3	1.33	NT	<1	NT	<1	NT	5.28	NT	NT	<1.0
Arsenic	NS	10	6	3.61	NT	2.84	NT	2.76	NT	4.39	NT	NT	NT
Barium	NS	140000	756	36.5	NT	93.2	NT	40	NT	70.2	NT	NT	57.4
Cadmium	NS	1000	0.3	<0.5	NT	<0.5	NT	<0.5	NT	<0.5	NT	NT	<0.5
Chromium	NS	NS	60	8.31	NT	13.2	NT	8.24	NT	16.7	NT	NT	NT
Cobalt	NS	613	20	5.38	NT	8.17	NT	5.98	NT	7.04	NT	NT	7.24
Copper	NS	76000	45	11.7	NT	22.5	NT	11	NT	10.2	NT	NT	16.6
Iron	NS	50000	51,940	9860	NT	14100	NT	9130	NT	15900	NT	NT	10,400.0
Lead	NS	1000	27	7.62	NT	5.08	NT	5.29	NT	11.1	NT	NT	4.04
Mercury	NS	610	0.1	<0.1	NT	<0.1	NT	<0.1	NT	<0.1	NT	NT	<0.25
Nickel	NS	7500	36	8.52	NT	9.27	NT	7.65	NT	11.4	NT	NT	10.9
Selenium	NS	10000	0.8	<1 NT	NT	<1 NT	NT	<1 NT	NT	1.73	NT	NT	<1.0
Total Organic Carbon	NS	NS 14000	NS 102	NT 14	NT	NT	NT NT	NT 15.0	NT	NT	NT	NT	NT 17.9
Vanadium	NS NS	14000 610000	102	14	NT	28.3 100	NT NT	15.9	NT	27.4	NT	NT	17.8
Zinc			104	<b>52.1</b> NT	NT		NT NT	31.3	NT	72.4	NT	NT	<b>31.5</b> NT
pH Inorganic Substances (m	NS NS	NS	NS	INI	NT	NT	NT	NT	NT	NT	NT	NT	INI
Aluminum	0.5	NS	NS	NT	NT	NT	NT	NT	6.2 B	NT	27 B	9.4 B	NT
Chromium	0.5	NS	NS	NT	NT	NT	NT	NT	NT	<0.005	<0.025	<0.025	NT
Cobalt	0.02	NS	NS	NT	NT	NT	NT	NT	0.01	<0.005	0.011	<0.023	NT
Iron	49	NS	NS	NT	NT	NT	NT	NT	3.9	<0.005 NT	16	<0.005 <b>5</b>	NT
Lead	0.15	NS	NS	NT	NT	NT	NT	NT	0.0032	<0.005	0.0061	<0.0025	NT

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Shaded results exceed applicable standards

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#### **FIGURES**

#### Figure 1-1: Redevelopment Plan

Figure 1-2A: Phase 1 AOCs and Soil Sample Locations

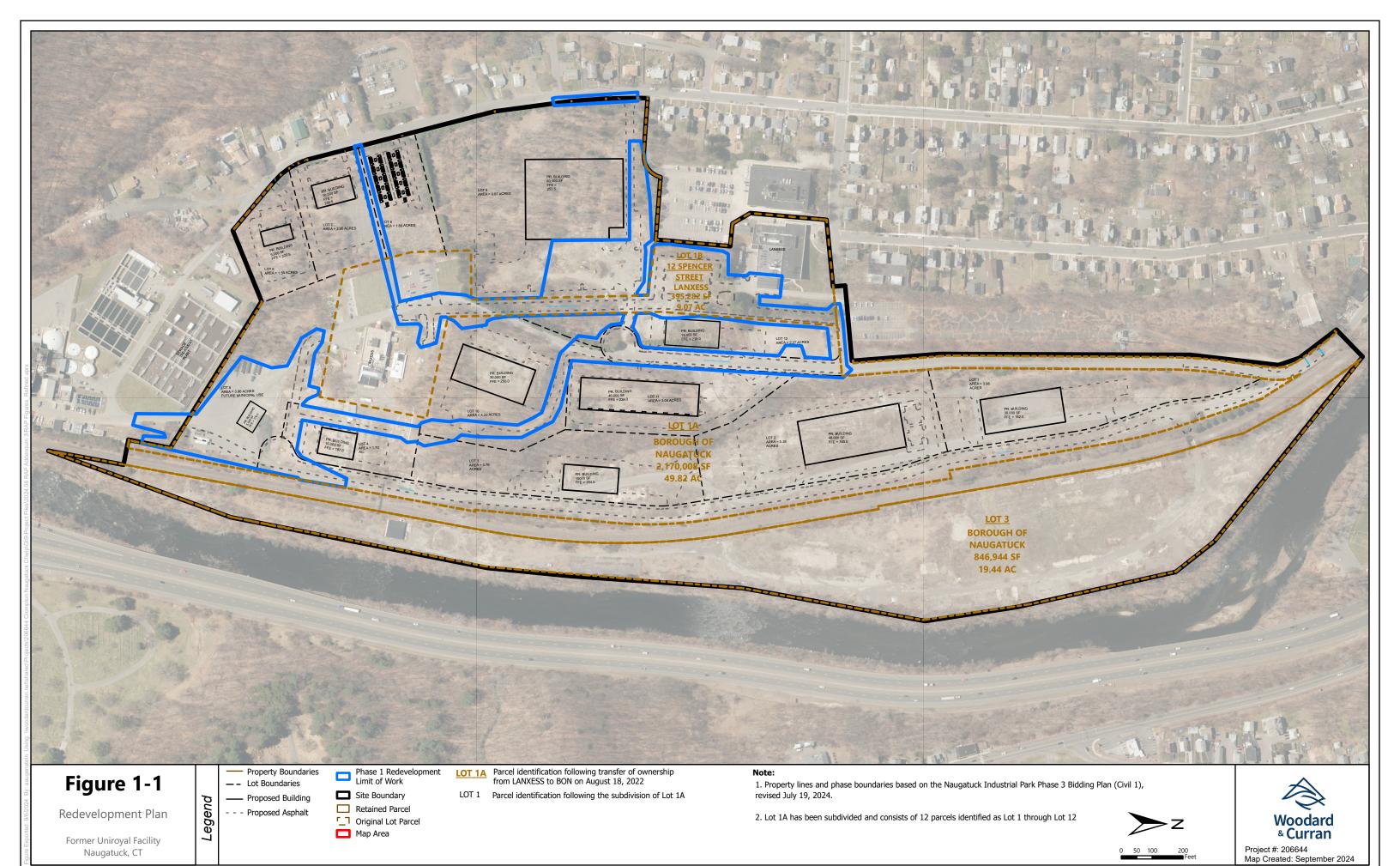
Figure 1-2B: Phase 1 AOCs and Soil Sample Locations

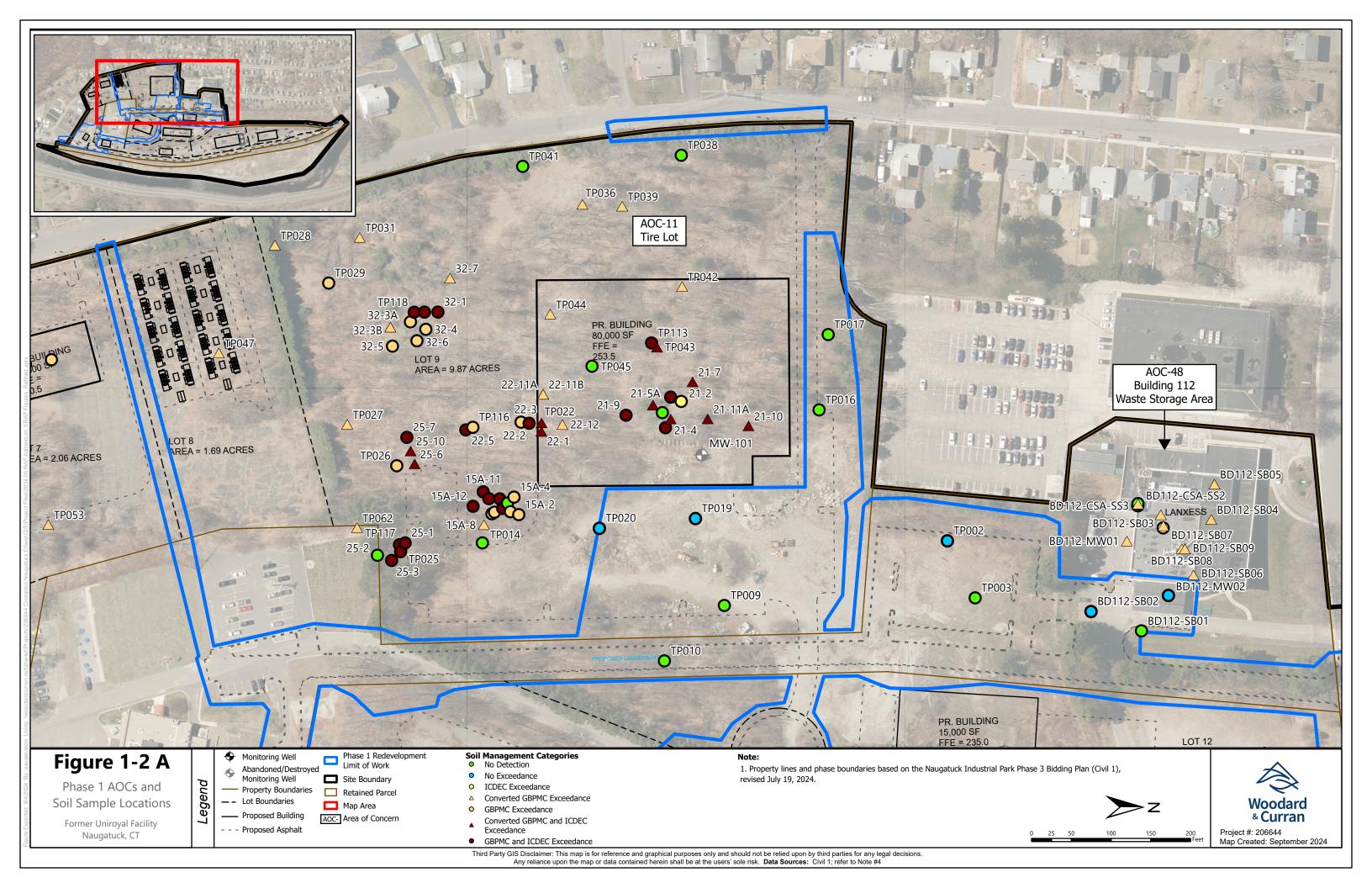
Figure 1-2C: Phase 1 AOCs and Soil Sample Locations

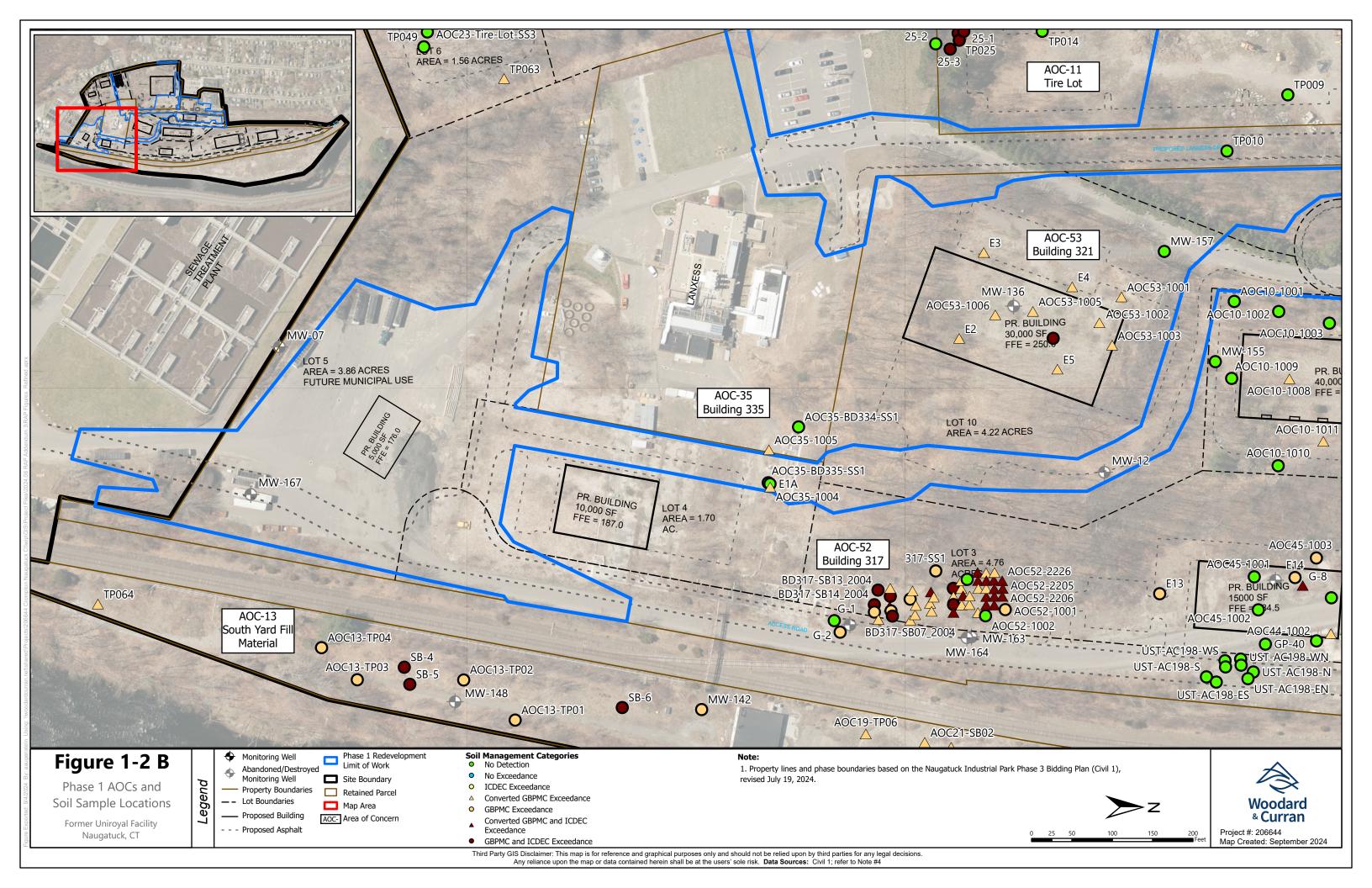
Figure 1-3A: Phase 1 Soil Management Categories for Material Above Proposed Grading Cut

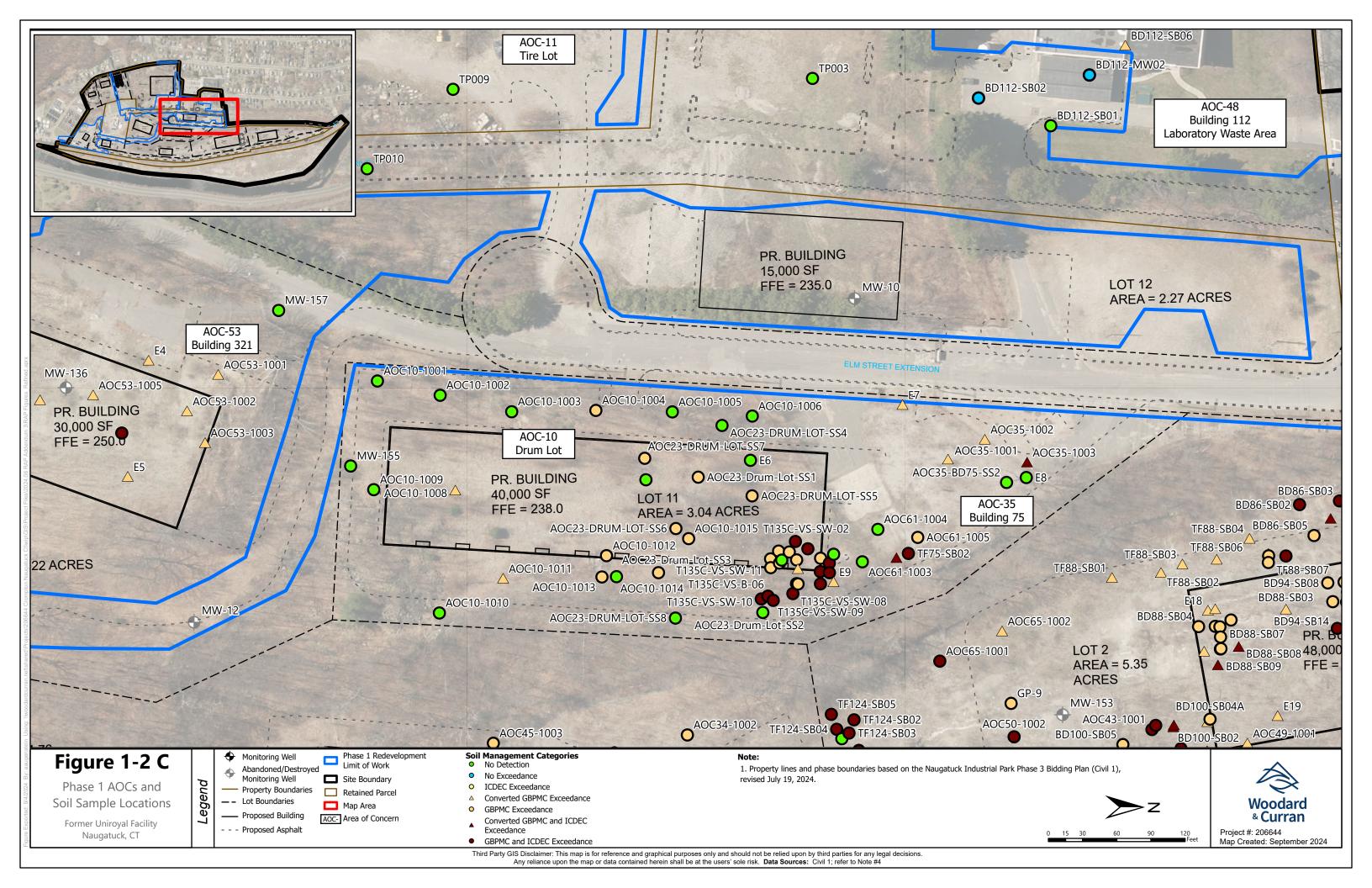
Figure 1-3B: Phase 1 Soil Management Categories for Material Below Proposed Grading Cut

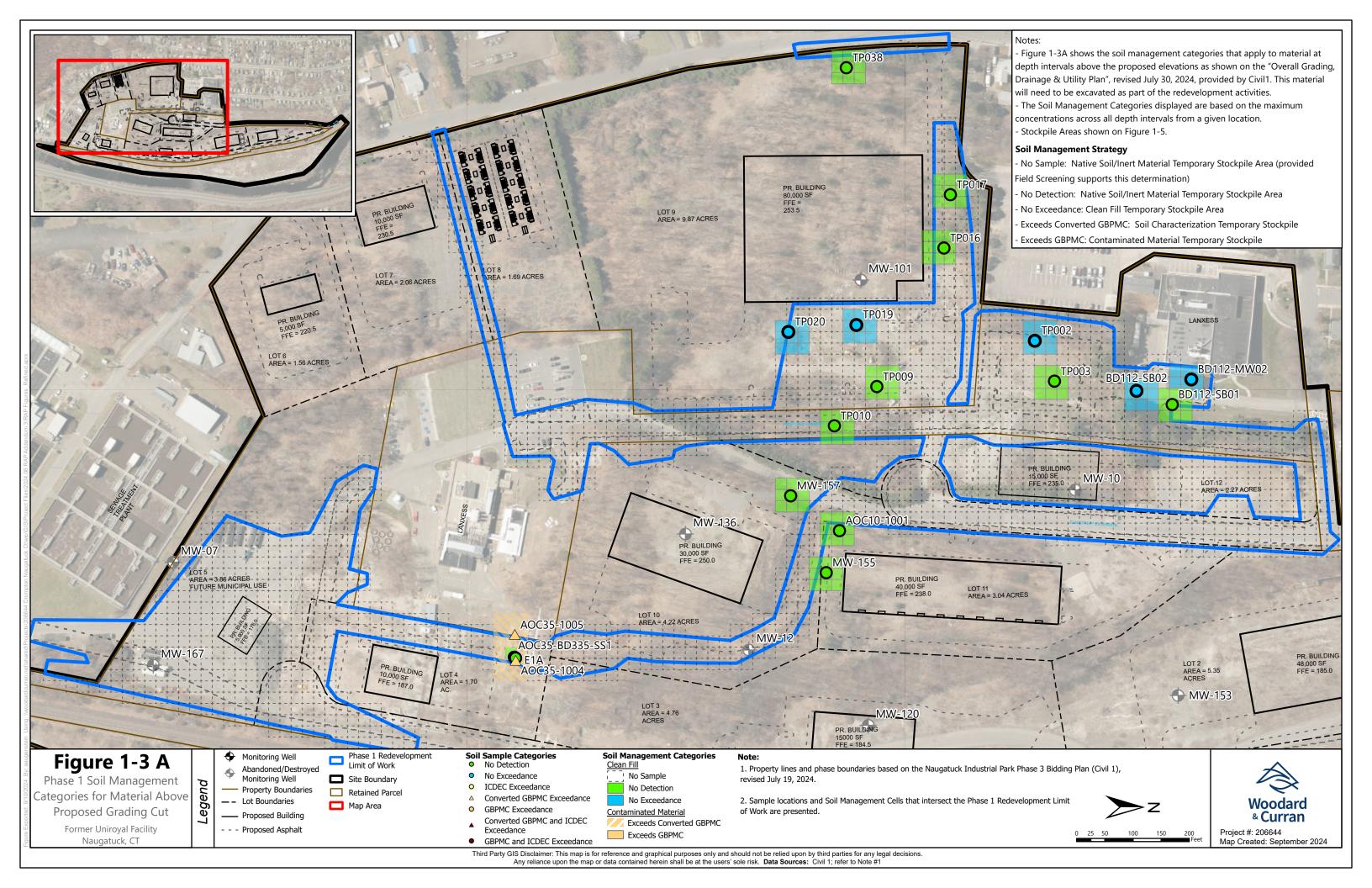
Figure 1-4: Phase 1 Proposed Soil Management Areas

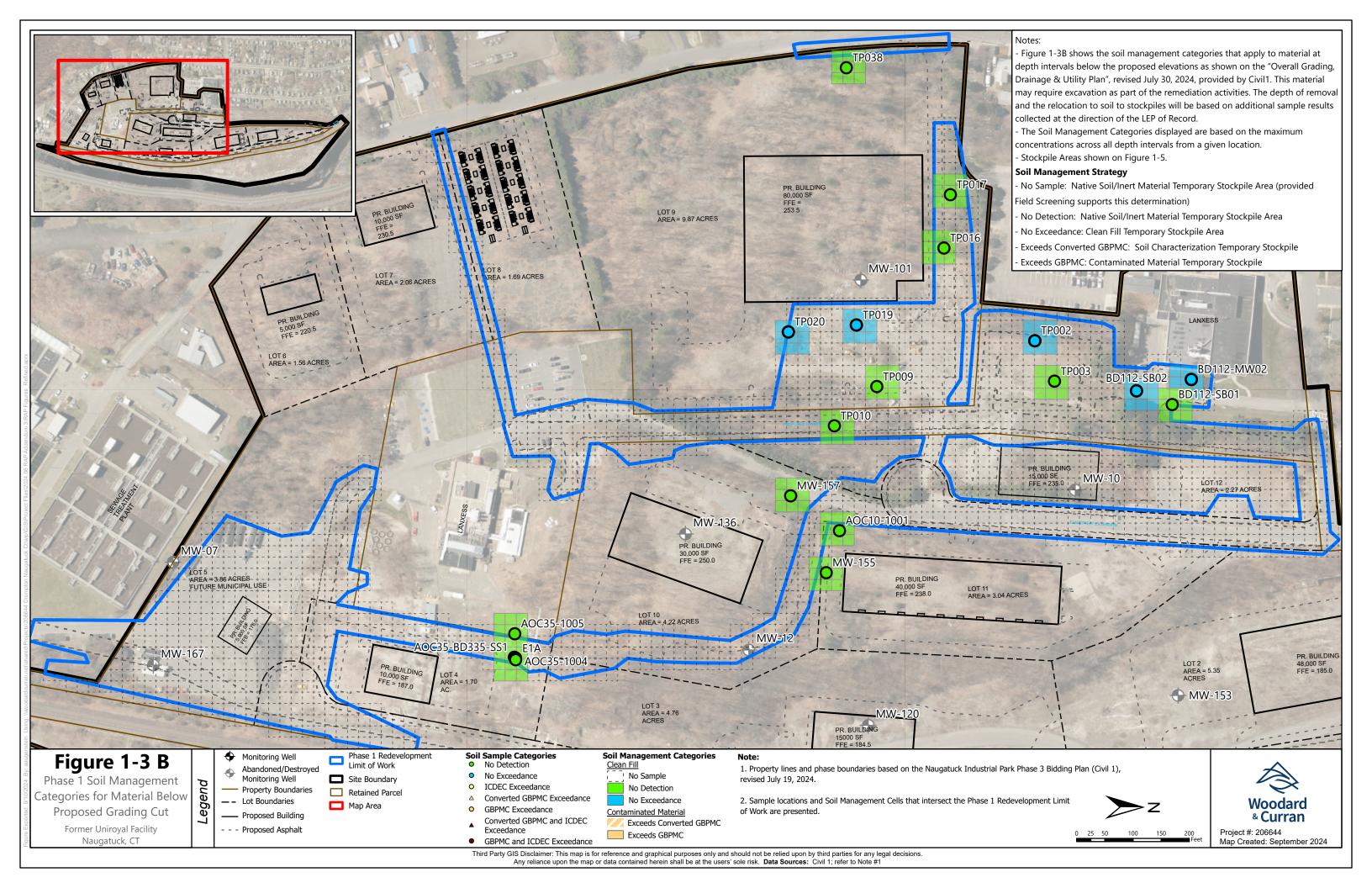


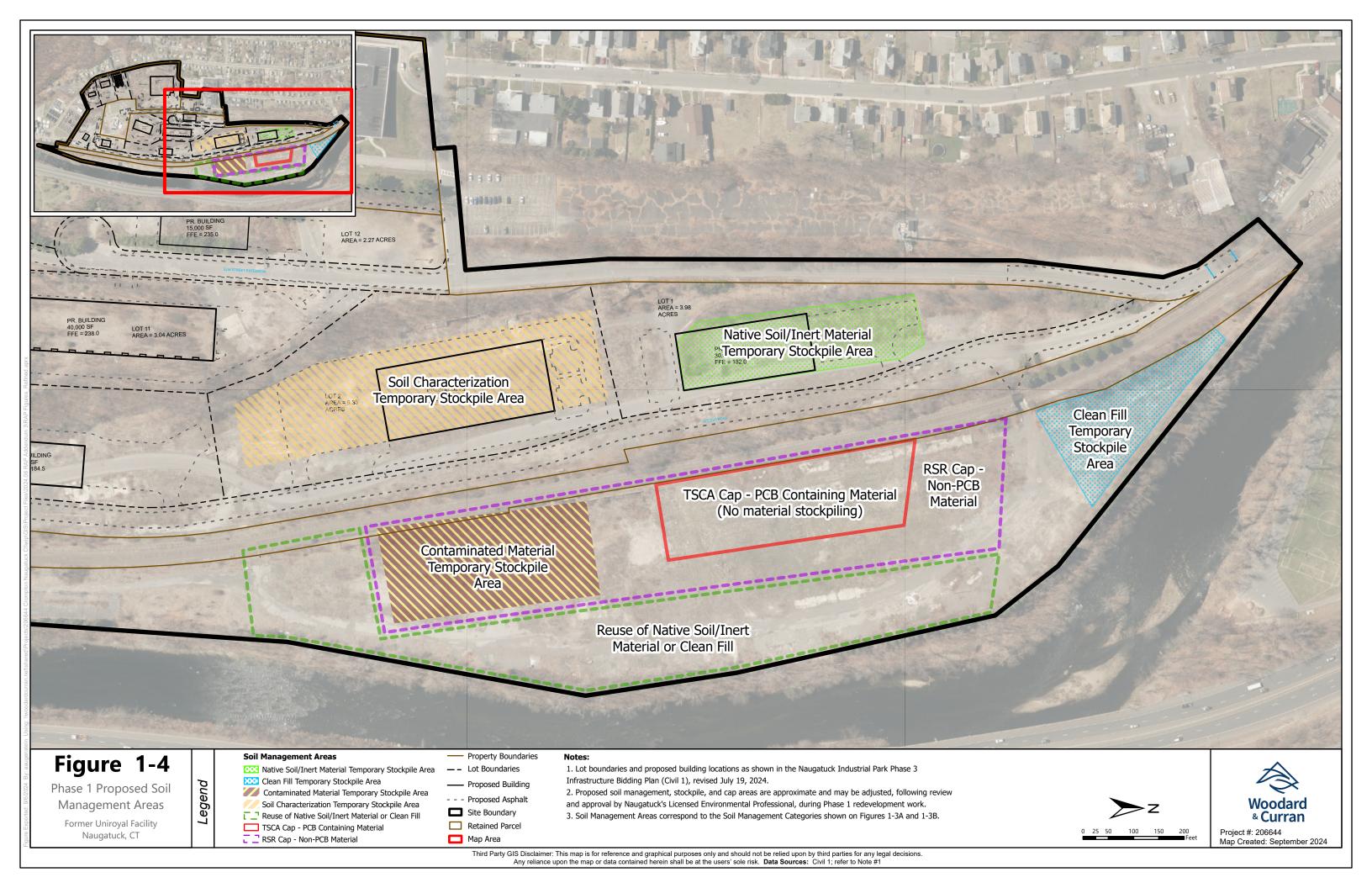














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