

# Contract Documents and Technical Specifications



for

City of Portsmouth, NH

**GOSLING ROAD**

**Pedestrian, Bike & Related  
Improvements**

August 2016

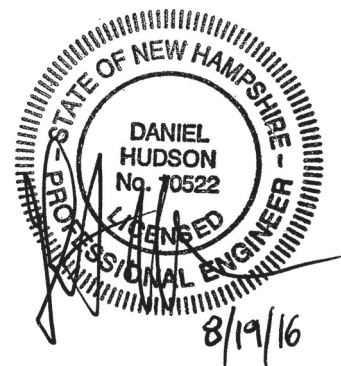
Prepared for:  
City of Portsmouth, NH  
1 Junkins Avenue  
Portsmouth, NH 03801

John P. Bohenko, City Manager

Prepared By:



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35 Bow Street, Portsmouth, NH 03801  
(603) 431-6196



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## **SPECIAL CONDITIONS**

The SPECIAL CONDITIONS is intended to provide the Contractor a summary of selected project requirements for easy reference. It is not intended to provide all requirements. Refer to Technical Specifications and Drawings for details.

### **1. CONSTRUCTION INTENT**

Base Bid: Includes replacement of existing sidewalk on Gosling Road, installation of a multi-use path along Gosling Road, and extension of the sidewalk westerly to the Motel 6 driveway, along south side of Gosling Road.

Add Alternate A: Includes installation of a pedestrian crossing (crosswalks and signs supplemented by Rectangular Rapid Flashing Beacons or RRFBs) of Gosling Road west of Winsor Road and construction of a bus pull out (at the existing bus stop) on the Newington (north) side of Gosling Road.

Work involved with these efforts includes but is not limited to sidewalks, curbing, paving, drainage, excavation, landscaping, and ancillary work.

### **2. CONTRACT TIME**

Since time is of the essence, work must be Substantially Complete within 45 Calendar Days of the start date of the Notice to Proceed and Final Completion shall be reached within 30 Calendar Days of Substantial Completion. The CONTRACTOR should note that liquidated damages in the amount of \$750/day will be levied for every Calendar Day in excess of the Substantial Completion and \$200/day in excess of Final Completion.

The Work shall be completed Monday through Friday during daylight hours (7:00 a.m. to 5:00 p.m.) unless specifically noted otherwise. No work shall be allowed on weekends or Holidays.

### **3. SUBSTANTIAL COMPLETION**

Prior to the issuance of a Certificate of Substantial Completion all Work must be complete except for final installation of RRFB assemblies, minor site cleanup, and submittal of as-built plans.

### **4. HIERARCHY OF DOCUMENTS**

- Plans will govern Technical Specifications;
- Technical Specifications and Plans will govern Supplementary Conditions and General Conditions;
- Supplementary Conditions shall govern General Conditions;
- Special Conditions will govern Technical Specifications, Plans, Supplementary Conditions, and Modified General Conditions;
- The Agreement supersedes all other Contract Documents.

**5. SEQUENCING OF WORK**

Prior to the start of any work, the Contractor shall submit for approval a proposed work schedule. Schedule updates or alterations should be presented at regular progress meetings.

**6. CONSTRUCTION LAYOUT**

Work is to be generally constructed as shown on the drawings. The Contractor will be responsible for all construction layout. A list of horizontal control points (and coordinates) and TBM's will be provided by the Engineer and confirmed by the Contractor, for reference throughout the project. The Engineer and/or Owner's Representative, together with the Project Superintendent, will review planned work, giving consideration to Dig-Safe markings and Contractor's layout plan. The Contractor will advise the Engineer, in advance, of potential conflicts concerning execution of his work. It will be the responsibility of the Contractor to protect and maintain TBM's, layout, and control points. The Engineer will provide an electronic copy of plans and coordinates to the Contractor upon request to facilitate the Contractor's layout, providing the Contractor executes a release concerning the information transmitted.

**7. COORDINATION OF WORK WITH OTHER SUBCONTRACTORS**

The Contractor is to fully coordinate the work of all subcontractors having a direct contract with the Contractor for performance of work associated with this Contract, including without limitation, surveyors, material supplies, and equipment suppliers.

The Contractor must coordinate schedules, delivery dates, staging area, trades and all other work according to these Specifications and the Construction Schedule.

**8. COORDINATION WITH OTHER PROJECTS**

The Owner reserves the right at any time to Contract for and perform other or additional work on or near the Work covered by the Contract.

When separate Contracts are let within the limits of any one project or on adjacent projects, each Contractor shall conduct the Work without interfering or hindering the progress or completion of the work by other Contractors. Contractors working on the same project or adjacent projects shall cooperate with each other in a manner to serve the best interest of the City. In case of any unavoidable interference, the Engineer will determine priorities.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with the Contract and shall protect and save harmless the Owner from damages or claims that may arise because of inconvenience, delays, or loss experienced because of the presence and operations of other Contractors working within the limits of the same project.

The Contractor shall arrange the Work and place and dispose of materials being used without interfering with operations of the other Contractors within the limits of the same project or on adjacent projects. The Work shall be coordinated with the work and sequence of other Contractors.

## **9. CONFLICTS AND COORDINATION WITH EXISTING UTILITIES**

It will be the Contractor's responsibility to coordinate with the utility companies for identification and re-location, if necessary, of any utilities that are interfering or conflicting with the work shown on the drawings. Loss of production or crew downtime relating to utility work by others will not be considered for additional payment.

## **10. OTHER BURIED UTILITIES AND SERVICE PIPES**

Service pipes for gas, sewer and water utilities are not shown on the drawings but are to be expected for each building unit. The Contractor is expected to coordinate utility markings through Dig Safe, Unitil and the City of Portsmouth, Water and Sewer Department before proceeding with this work. Utility Markings for sewer and water are based on information on file and should be considered approximate. Repairs to damaged utilities either shown on the plans or through markings on the ground will not be measured for payment. Additional compensation beyond unit items for loss of production, delays or downtime will not be considered.

Company: **EverSource**  
Address:  
Contact: Mike Busby  
Phone: (603) 436-7708 x5555678

Company: **FairPoint Communications**  
Address: 1575 Greenland Road  
Greenland, NH 03840  
Contact: Joe Considine  
Phone: (603) 427-5525  
Fax: (603) 703-9424  
Email: [jconsidine@fairpoint.com](mailto:jconsidine@fairpoint.com)

Company: **City of Portsmouth**  
Address: 680 Peverly Hill Road  
Portsmouth, NH 03801  
Contact: Jim Tow  
Water and Sewer  
Phone: (603) 427-1552

Company: **Granite State Gas /Unitil**  
Address: 325 West Road  
Portsmouth, NH 03801  
Contact: Joe Fitzpatrick  
Phone: (603) 608-8221

## **11. MEETINGS**

### **Project Meetings**

It is anticipated that regular scheduled meetings will be held with Owner's Representatives, Contractor, sub-contractors and other project stakeholders at a minimum frequency of twice monthly. Additional meetings may be scheduled by the Contractor, Owner or Engineer as appropriate.

### **Coordination Meetings**

Informal weekly meetings are anticipated between the Contractor's Superintendent, Owner, and Resident Project Representative to review progress/schedule, sequence and other day to day issues.

## **12. TEMPORARY EROSION CONTROL**

The Contractor's attention is directed to the contract provisions related to erosion and sediment control. The Contractor shall exercise caution to minimize the intrusion of any spillage, sediment, turbidity, or pollution into the waterways or adjacent properties around the project area. Sediment and erosion controls shall be operational prior to commencing earth disturbing

operations.

**13. GRANITE CURBING**

Granite curbing on portions of Gosling Road shall be reused to the extent possible. Any pieces less than 3' long or not suitable for reuse shall be disposed of by the Contractor.

**14. PEDESTRIAN TRAFFIC**

The work areas are in residential neighborhoods and pedestrian traffic corridors need to be maintained on a daily basis. The Contractor will need to separate work zones from pedestrian corridors.

**15. STAGING AREA**

The Contractor is required to locate and secure all staging and material storage areas. All staging areas to be secured by the Contractor must be approved in advance by the City. Private property shall not be used for storage purposes without written permission of the property owner. If requested, copies of such written permission shall be furnished to the Owner and Engineer. Contractor shall provide a Hold Harmless Release to the City prior to start of use of the staging area. At the completion of work, the Contractor shall receive a release from the property owners of the staging area(s) and a copy of each release shall be provided to the City prior to final acceptance of the project.

**16. PRECONSTRUCTION VIDEO**

Preconstruction digital photographs or video of the entire construction site including all areas within the scope of work and access roads leading to construction areas, shall be completed or recorded and provided by the Contractor to the Owner prior to start of work. Photographs shall be provided as electronic photo digital images. The video shall be supplied in standard digital format (DVD) as approved by Engineer. Two copies of the digital photo log or video shall be prepared and provided one each to the Owner and Engineer.

**17. SAMPLES AND TESTING**

The Contractor shall plan his operations to allow adequate time for laboratory tests and to permit taking of field density tests during compaction. No materials will be placed without review by the Engineer. All material testing will be paid for by the Contractor, except as noted.

**18. PAVEMENT MARKINGS**

Temporary pavement markings, to match the existing pavement markings, are subsidiary. Permanent pavement markings are to be reviewed with the Owner's Representative prior to placement. Markings not approved shall be removed at the Contractor's own expense, if requested by the Owner.

**19. SALVAGE OF MATERIALS**

All items selected by the City for salvage shall be delivered to a location specified by the City. The City has the right to salvage additional materials as requested. Contractor is to coordinate delivery of materials within the City.

## **20. ARCHEOLOGICAL SENSITIVITY**

No archeologically sensitive areas are identified within the project area. However, the Contractor shall limit activities to areas specifically designated on the project plans. In the event that archaeological resources are discovered, then the Contractor and the Owner's Representatives will meet to discuss protocols to be employed by the Contractor.

## **21. TREE REMOVAL**

Prior to the start of work, the City will coordinate to have the trees shown in the plans removed by Urban Tree Service (the City's tree removal sub-contractor). Payment will not be on a lump sum basis, but shall be based on actual invoice as provided by Urban Tree Service, without additional markup (paid under Item 650.2). Stumps will be cut approximately 1' above the existing grade and will remain. The Contractor will remove them during the completion of the work (Items 201.4). No trees within public rights of way shall be removed without prior approval from the Mayor's Blue Ribbon Trees and Public Greenery Committee (City of Portsmouth). This approval will be obtained by the City.

## **22. TRIMMING OF TREES**

Tree trimming shall be completed by the City. Prior to the start of the project, or a particular phase of the project, the Contractor shall walk the site and mark all the limbs that will require trimming in order to complete the work and minimize further damage to the tree. Upon approval for all the limbs to be cut by the Engineer and the Owner, the Contractor shall then coordinate with the City to have the required limbs cut. This work shall be incidental and shall not be measured for payment.

## **23. PROTECTION OF TREES**

The Contractor will endeavor to prevent damage to all trees that are designated to remain. Tree limbs that impede normal construction operations will be removed as described above. Trees to be removed are shown on the drawings. Additional limb or tree removal is subject to Owner approval. A penalty will be assessed to the Contractor for damage to trees as follows:

- Limbs damaged following trimming: \$100/limb (in addition limbs will require further trimming by Contractor as directed)
- Tree bark or surface scarring: \$10/sq. in. of impact area (\$100 MIN. and \$1,000 MAX.)  
In addition, Contractor shall remove trees that are, in the opinion of the Owner, significantly altered or cosmetically impaired or terminally damaged.

## **24. LANDSCAPING**

An allowance for general landscaping is provided under Item 650.2. All landscaping shall be in accordance with NHDOT Section 650. Any cost incurred for tree removal or any other landscaping approved by the Engineer shall be paid under this item.

## **25. BUS SHELTERS**

Bus shelters will be type specified by the Owner and shall be purchased from a provider specified by the Owner. Contractor will set and secure bus shelter to sidewalk (paid under item 660.47 Bus Shelter Installation. Payment for bus shelters will not be on a lump sum basis, but shall be based on actual invoice as provided by the Contractor without additional markup (paid under Item 660.46). Bus shelter details are provided in Appendix D.

**26. FUNDING**

This project is funded in part by the City's Community Development Block Grant (CDBG), which is received from the U.S. Department of Housing and Urban Development and administered by the Portsmouth Community Development Department. Project work must be completed in accordance with all applicable statutes, laws, and regulations.

END OF SECTION



## **TRAFFIC CONTROL PLAN**

The following standards and specifications are to be considered part of the Traffic Control Plan.

1. Section 618 and 619 of the NHDOT Standard Specifications, latest edition, with all current updates and official interpretations.
2. Work Zone Traffic Control Standard Plans.
3. Manual on Uniform Traffic Control Devices, (MUTCD), latest edition, with all current updates and official interpretations.
4. State of New Hampshire Flagger Handbook.

In addition to the above Standards and Specifications, the specific provisions for this project are also set forth in this section.

### **TRAFFIC CONTROL REQUIREMENTS/CONSTRUCTION SEQUENCING**

Unimpeded and safe passage of emergency vehicles and pedestrians through the work area shall be provided at all times throughout the life of the project.

Prior to commencing any construction activity or at the change of major construction phases, the CONTRACTOR shall notify the City of Portsmouth Fire and Police Departments and provide information regarding traffic control operations, especially in those instances when equipment may block the roadway and the flow of traffic through the work zone may be temporarily interrupted.

In all cases, the CONTRACTOR shall not leave open excavated areas adjacent to traffic during non-working hours unless authorized by the ENGINEER.

Two-way traffic is to be maintained at all times on Gosling Road, unless otherwise approved in advance by the OWNER. Affected abutters are to be notified at least 2-days prior to any closures that may affect access/egress to their property. In no case will closures be allowed to remain in-place during non-working hours or weekends.

### **TRAFFIC CONTROL REQUIREMENTS (GENERAL)**

The CONTRACTOR shall meet the following requirements:

1. The CONTRACTOR shall not impede traffic and pedestrians within the project area on weekends and federal holidays.
2. All construction signing shall be supplied, erected, maintained, and removed by the CONTRACTOR. Contractor shall submit a permanent construction sign layout to ENGINEER for review and approval prior to installation.
3. Access to all existing drives and mailboxes shall be maintained at all times. In the event that major work must be done at drives that preclude full access, the CONTRACTOR is to coordinate the work with the OWNER to minimize inconveniences.

4. All work shall be prosecuted in a manner to permit unimpeded traffic and pedestrian flow whenever possible. The interruption of traffic and pedestrian flow will not be permitted unless specifically allowed by the ENGINEER. Workday operations shall be scheduled to minimize disruption to peak commuter traffic.
5. 619.1 – Maintenance of traffic shall be considered just compensation for all signage, labor, equipment, and items specified above for the duration of the project.
6. 619.253 – Portable changeable message signs shall have a minimum size of 133” wide by 71” high.

Payment for flaggers and uniformed police officers shall be made under the appropriate contract items.

#### **VARIATION FROM THE TRAFFIC CONTROL PLAN**

If the CONTRACTOR feels improvements can be made to the Traffic Control Plan for this project, he/she shall submit a written proposal with any necessary plans for consideration and approval.

END OF SECTION

*Section A*  
***BID DOCUMENTS***

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INVITATION TO BID  
INFORMATION FOR BIDDERS  
BID  
BID BOND

**INVITATION TO BID**  
**Gosling Road**  
**Pedestrian, Bike & Related Improvements**

Sealed BIDS for the construction of: **Gosling Road – Pedestrian, Bike & Related Improvements** will be accepted by the City of Portsmouth Finance/ Purchasing Department, City Hall, 1 Junkins Avenue, Portsmouth, NH 03801 until **2:00 PM, September 12, 2016**, and then publicly opened and read aloud.

Base Bid: Includes replacement of existing sidewalk on Gosling Road, installation of a multi-use path along Gosling Road, and extension of the sidewalk westerly to the Motel 6 driveway, along south side of Gosling Road.

Add Alternate A: Includes installation of a pedestrian crossing (crosswalks and signs supplemented by Rectangular Rapid Flashing Beacons or RRFBs) of Gosling Road west of Winsor Road and construction of a bus pull out (at the existing bus stop) on the Newington (north) side of Gosling Road.

This project is funded in part by the City's Community Development Block Grant (CDBG) that is received from the U.S. Department of Housing and Urban Development and administered by the Portsmouth Community Development Department. Project work must be completed in accordance with all applicable statutes, laws, and regulations.

Work involved with these efforts includes but is not limited to sidewalks, curbing, paving, drainage, excavation, landscaping, and ancillary work.

1. Completion time for the project will be calculated as 45 Calendar Days from the date specified in the "Notice to Proceed". Final Completion must be reached within 30 Calendar Days of Substantial Completion.
2. Liquidated damages for this project will be in accordance with the following schedule:  
\$750.00 for each day of delay from the date established for Substantial Completion.  
\$200.00 for each calendar day of delay from the date established for Final Completion.
3. Each General Bid shall be accompanied by a bid security in the amount of 10% of the Total Bid Price.
4. The successful bidder must furnish 100% Performance and Payment Bonds and will be required to execute the Contract Agreement within 10 days following notification of the acceptance of his bid.
5. No Bidder may withdraw a Bid within 30 days after the actual date of opening thereof.
6. The owner reserves the right to reject any and all bids, to accept any bid and to waive any informality on bids received as may be in the best interest of the Owner.

The CONTRACT DOCUMENTS may be examined at the following locations:

CMA Engineers, Inc., 35 Bow Street Portsmouth, NH 03801;  
City Hall Purchasing Department, 1 Junkins Avenue, Portsmouth, New Hampshire;  
Construction Summary of NH, 734 Chestnut Street, Manchester, NH 03101;  
Associated General Contractors of NH, 50 Grandview Road, Bow, NH 03304

Copies of the Contract Documents may be obtained from the City's web site: <http://www.cityofportsmouth.com/finance/purchasing.htm>. Addenda to this bid document, if any, including written answers to questions, will be posted on the City of Portsmouth website at <http://www.cityofportsmouth.com/finance/purchasing.htm> under the project heading. Addenda and updates will NOT be sent directly to vendors. Questions may be addressed to Elise Annunziata, Community Development Coordinator (603) 610-7281. Email [eannunziata@cityofportsmouth.com](mailto:eannunziata@cityofportsmouth.com). **Questions received less than three days prior to the date for opening of Bids may not be answered.** Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

## INFORMATION FOR BIDDERS

BIDS will be received by City of Portsmouth, New Hampshire  
(herein called the "OWNER"), at City of Portsmouth, Purchasing Department, 1 Junkins Avenue, Portsmouth, New Hampshire 03801

until 2:00 PM on September 12, 2016 and then at said office publicly opened and read aloud.

Each BID must be submitted in a sealed envelope, addressed to:

**City of Portsmouth** at **Purchasing Department, 1 Junkins Avenue, Portsmouth, New Hampshire 03801**

Each sealed envelope containing a BID must be plainly marked on the outside as BID

for Gosling Road – Pedestrian, Bike & Related Improvements and the

envelope should bear on the outside the BIDDER's name, address, and license number if applicable and the name of the project for which the BID is submitted. If forwarded by mail, the sealed envelope containing the BID must be enclosed in another envelope addressed to the OWNER at

**City of Portsmouth, Purchasing Department, 1 Junkins Avenue, Portsmouth, New Hampshire 03801**

All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. Only one copy of the BID form is required.

The OWNER may waive any informalities or minor defects or reject any and all BIDS. Any BID may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof. Any BID received after the time and date specified shall not be considered. No BIDDER may withdraw a BID within 30 days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the BIDDER.

BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID Schedule by examination of the site and a review of the drawings and specifications including ADDENDA. After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done.

The OWNER shall provide to BIDDERS prior to BIDDING, all information which is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.

Each BID must be accompanied by a BID bond payable to the OWNER for ten (10%) percent of the total amount of the BID. As soon as the BID prices have been compared, the OWNER will upon request, return the BONDS of all except the three lowest responsible BIDDERS. When the

Agreement is executed, the bonds of the two remaining unsuccessful BIDDERS will be returned. The BID BOND of the successful BIDDER will upon request, be retained until the payment BOND and performance BOND have been executed and approved, after which it will be returned. A certified check may be used in lieu of a BID BOND.

A performance BOND and a payment BOND, each in the amount of 100 percent of the CONTRACT PRICE, in a form and with a corporate surety approved by the OWNER, will be required for the faithful performance of the contract.

Attorneys-in-fact who sign BID BONDS or payment BONDS and performance BONDS must file with each BOND a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the Agreement and obtain the performance BOND and payment BOND and proof of insurance within ten (10) calendar days from the date when NOTICE OF AWARD is delivered to the BIDDER. Issuance of a Notice of Award is contingent on the City's acquisition of required permits and right-of-way agreements. The NOTICE OF AWARD shall be accompanied by the necessary Agreement and BOND forms. In case of failure of the BIDDER to execute the Agreement, the OWNER may at his option consider the BIDDER in default, in which case the BID BOND accompanying the proposal shall become the property of the OWNER.

The OWNER within ten (10) days of receipt of acceptable performance BOND, payment BOND, proof of insurance and Agreement signed by the party to whom the Agreement was awarded shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The NOTICE TO PROCEED shall be issued within five (5) days of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the five (5) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

The OWNER may make such investigations as deemed necessary to determine the ability of the BIDDER to perform the WORK, and the BIDDER shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the Agreement and to complete the WORK contemplated therein.

A conditional or qualified BID will not be accepted.

Award will be made to the lowest responsive and responsible BIDDER. A Responsible bidder is one who can satisfy the Qualifications set forth herein.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT shall apply to the contract throughout.

Each BIDDER is responsible for inspecting the site and for reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to its BID.

Further, the BIDDER agrees to abide by the requirements under Executive Order No. 11246, as amended, including specifically the provisions of the equal opportunity clause set forth in the GENERAL CONDITIONS.

The low BIDDER shall supply the names and addresses of major material SUPPLIERS and SUBCONTRACTORS when requested to do so by the OWNER.

#### MANUFACTURERS EXPERIENCE

Wherever it may be written that an equipment manufacturer must have a specified period of experience with his product, equipment which does not meet the specified experience period can be considered if the equipment supplier or manufacturer is willing to provide a bond or cash deposit for the duration of the specified time period which will guarantee replacement of that equipment in the event of failure.

#### NON-DISCRIMINATION IN EMPLOYMENT

Contracts for work under this proposal will obligate the contractors and sub-contractors not to discriminate in employment practices

#### SAFETY AND HEALTH REGULATIONS

This project is subject to all of the Safety and Health Regulations (CFR 29 Part 1926 and all subsequent amendments) as promulgated by the U.S. Department of Labor on June 24, 1974. Contractors are urged to become familiar with the requirements of these regulations.

#### COPIES OF THE CONTRACT

There shall be at least three (3) executed copies of the Contract to be distributed as follows:

- a) One (1) copy each to the Owner, Contractor, and Engineer.

#### NON-RESIDENT CONTRACTORS

The successful bidder, if a corporation established under laws other than the State of New Hampshire, shall file, at the time of the execution of the contract, with the Owner, notice of the name of its resident attorney, appointed as required by the laws of the State of New Hampshire.

The successful bidder, if not a resident of New Hampshire, and not a corporation, shall file, at the time of execution of the contract, with the Owner a written appointment of a resident of the state of New Hampshire, having an office or place of business therein, to be his true and lawful attorney upon whom all lawful processes in any actions or proceedings against him may be served; and in such writing, which shall set forth said attorney's place of residence, shall agree that any lawful process against him which is served on said attorney shall be of the same legal force and validity as if served on him and that the authority shall continue in force so long as any liability remains outstanding against him in New Hampshire. The power of attorney shall be filed in the office of the Secretary of State if required, and copies certified by the Secretary shall be sufficient evidence thereof. Such appointment shall continue in force until revoked by an instrument in writing,



designating in a like manner some other person upon whom such processes may be served, which instrument shall be filed in the manner provided herein for the original appointment.

A Non-resident Contractor shall be deemed to be:

- a) A person who is not a resident of the State of New Hampshire.
- b) Any partnership that has no member thereof resident of the State of New Hampshire.
- c) Any corporation established under laws other than those of the State of New Hampshire.

#### BIDDER DISQUALIFICATION

Any or all of the following reasons may be deemed by Owner in its sole discretion as being sufficient for the disqualification of a bidder and the rejection of his proposal:

- a) More than one proposal for the same work from an individual, firm, or corporation under the same or different name;
- b) Evidence of collusion among bidders;
- c) Failure to submit all required information requested in the bid specifications;
- d) If the Contractor is not listed with the New Hampshire Department of Transportation as a pre-qualified contractor under the classification of Road or Site Construction;
- e) Lack of competency or of adequate machinery, plant or other equipment, as revealed by the statement of bidders qualification or otherwise;
- f) Uncompleted work which, in the judgment of the owner, might hinder or prevent the prompt completion of additional work if awarded;
- g) Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts;
- h) Default or unsatisfactory performance on previous contracts; or
- i) Such disqualification would be in the best interests of the Owner.

#### NON-CONFORMING BIDS

Proposals will be considered nonconforming and may be rejected in the Owner's sole discretion for any of the following reasons:

- a) If the proposal is on a form other than that furnished by the Owner, or if the form is altered or any portion thereof is detached;
- b) If there are unauthorized additions, conditional or altered bids, or irregularities of any kind which may tend to make the proposal or any portion thereof incomplete, indefinite or ambiguous as to its meaning;
- c) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award; or
- d) If the proposal does not contain a unit price for each pay item listed except in the case of authorized alternate pay items.

#### WITHDRAWAL OF BIDS

Prior to Bid Opening, bids may be withdrawn upon written or telegraphic request of the Bidder provided confirmation of any telegraphic withdrawal over the signature of the Bidder is placed in the mail and postmarked prior to the time set for Bid Opening. Bid documents and security of any Bidder withdrawing his bid in accordance with the foregoing conditions will be returned.

**BID**

Proposal of \_\_\_\_\_ (hereinafter called "BIDDER"), organized and existing under the laws of the State of \_\_\_\_\_ doing business as \_\_\_\_\_  
(Corporation, Partnership, Individual)

To the City of Portsmouth, NH (hereinafter called "OWNER").

In compliance with your Advertisement for Bids, BIDDER hereby proposes to perform all WORK for the construction of Gosling Road – Pedestrian, Bike & Related Improvements in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the case of a joint BID each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to the BID with any other BIDDER or with any competitor.

BIDDER hereby agrees to commence WORK under this contract on or before a date to be specified in the NOTICE TO PROCEED and to complete the PROJECT within:

**45 Calendar Days** to **Substantial Completion**  
**Final Completion** 30 Calendar Days following Substantial Completion

Liquidated damages for this project will be in accordance with the following schedule:  
a. **\$750.00** for each day of delay from the date established for **Substantial Completion**.  
b. **\$200.00** for each calendar day of delay from the date established for **Final Completion**.

BIDDER acknowledges receipt of the following ADDENDUM:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Bidder is requested to state below what works of a similar character to that included in the proposed contract he has done to give references that will enable the Owner to judge his experience, skill, and business standing.

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, add separate sheets.

1. Name of Bidder.
2. Permanent Main Office address.
3. When organized?
4. Where incorporated?
5. Is bidder registered with the Secretary of the State to do business in New Hampshire?
6. How many years have you engaged in the contracting business under your present firm name? Also state names and dates of previous firm names, if any.
7. Current Contracts on hand. (Schedule these, showing gross amount of each contract and the anticipated completion date.)
8. List your major equipment available for this contract.
9. Identify the Project Superintendent and foreman for this contract.
10. List any subcontractors whom you would expect to use for the following (unless this work is to be done by your own organization):
  - a. Materials Testing \_\_\_\_\_
  - b. Paving \_\_\_\_\_
  - c. Other Work \_\_\_\_\_
  - d. Curbing \_\_\_\_\_
  - e. Sidewalk \_\_\_\_\_

Respectfully submitted:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_ Being duly sworn, deposes and says that he is  
\_\_\_\_\_ of \_\_\_\_\_  
(Name of Organization)

and that the answers to the foregoing questions and all statements contained therein are true and correct.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

(Seal - If BID is by Corporation)

ATTEST: \_\_\_\_\_

BIDDER agrees to perform all the work described in the CONTRACT DOCUMENTS for the following unit prices or lump sum:

- NOTE:
- 1.) BIDS shall include sales tax and all other applicable taxes and fees.
  - 2.) Prices written in words shall govern and unit prices shall govern over extended totals when discrepancies occur.
  - 3.) The lowest bid and basis of award will be based on Engineers Estimate of Quantities and Contractor's Bid for the Total Base Bid.
  - 4.) (F) denotes Final Pay Items. These items shall not be measured.
  - 5.) The owner reserves the right to waive any informalities or minor defects or reject any and all bids and to take any other action that is in the best interest of the Owner.

## BID SCHEDULE – (Base Bid)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
201.4	REMOVING STUMPS _____ Dollars and _____ Cents	EA	1	\$ _____	\$ _____
203.1	COMMON EXCAVATION _____ Dollars and _____ Cents	CY	550	\$ _____	\$ _____
203.6	EMBANKMENT-IN-PLACE (F) _____ Dollars and _____ Cents	CY	50	\$ _____	\$ _____
304.3	CRUSHED GRAVEL (F) _____ Dollars and _____ Cents	CY	295	\$ _____	\$ _____
403.12	HOT BITUMINOUS PAVEMENT, HAND METHOD _____ Dollars and _____ Cents	T	8	\$ _____	\$ _____
607.235	CHAIN LINK FENCE WITH ALUMINUM COATED STEEL FABRIC, 3.5' HIGH _____ Dollars and _____ Cents	LF	80	\$ _____	\$ _____
607.4235	POST ASSEMBLIES FOR CHAIN LINK FENCE, 3.5' HIGH _____ Dollars and _____ Cents	EA	9	\$ _____	\$ _____
608.1251	2.5" BITUMINOUS SIDEWALK _____ Dollars and _____ Cents	SY	60	\$ _____	\$ _____
608.34	4" REINFORCED CONCRETE SIDEWALK (F) (FIBER REINFORCED) _____ Dollars and _____ Cents	SY	1040	\$ _____	\$ _____

## BID SCHEDULE – (Base Bid)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
608.36	6" REINFORCED CONCRETE SIDEWALK (F) (WIRE MESH REINFORCED) _____ Dollars and _____ Cents	SY	140	\$ _____	\$ _____
608.54	DETECTABLE WARNING DEVICES, CAST IRON _____ Dollars and _____ Cents	SY	14	\$ _____	\$ _____
609.01	STRAIGHT GRANITE CURB _____ Dollars and _____ Cents	LF	20	\$ _____	\$ _____
609.02	CURVED GRANITE CURB _____ Dollars and _____ Cents	LF	15	\$ _____	\$ _____
609.5	RESET GRANITE CURB _____ Dollars and _____ Cents	LF	150	\$ _____	\$ _____
615.03	TRAFFIC SIGN TYPE C (F) _____ Dollars and _____ Cents	SF	24	\$ _____	\$ _____
615.06	TRAFFIC SIGN TYPE CC (F) _____ Dollars and _____ Cents	SF	1	\$ _____	\$ _____
618.61	UNIFORMED OFFICERS WITH VEHICLE (ALLOWANCE) Ten Thousand Eight Hundred _____ Dollars and _____ No _____ Cents	\$	0.8	<u>\$10,800.00</u>	<u>\$8,640.00</u>
618.7	FLAGGERS _____ Dollars and _____ Cents	HR	500	\$ _____	\$ _____

## BID SCHEDULE – (Base Bid)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
619.1	MAINTENANCE OF TRAFFIC _____ Dollars and _____ Cents	U	0.75	\$ _____	\$ _____
619.253	PORTABLE CHANGEABLE MESSAGE SIGN (UNIT WEEK) _____ Dollars and _____ Cents	UWK	12	\$ _____	\$ _____
628.2	SAWED BITUMINOUS PAVEMENT _____ Dollars and _____ Cents	LF	335	\$ _____	\$ _____
632.3106	RETROREFLECT. THERMOPLAS. PAVE. MARKING, 6" LINE _____ Dollars and _____ Cents	LF	50	\$ _____	\$ _____
632.3112	RETROREFLECT. THERMOPLAS. PAVE. MARKING, 12" LINE _____ Dollars and _____ Cents	LF	440	\$ _____	\$ _____
632.3118	RETROREFLECT. THERMOPLAS. PAVE. MARKING, 18" LINE _____ Dollars and _____ Cents	LF	40	\$ _____	\$ _____
632.32	RETROREFLECT. THERMOPLAS. PAVEMENT MARKING, SYMBOL OR WORD _____ Dollars and _____ Cents	SF	90	\$ _____	\$ _____
632.911	OBLITERATE PAVE. MARKING LINE, 12" WIDE & UNDER _____ Dollars and _____ Cents	LF	560	\$ _____	\$ _____
641	LOAM _____ Dollars and _____ Cents	CY	95	\$ _____	\$ _____

## BID SCHEDULE – (Base Bid)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
645.51	HAY BALES FOR TEMPORARY EROSION CONTROL _____ Dollars and _____ Cents	EA	15	\$ _____	\$ _____
645.512	COMPOST SOCK FOR PERIMETER BERM _____ Dollars and _____ Cents	LF	700	\$ _____	\$ _____
646.31	TURF ESTABLISHMENT WITH MULCH AND TACKIFIERS _____ Dollars and _____ Cents	SY	855	\$ _____	\$ _____
650.2	LANDSCAPING _____ Dollars and _____ Cents	U	0.75	\$ _____	\$ _____
660.46	BUS SHELTER (ALLOWANCE) Seven Thousand _____ Dollars and _____ No _____ Cents	\$	1	<u>\$7,000.00</u>	<u>\$7,000.00</u>
660.47	BUS SHELTER INSTALLATION _____ Dollars and _____ Cents	EA	1	\$ _____	\$ _____
692	MOBILIZATION _____ Dollars and _____ Cents	U	1	\$ _____	\$ _____
699	MISCELLANEOUS TEMPORARY EROSION AND SEDIMENT CONTROL (ALLOWANCE) Three Thousand _____ Dollars and _____ No _____ Cents	\$	0.5	<u>\$3,000.00</u>	<u>\$1,500.00</u>

**A) Total Base Bid:**

(Figures) \_\_\_\_\_

(Written) \_\_\_\_\_ dollars and \_\_\_\_\_ cents



## BID SCHEDULE – (Add Alternate A)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
203.1	COMMON EXCAVATION  _____ Dollars and _____ Cents	CY	150	\$ _____	\$ _____
203.6	EMBANKMENT-IN-PLACE (F)  _____ Dollars and _____ Cents	CY	125	\$ _____	\$ _____
304.2	GRAVEL (F)  _____ Dollars and _____ Cents	CY	100	\$ _____	\$ _____
304.3	CRUSHED GRAVEL (F)  _____ Dollars and _____ Cents	CY	135	\$ _____	\$ _____
403.11	HOT BITUMINOUS PAVEMENT, MACHINE METHOD  _____ Dollars and _____ Cents	T	90	\$ _____	\$ _____
403.6	PAVEMENT JOINT ADHESIVE  _____ Dollars and _____ Cents	LF	530	\$ _____	\$ _____
410.22	ASPHALT EMULSION FOR TACK COAT  _____ Dollars and _____ Cents	GAL	200	\$ _____	\$ _____
417	COLD PLANING BITUMINOUS SURFACES  _____ Dollars and _____ Cents	SY	60	\$ _____	\$ _____
585.3	STONE FILL, CLASS C  _____ Dollars and _____ Cents	CY	2	\$ _____	\$ _____

## BID SCHEDULE – (Add Alternate A)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
593.421	GEOTEXTILE; PERM. CONTROL CL. 2, NON- WOVEN _____ Dollars and _____ Cents	SY	6	\$ _____	\$ _____
603.80215	15" PLASTIC PIPE (SMOOTH INTERIOR) _____ Dollars and _____ Cents	LF	25	\$ _____	\$ _____
604.0007	POLYETHYLENE LINER _____ Dollars and _____ Cents	EA	1	\$ _____	\$ _____
604.12	CATCH BASINS TYPE B, 4-FOOT DIAMETER _____ Dollars and _____ Cents	U	1	\$ _____	\$ _____
608.34	4" REINFORCED CONCRETE SIDEWALK (F) (FIBER REINFORCED) _____ Dollars and _____ Cents	SY	85	\$ _____	\$ _____
608.36	6" REINFORCED CONCRETE SIDEWALK (F) (WIRE MESH REINFORCED) _____ Dollars and _____ Cents	SY	40	\$ _____	\$ _____
608.54	DETECTABLE WARNING DEVICES, CAST IRON _____ Dollars and _____ Cents	SY	5	\$ _____	\$ _____
609.01	STRAIGHT GRANITE CURB Fourteen Thousand _____ Dollars and _____ No _____ Cents	LF	170	\$ _____	\$ _____
609.21	SLOPE GRANITE CURB _____ Dollars and _____ Cents	LF	25	\$ _____	\$ _____

## BID SCHEDULE – (Add Alternate A)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
609.5	RESET GRANITE CURB _____ Dollars and _____ Cents	LF	30	\$ _____	\$ _____
616.201	RECTANGULAR RAPID FLASHING BEACON ASSEMBLY (SINGLE SIDED) _____ Dollars and _____ Cents	U	2	\$ _____	\$ _____
616.202	RECTANGULAR RAPID FLASHING BEACON ASSEMBLY (DOUBLE SIDED) _____ Dollars and _____ Cents	U	1	\$ _____	\$ _____
618.61	UNIFORMED OFFICERS WITH VEHICLE (ALLOWANCE) Ten Thousand Eight Hundred _____ Dollars and _____ No _____ Cents	\$	0.2	<u>\$10,800.00</u>	<u>\$2,160.00</u>
618.7	FLAGGERS _____ Dollars and _____ Cents	HR	100	\$ _____	\$ _____
619.1	MAINTENANCE OF TRAFFIC _____ Dollars and _____ Cents	U	0.25	\$ _____	\$ _____
628.1	SAWED CONCRETE PAVEMENT _____ Dollars and _____ Cents	LF	25	\$ _____	\$ _____
628.2	SAWED BITUMINOUS PAVEMENT _____ Dollars and _____ Cents	LF	330	\$ _____	\$ _____
632.3112	RETROREFLECT. THERMOPLAS. PAVE. MARKING, 12" LINE _____ Dollars and _____ Cents	LF	170	\$ _____	\$ _____

## BID SCHEDULE – (Add Alternate A)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
641	LOAM  _____ Dollars and _____ Cents	CY	30	\$ _____	\$ _____
645.51	HAY BALES FOR TEMPORARY EROSION CONTROL  _____ Dollars and _____ Cents	EA	5	\$ _____	\$ _____
645.512	COMPOST SOCK FOR PERIMETER BERM  _____ Dollars and _____ Cents	LF	320	\$ _____	\$ _____
646.31	TURF ESTABLISHMENT WITH MULCH AND TACKIFIERS  _____ Dollars and _____ Cents	SY	255	\$ _____	\$ _____
650.2	LANDSCAPING  _____ Dollars and _____ Cents	U	0.25	\$ _____	\$ _____
660.46	BUS SHELTER (ALLOWANCE)  Seven Thousand _____ Dollars and _____ No _____ Cents	\$	1	<u>\$7,000.00</u>	<u>\$7,000.00</u>
660.47	BUS SHELTER INSTALLATION  _____ Dollars and _____ Cents	EA	1	\$ _____	\$ _____
699	MISCELLANEOUS TEMPORARY EROSION AND SEDIMENT CONTROL (ALLOWANCE)  Three Thousand _____ Dollars and _____ No _____ Cents	\$	0.5	<u>\$3,000.00</u>	<u>\$1,500.00</u>

## BID SCHEDULE – (Add Alternate A)

ITEM NO.	BID ITEM DESCRIPTION AND UNIT PRICE IN WORDS	UNITS	EST. QTY.	UNIT PRICE (FIGURES)	EXTENDED TOTAL (FIGURES)
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**B) Total Add Alternate A Bid:**

(Figures) \_\_\_\_\_

(Written) \_\_\_\_\_ dollars and \_\_\_\_\_ cents

**C) Total Base Bid plus Add Alternate A Bid:**

(Figures) \_\_\_\_\_

(Written) \_\_\_\_\_ dollars and \_\_\_\_\_ cents

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,  
as Principal, and \_\_\_\_\_ as Surety,  
are Hereby held and firmly bound unto City of Portsmouth, New Hampshire as OWNER in the  
penal sum of 10% of Bid for the Gosling Road – Pedestrian, Bike & Related Improvements for  
the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves,  
successors and assigns.

Signed, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

The Condition of the above obligation is such that whereas the Principal has submitted to  
\_\_\_\_\_ a certain BID,  
attached hereto and hereby made a part hereof to enter into a contract in writing, for the  
Gosling Road Pedestrian, Bike & Related Improvements Project,

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract  
in the Form of Contract attached hereto (Properly completed in accordance with  
said BID) and shall furnish a BOND for his faithful performance of said contract,  
and for the payment of all persons performing labor or furnishing materials in  
connection therewith, and shall in all other respects perform the agreement  
created by the acceptance of said BID, then this obligation shall be void,  
otherwise, the same shall remain in force and effect; it being expressly understood  
and agreed that the liability of the Surety for any and all claims hereunder shall, in  
no event, exceed the penal amount of this obligation as herein  
stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety  
and its BOND shall be in no way impaired or affected by any extension of the time within which  
the OWNER may accept such BID; and said Surety does hereby waive notice of any such  
extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_  
Principal (L.S.)

By: \_\_\_\_\_

\_\_\_\_\_  
Surety

By: \_\_\_\_\_

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

*Section B*  
***CONTRACT DOCUMENTS***

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NOTICE OF AWARD  
AGREEMENT  
PAYMENT BOND  
PERFORMANCE BOND  
NOTICE TO PROCEED  
CONTRACTOR'S AFFIDAVIT  
CONTRACTOR'S FINAL RELEASE & WAVER OF LIENS  
CERTIFICATE OF SUBSTANTIAL COMPLETION  
CHANGE ORDER  
CERTIFICATE OF FINAL COMPLETION



**NOTICE OF AWARD**

Dated \_\_\_\_\_, 20 16

TO: \_\_\_\_\_  
(BIDDER)

ADDRESS: \_\_\_\_\_

OWNER'S PROJECT NO: \_\_\_\_\_

PROJECT: Gosling Road – Pedestrian, Bike & Related Improvements

OWNER'S CONTRACT NO: \_\_\_\_\_

CONTRACT FOR: Gosling Road – Pedestrian, Bike & Related Improvements

\_\_\_\_\_  
(Insert name of contract as it appears in the Bid Documents)

You are notified that your Bid dated \_\_\_\_\_ for the above Contract has been considered. You are the apparent successful bidder and have been awarded a contract for:

the construction of new sanitary sewer, storm sewer, and water main including modifications to existing sewers and utilities, and complete roadway reconstruction, sidewalks, curb and property restoration of impacted areas.

(Indicate total Work, alternates or sections of Work awarded)

The Contract Price of your contract is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

6 copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award. The same number of sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within ten days of receiving this Notice of Award.

1. You must deliver to the OWNER all of the fully executed counterparts of the Agreement including all the Contract Documents. This includes the sets of Drawings. Each of the Contract Documents must bear your signature on the cover page.

2. You must deliver with the executed Agreement the Contract Security (Bonds) as specified in the Information for Bidders and General Conditions and proof of insurance.

3. (List other conditions precedent).

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

Within ten days after receipt of acceptable performance BOND, payment BOND, proof of insurance and agreement signed by the party to whom the Agreement was awarded, the **OWNER** will return to you one fully signed counterpart of the Agreement with the Contract Documents attached.

City of Portsmouth  
(OWNER)

**By** \_\_\_\_\_  
(AUTHORIZED SIGNATURE)

Judie Belanger  
Finance Director  
\_\_\_\_\_  
(TITLE)

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

By \_\_\_\_\_

The \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Copy to ENGINEER  
(Use Certified Mail, Return Receipt Requested)

**AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20 16 by  
and between City of Portsmouth, New Hampshire, hereinafter called "**OWNER**"  
(Name of Owner)  
and \_\_\_\_\_ doing business as (an individual,) or (a  
partnership,) or (a corporation) hereinafter called "**CONTRACTOR**".

**WITNESSETH:** That for and in consideration of the payments and agreements hereinafter mentioned:

1. The **CONTRACTOR** will commence and complete the construction of  
Gosling Road – Pedestrian, Bike & related Improvements  
(Project)

2. The **CONTRACTOR** will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the **PROJECT** described herein.

3. The **CONTRACTOR** will commence the work required by the **CONTRACT DOCUMENTS** within 10 calendar days after the date of the **NOTICE TO PROCEED unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS**. Completion time for the project will be calculated as calendar days from the date specified in the **NOTICE TO PROCEED** as follows:

45 Calendar Days to Substantial Completion

Final Completion 30 Calendar Days following Substantial Completion

Liquidated damages for this project will be in accordance with the following schedule:

- a. \$750.00 for each day of delay from the date established for **Substantial Completion**.
- b. \$200.00 for each calendar day of delay from the date established for **Final Completion**.

4. The **CONTRACTOR** agrees to perform all of the **WORK** described in the **CONTRACT DOCUMENTS** and comply with the terms and all grant requirements therein for the sum of \_\_\_\_\_ or as shown in the **BID** schedule.



6. The **OWNER** will pay to the **CONTRACTOR** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**.

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

8. **CONTRACTOR** shall comply with all requirements for funding as set forth in appendices.

**IN WITNESS WHEREOF**, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in 6 copies, each of which shall be deemed an original on the date first above written.

**OWNER:** City of Portsmouth, New Hampshire

By: \_\_\_\_\_  
Name: John P. Bohenko  
City Manager  
(Please type)

(SEAL)  
ATTEST: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

(SEAL)  
ATTEST: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PAYMENT BOND**

**KNOW ALL MEN BY THESE PRESENTS:** that

\_\_\_\_\_ (Name of Contractor)

\_\_\_\_\_ (Address of Contractor)

a \_\_\_\_\_, hereinafter called Principal,  
(Corporation, Partnership or Individual)

and \_\_\_\_\_ (Name of Surety)

\_\_\_\_\_ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto  
City of Portsmouth, New Hampshire

\_\_\_\_\_ (Name of Owner)

1 Junkins Avenue, Portsmouth, NH 03801  
\_\_\_\_\_ Address of Owner)

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

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

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

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

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

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

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

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

**IN WITNESS WHEREOF**, this instrument is executed in \_\_\_\_\_ counterparts, each one of  
(number)  
which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

**ATTEST:**

By: \_\_\_\_\_  
(Principal) Secretary  
**(SEAL)**

\_\_\_\_\_  
Principal  
**BY** \_\_\_\_\_

By: \_\_\_\_\_  
Witness as to Principal  
\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)  
\_\_\_\_\_

**ATTEST:**

By \_\_\_\_\_  
Witness as to Surety  
\_\_\_\_\_  
\_\_\_\_\_  
(Address)

**BY** \_\_\_\_\_  
Attorney - in - Fact  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_

**NOTE:** Date of **BOND** must not be prior to date of Contract.  
If **CONTRACTOR** is partnership, all partners should execute **BOND**.

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



**PERFORMANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS:** that

\_\_\_\_\_ (Name of Contractor)

\_\_\_\_\_ (Address of Contractor)

a \_\_\_\_\_, hereinafter called Principal,  
(Corporation, Partnership or Individual)

and \_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of Portsmouth, New Hampshire  
(Name of Owner)

1 Junkins Avenue, Portsmouth, New Hampshire 03801  
(Address of Owner)

hereinafter called **OWNER**, in the total aggregate penal sum of \_\_\_\_\_ Dollars, \$ ( \_\_\_\_\_ )

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

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

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

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

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

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

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

**ATTEST:**

By: \_\_\_\_\_  
(Principal) Secretary  
**(SEAL)**

\_\_\_\_\_  
Principal

**BY**

\_\_\_\_\_  
(Address)

By: \_\_\_\_\_  
Witness as to Principal  
\_\_\_\_\_  
(Address)

\_\_\_\_\_

\_\_\_\_\_  
(Surety)

**ATTEST:**

By \_\_\_\_\_  
Witness as to Surety  
\_\_\_\_\_  
\_\_\_\_\_  
(Address)

**BY**

\_\_\_\_\_  
Attorney - in - Fact

\_\_\_\_\_  
(Address)

**NOTE:** Date of **BOND** must not be prior to date of Contract.  
If **CONTRACTOR** is partnership, all partners should execute BOND.

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

**NOTICE TO PROCEED**

Dated \_\_\_\_\_, 20 \_\_\_\_\_

TO: \_\_\_\_\_  
(Insert Name of Contractor as it appears in the Bid Documents)

ADDRESS: \_\_\_\_\_

OWNER'S PROJECT NO. \_\_\_\_\_

PROJECT: Gosling Road – Pedestrian, Bike & Related Improvements

OWNER'S CONTRACT NO. \_\_\_\_\_

CONTRACT FOR: Gosling Road – Pedestrian, Bike & Related Improvements

You are notified that the Contract Time under the above contract will commence to run on \_\_\_\_\_, 20 16. By that date, you are to start performing your obligations under the Contract Documents. In accordance with paragraph 3 of the Agreement, the dates of Substantial and Final Completion are as follows:

Before you may start any Work at the site, paragraph 27 of the General Conditions provides that you and Owner must each deliver to the other (with copies to ENGINEER) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also before you may start any Work at the site, you must:  
Provide a project schedule, project superintendent and work force, and pre-construction video.

\_\_\_\_\_  
(add other requirements)

Copy to ENGINEER  
(Use certified Mail, return Receipt Requested)

City of Portsmouth, New Hampshire  
(owner)

By \_\_\_\_\_  
(Authorized Representative)  
Peter H. Rice, P.E.  
Director of Public Works  
(Title)

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED Is hereby acknowledged by:

\_\_\_\_\_  
(Contractor)

this the \_\_\_\_\_, 20 \_\_\_\_\_ Employer Identification  
Number: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Title)

**CONTRACTOR'S AFFIDAVIT**

STATE OF:   New Hampshire  

COUNTY OF: \_\_\_\_\_

Before me, the undersigned, a \_\_\_\_\_  
(Notary Public, Justice of Peace, Alderman)

in and for said County and State personally appeared, \_\_\_\_\_  
(Individual, Partner or duly  
authorized representative of corporate contractor) who being duly sworn according to law

deposes and says that the cost of all the Work, and outstanding claims and indebtedness of whatever nature arising out of the performance of the contract between   the City of Portsmouth, NH    
(Owner)

and \_\_\_\_\_ of \_\_\_\_\_  
(Contractor)

dated \_\_\_\_\_ for the construction of the   Gosling Road – Pedestrian, Bike & Related Improvements  

and necessary appurtenant installations have been paid in full.

\_\_\_\_\_  
(Individual, Partner, or duly authorized representative of corporate contractor)

\_\_\_\_\_  
(Title)

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

\_\_\_\_\_  
Notary Public

**CONTRACTOR'S FINAL RELEASE AND WAIVER OF LIEN**

Project/Owner

Contractor

Project: \_\_\_\_\_

Name \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

Owner \_\_\_\_\_

Contractor License: \_\_\_\_\_

\_\_\_\_\_

Contract Date: \_\_\_\_\_

**TO ALL WHOM IT MAY CONCERN:**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Contractor hereby waives, discharges, and releases any and all liens, claims, and rights to liens against the above-mentioned project, and any and all other property owned by or the title to which is in the name of the above-referenced Owner and against any and all funds of the Owner appropriated and available for the construction of said project, and any and all warrants drawn upon or issued against any such funds or monies, which the undersigned Contractor may have or may hereafter acquire or process as a result of the furnishing of labor, materials, and/or equipment, and the performance of Work by the Contractor on or in connection with said project, whether under and pursuant to the above-mentioned contract between the Contractor and the Owner pertaining to said project or otherwise, and which said liens, claims or rights of lien may arise and exist.

The undersigned further hereby acknowledges that the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_) constitutes the entire **unpaid** balance due the undersigned in Connection with said project whether under said contract or otherwise and that the payment of said sum to the Contractor will constitute payment in full and will fully satisfy any and all liens, claims, and demands which the Contractor may have or assert against the Owner in connection with said contract or project.

Dated this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Contractor

Witness to Signature

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

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OWNER's Project No.: \_\_\_\_\_ ENGINEER's Project No.: 996

Project: Gosling Road – Pedestrian, Bike & Related Improvements

---

CONTRACTOR: \_\_\_\_\_

Contract For: Gosling Road – Pedestrian, Bike & Related Improvements Contract Date: \_\_\_\_\_

---

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

All work except for final installation of RRFB assemblies, minor site cleanup, and submittal of as-build plans.

To: \_\_\_\_\_  
(Owner)

And To: \_\_\_\_\_  
(Contractor)

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

\_\_\_\_\_  
(Date of Substantial Completion)

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

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as follows:

RESPONSIBILITIES:

OWNER: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

---

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

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

---

Executed by ENGINEER on \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Engineer)

By: \_\_\_\_\_

CONTRACTOR accepts this Certificate of Substantial Completion on \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

OWNER accepts this Certificate of Substantial Completion on \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Owner)

By: \_\_\_\_\_



**CHANGE ORDER**

No. \_\_\_\_\_

**PROJECT: Gosling Road – Pedestrian, Bike & Related Improvements**      **DATE OF ISSUANCE:**

**OWNER:** City of Portsmouth      **OWNER’s Project No.**  
(Name & Address) 1 Junkins Avenue  
Portsmouth, New Hampshire

**CONTRACTOR:**      **ENGINEER:** CMA Engineers, Inc.  
35 Bow Street  
Portsmouth, New Hampshire

**CONTRACT FOR: Gosling Road – Pedestrian, Bike & Related Improvements**  
**ENGINEER’s Project No.**      996

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

Description:

Purpose of Change Order:

Attachments:

<b>CHANGE IN CONTRACT PRICE</b> Original Contract Price \$	<b>CHANGE IN CONTRACT TIME</b> Original Contract Time days (days or date)
Previous Change Orders No. -to No. -	Net change from previous Change Orders <b>0 days</b> (days)
Contract Price prior to this Change Order \$	Contract Time prior to this Change Order <b>days</b> (days or date)
Net Increase (Decrease) of this Change Order \$	Net Increase (Decrease) of this Change Order <b>0 days</b> (days)
Contract Price with all approved Change Orders \$	Contract Time with all approved Change Orders <b>days</b> (days or date)

This document will become a supplement to the CONTRACT and all provisions will apply hereto. The attached Contractor’s Revised Project Schedule reflects increases or decreases in Contract Time as authorized by this Change Order.

Stipulated price and time adjustment includes all costs and time associated with the above described change. Contractor waives all rights for additional time extension for said change. Contractor and Owner agree that the price(s) and time adjustment(s) stated above are equitable and acceptable to both parties.

Recommended:

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By: \_\_\_\_\_  
Engineer  
, P.E.

Accepted:

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By: \_\_\_\_\_  
Contractor

Approved:

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By: \_\_\_\_\_  
Public Works Director  
Peter H. Rice, P.E.

Approved:

---

By: \_\_\_\_\_  
Finance Dept. Director

Approved:

---

By: \_\_\_\_\_  
City Manager  
John P. Bohenko

**CERTIFICATE OF FINAL COMPLETION**

Owner's Project No. \_\_\_\_\_ Engineer's Project No. \_\_\_\_\_  
Project \_\_\_\_\_  
Owner: \_\_\_\_\_  
Contractor: \_\_\_\_\_  
Engineer: \_\_\_\_\_

Agreement Date: \_\_\_\_\_  
Notice to Proceed Date: \_\_\_\_\_  
Contractual Substantial Completion Date as modified by Change Orders: \_\_\_\_\_  
Actual Substantial Completion Date: \_\_\_\_\_  
Contractual Final Completion Date as modified by Change Orders: \_\_\_\_\_

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, Engineer and NHDES, the punch list has been completed and the Work of the Contract is hereby declared to be Finally Complete in accordance with the Contract Documents on:

\_\_\_\_\_  
Date of Final Completion

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

Executed by Engineer on: \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_

Contractor Accepts this Certificate of Final Completion on: \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_

Owner Accepts this Certificate of Final Completion on: \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_

NHDES Accepts this Certificate of Final Completion on: \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_

*Section C*  
***GENERAL CONDITIONS***

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GENERAL CONDITIONS  
SUPPLEMENTAL GENERAL CONDITIONS

**C. GENERAL CONDITIONS**

**JUNE 2012**

## GENERAL CONDITIONS

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**GENERAL CONDITIONS**

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## GENERAL CONDITIONS

1. Contract and Contract Documents. The plans, information for bidders, bids, advertisement for bids, bid payment and performance bonds, Agreements, change orders, notice to proceed, specifications and addenda, hereinafter enumerated in the Agreement, shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.
2. Definitions.
  - 2.1 “Addenda” means written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, drawings and specifications, by additions, deletions, clarifications or corrections. Such written or graphic instruments will be issued no less than five days before the bid opening.
  - 2.2 “Bid” means the offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.
  - 2.3 “Bidder” means any person, firm or corporation submitting a bid for the work.
  - 2.4 “Bonds” means bid, performance, and payment bonds and other instruments of security, furnished by the Contractor and his surety in accordance with the Contract Documents.
  - 2.5 “Change Order” means a written order to the Contractor authorizing an addition, deletion or revision in the work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.
  - 2.6 “Contract Documents” means the Contract, including any advertisement for bids, information for bidders, bid, bid bond, Agreement, payment bond, performance bond, notice of award, notice to proceed, change orders, drawings, specifications and addenda.
  - 2.7 “Contract Price” means the total monies payable to the Contractor under the terms and conditions of the Contract Documents.
  - 2.8 “Contract Time” means the number of calendar days stated in the Contract Documents for the completion of the Work.
  - 2.9 “Contractor” means the person, firm or corporation with whom the Owner has executed the Agreement.
  - 2.10 “Division” means the state of New Hampshire Department of Environmental Services, Water Division.

2.11 “Drawings” mean the part of the Contract Documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Engineer.

2.12 “Engineer” means the person, firm or corporation named as such in the contract documents.

2.13 “Field order” means a written order effecting a change in the work not relating to an adjustment in the contract price or an extension of the contract time and issued by the Engineer to the Contractor during construction.

2.14 “Notice of Award” means the written notice of the acceptance of the Bid from the Owner to the successful Bidder.

2.15 “Notice to Proceed” means the written communication issued by the Owner to the Contractor authorizing him to proceed with the Work and establishing the date of commencement of the Work.

2.16 “Owner” means a public or quasi-public body or authority, corporation, association, partnership, or individual for whom the work is to be performed.

2.17 “Plans” means the contract drawings or exact reproductions thereof which show the scope, character, dimensions and details of the work and which have been prepared or approved by the Engineer.

2.18 “Project” means the undertaking to be performed as provided in the Contract Documents.

2.19 “Resident Project Representative” means the authorized representative of the Owner who is assigned to the Project site or any part thereof.

2.20 “Shop Drawings” means all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, which illustrates how specific portions of the Work shall be fabricated or installed.

2.21 “Special conditions” means revisions or additions to these general conditions, Supplemental General Conditions or specifications applicable to an individual project.

2.22 “Specifications” means a part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

2.23 “Subcontractor” means an individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site.

2.24 “Substantial Completion” means that date as certified by the Engineer when the construction of the Project or a specified part thereof is sufficiently completed, in



accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

2.25 “Supplemental General Conditions” means modifications to these general conditions required by a Federal agency for participation in the PROJECT and approved by the agency in writing prior to inclusion in the CONTRACT DOCUMENTS, or such documents that may be imposed by applicable State laws.

2.26 “Supplier” means any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

2.27 “Work” means all labor necessary to produce the construction required by the contract documents, and all materials and equipment incorporated or to be incorporated in the project.

2.28 “Written Notice” means any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the Work.

3. Additional Instructions and Detail Drawings. The Contractor may be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the contract documents and will be so prepared that they can be reasonably interpreted as part thereof.

4. Shop or Setting Drawings. Shop or setting drawings shall be in accordance with the following:

4.1 The Contractor shall furnish 6 copies of the manufacturer's shop drawings, specific design data as required in the detailed specifications, and technical literature covering all equipment and fabricated materials which he proposes to furnish under this contract in sufficient detail to indicate full compliance with the specifications. Shop drawings shall indicate the method of installing, the exact layout dimensions of the equipment or materials, including the location, size and details of valves, pipe connections, etc.

4.2 No equipment or materials shall be shipped until the manufacturer's shop drawings and specifications or other identifying data, assuring compliance with these specifications, are approved by the Engineer.

4.3 The Contractor shall check and verify all field measurements and shall be responsible for the prompt submission of all shop and working drawings so that there shall be no delay in the work.

4.4 Regardless of corrections made in or approval given to such drawings by the Engineer, the Contractor will nevertheless be responsible for the accuracy of such

drawings and for their conformity to the plans and specifications. The Contractor shall notify the Engineer in writing of any deviations at the time he furnishes such drawings. He shall remain responsible for the accuracy of the drawings showing the deviations but not for the acceptance of the deviations from the original design shown in the plans and specification. Approval by the Engineer and the Owner of any deviation in material, workmanship or equipment proposed subsequent to approval of the shop drawings or design data, shall be requested in writing by the Contractor.

4.5 When submitted for the Engineer's review, Shop Drawings shall bear the Contractor's certification that he has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents.

5. Materials, Services, Facilities and Workmanship shall be furnished as follows:

5.1 Except as otherwise specifically stated in the contract documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

5.2 Unless otherwise specifically provided for in the specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose.

5.3 The Contractor shall furnish to the Engineer for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required.

5.4 Materials which are specified by reference to the number or symbol of a specific standard, such as an ASTM standard, a federal specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the advertisement for bids, except as limited to type, class or grade, or modified in such reference. The standards referred to shall have full force and effect as though printed therein.

5.5 For equipment or for materials, when requested by the Engineer, the Contractor shall submit certificates of compliance from the manufacturer, certifying that the equipment or the materials comply with the requirements of the specifications or the standards.

5.6 Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

5.7 Materials, supplies, and equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer.

6. Contractor's Title To Materials. No material, supplies, or equipment to be installed or furnished under this contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease purchase or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the Owner free from any claims, liens, or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any work covered by this contract shall have any right to a lien upon any improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection or any rights under any law permitting such persons to look to funds due the Contractor in the hands of the Owner. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when formal contract is entered into for such materials.
  
7. Inspection and Testing of Materials shall be as follows:
  - 7.1 All materials and equipment used in the construction of the project shall be subject to inspection and testing by the Engineer in accordance with accepted standards at any and all times during manufacture or during the project construction and at any or all places where such manufacture is carried on.
  
  - 7.2 The Contractor shall furnish promptly upon request by the Engineer, all materials required to be tested. All tests made by the Engineer shall be performed in such manner and ahead of scheduled installation, as not to delay the work of the Contractor. When required, testing of concrete, masonry, soils, pipe and pipe materials will be made in accordance with provisions in the specifications.
  
  - 7.3 Material required to be tested which is delivered to the job site shall not be incorporated into the work until the tests have been completed and approval or acceptance given in writing by the Engineer.
  
  - 7.4 Each sample submitted by the Contractor for testing shall carry an identification label containing such information as is requested by the Engineer. It shall also include a statement that the samples are representative of the remaining materials to be used on the project.
  
  - 7.5 Approval of any materials shall be general only and shall not constitute a waiver of the Owner's right to demand full compliance with the contract requirements.
  
  - 7.6 The Engineer may, at his own discretion, undertake the inspection of materials at the source. In the event plant inspection is undertaken, the following conditions shall be met:

C-1.8

- a. The Engineer shall have the cooperation and assistance of the Contractor and the producer with whom he has contracted for materials.
- b. The Engineer shall have full entry at all reasonable times to such areas as may concern the manufacture or production of the materials being furnished.
- c. If required, the Contractor shall arrange for a building for the use of the inspector; such building to be located near the plant, independent of any building used by the material producer, in which to house and use the equipment necessary to carry on the required tests. Cost for such arrangement shall be paid by the Owner as a stated allowance in the bid.
- d. Adequate safety measures shall be provided and maintained at all times.

7.7 Except as otherwise specifically stated in the contract, the costs of sampling and testing will be divided as follows:

- a. The Contractor shall furnish the Engineer, without extra cost, all samples required for testing purposes. All sampling and testing including the number and selection of samples shall be determined by the Engineer for his own information and use.
- b. When testing of materials is specified in the appropriate section of the specifications, the cost of the same shall be charged to the Owner or Contractor, as detailed in the specifications. However, costs of equipment performance tests shall be borne by the Contractor, as detailed in the appropriate section of the specifications.
- c. When the Contractor proposes a material, article or component as equal to the ones specified, reasonable tests may, or may not, be required by the Engineer. If the Engineer requires tests of a proposed equal item, the Contractor will be required to assume all costs of such testing.
- d. Any material, article or component which fails to pass tests required by the Engineer or by the specifications, will be rejected and shall be removed from the project site. However, if, upon request of the Contractor, retesting or further tests are permitted by the Engineer, the Contractor shall assume all costs related to such retesting or further tests.
- e. Neither the Owner nor the Engineer will in any way be charged for the manufacturer's costs in supplying certificates of compliance.

7.8 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor will give the Engineer

timely notice of readiness. The Contractor will then furnish the Engineer with the required certificates of inspection, testing or approval.

7.9 Inspections, tests, or approvals by the engineer or others shall not relieve the Contractor from obligations to perform the Work in accordance with the requirements of the Contract Documents.

8. “Or Equal” Clause, Substitutions and Contractor Options.

8.1 Whenever a material, article, or piece of equipment is identified on the plans or in the specifications by reference to manufacturer's or vendor's names, trade names, catalogue numbers, etc., it is intended merely to establish a standard of quality and performance. Any material, article, or equipment of other manufacturers and vendors, which will perform satisfactorily the duties imposed by the general design, shall be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Engineer, of equal quality and function. The Engineer shall determine equality based on such information, tests, or other supporting data that may be required of the Contractor.

8.2 Upon acceptance and approval by the Engineer of an equal product, it shall remain the responsibility of the Contractor to coordinate installation of the item with all other items to be furnished to assure proper fitting together of all items. Similar responsibility applies to items which are left to the Contractor's option. Any additional cost of equal items and any additional cost incidental to the coordination and/or fitting together of such items shall be borne by the Contractor at no extra cost to the Owner.

8.3 If a specified or equal item is not available to meet the construction schedule, the Contractor may propose a substitute item of less than equal performance and quality. If this substitute is acceptable to the Engineer, any difference in purchase cost or costs incidental to the installation of such item will be negotiated between the parties to the contract.

8.4 Neither equal nor substitute items shall be installed without written approval of the Engineer.

8.5 The Contractor shall warrant that if substitutes are approved, no major changes in the function or general design of the Project will result.

9. Patents. Patent information is as follows:

9.1 The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the contract documents.

9.2 License and/or royalty fees for the use of a process used in wastewater plant design which is authorized by the Owner for the project, must be reasonable, and paid to the holder of the patent, or his authorized licensee.

9.3 If the Contractor uses any design, device or materials in the construction methods for the project covered by patents or copyrights, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the construction of the work or after completion of the work.

10. Surveys. Surveys of land, property and construction shall be as follows:

10.1 The Owner will provide all land surveys and will establish and locate all property lines relating to the project.

10.2 For structures, the Engineer will establish and stake out one or more base lines as needed and will establish bench marks in and around the project site for the use of the Contractor and for the Engineer's own reference in checking the work in progress. For structures such as pipelines, the Engineer will establish the location of the pipe, manholes and other appurtenances, and will establish bench marks along the route of the pipeline at intervals for the using of the Contractor and for his own reference in checking the pipe and manhole inverts and other elevations throughout the project. The Contractor shall utilize the lines and bench marks established by the Engineer to set up whatever specific detail controls he may need for establishing location, elevation lines and grades of all structures. All this work is subject to checking, approval, and continuous surveillance by the Engineer to avoid error. The Contractor shall provide the Engineer with a qualified man or men to assist in this checking as needed and on request of the Engineer.

10.3 For construction other than pipelines and appurtenances in roadways and cross country, the Contractor shall be responsible for the location and setting lines and grades. The Contractor shall establish the location for pump station and wastewater treatment facility structures, associated yard piping including electrical conduits, internal piping and all equipment. Base lines and benchmarks for setting of the lines and grades for the above shall be provided by the Engineer.

10.4 Protection of stakes. The Contractor shall protect and preserve all of the established baseline stakes, bench marks, or other controls placed by the Engineer. Any of these items destroyed or lost through fault of the Contractor will be replaced by the Engineer at the Contractor's expense.

11. Contractor's Obligations are as follows: The Contractor shall and in good workmanlike manner, do and perform all work and furnish and pay for all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract, within the time stated in the proposal in accordance with the plans and drawings covered by this contract, and any and all supplemental plans and drawings, in accordance with the directions of the Engineer as given from time to time during the progress of the work, whether or not he considers the direction in accordance with the terms of the contract. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the contract documents, and shall do, carry on and complete the entire work to the satisfaction of the Engineer and Owner.

Contractor shall carry on the work and adhere to the progress schedule during all disputes, disagreements or unresolved claims with the Owner. No work shall be delayed or postponed pending the resolution of any disputes, disagreements, or claims except as the Owner and Contractor may otherwise agree in writing.

12. Weather Conditions. In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct, the Contractor and his Subcontractors shall protect their work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors to so protect his work, such materials shall be removed and replaced at the expense of the Contractor.

13. Protection of Work and Property shall be provided as follows:

13.1 The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract. He shall at all times safely guard and protect his own work, and that of adjacent property, from damage. The Contractor shall replace or make good any such damage, loss or injury unless caused directly by errors contained in the contract, or by the Owner, or his authorized representatives. The Contractor will notify owners of adjacent utilities when prosecution of the Work may affect them.

13.2 The Contractor shall take all necessary precautions for the safety of employees on the work site, and shall comply with all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. He shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of the workmen and the public and shall post danger signs warning against the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, trenches and other excavations, and falling materials, and he shall designate a responsible member of his organization on the work, whose duty shall be the prevention of accidents. The name and position of any person so designated shall be reported to the

Engineer by the Contractor. The person so designated shall be available by phone during nonworking hours.

13.3 In case of emergency which threatens loss or injury of property, and/or safety of life, the Contractor is allowed to act, without previous instructions from the Engineer. He shall notify the Engineer immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted in writing to the Engineer for approval.

13.4 When the Contractor has not taken action but has notified the Engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the Engineer.

13.5 The intention is not to relieve the Contractor from acting, but to provide for consultations between Engineer and Contractor in an emergency which permits time for such consultations.

13.6 The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Article 17 (extra work and change orders) of the general conditions.

14. Inspection of work for conformance with plans and specifications.

14.1 For purposes of inspection and for any other purpose, the Owner, the Engineer, and agents and employees of the Division or of any funding agency may enter upon the work and the premises used by the Contractor, and the Contractor shall provide safe and proper facilities therefore. The Engineer shall be furnished with every facility for ascertaining that the work is in accordance with the requirements and intention of this contract, even to the extent of uncovering or taking down portions of finished work.

14.2 During construction and on its completion, all work shall conform to the location, lines, levels and grades indicated on the drawings or established on the site by the Engineer and shall be built in a workmanlike manner, in accordance with the drawings and specifications and the supplementary directions given from time to time by the Engineer. In no case shall any work which exceeds the requirements of the drawings and specifications be paid for as extra work unless ordered in writing by the Engineer.

14.3 Unauthorized work and work not conforming to plans and specifications shall be handled as follows:

- a. Work considered by the Engineer to be outside of or different from the plans and specifications and done without instruction by the Engineer, or in wrong location, or done without proper lines or levels, may be ordered by the Engineer to be uncovered or dismantled.



b. Work done in the absence of the Engineer or his agent may be ordered by the Engineer to be uncovered or dismantled.

c. Should the work thus exposed or examined prove satisfactory, the uncovering or dismantling and the replacement of material and rebuilding of the work shall be considered as "Extra Work" to be processed in accordance with article 17.

d. Should the work thus exposed or examined prove to be unsatisfactory the uncovering or dismantling and the replacement of material and rebuilding of the work shall be at the expense of the Contractor.

15. Reports, Records and Data shall be furnished as follows: The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as are required by the Contract Documents or as the Owner, Division or any funding agency may request concerning work performed or to be performed under this contract.

16. Superintendence by Contractor shall be furnished as follows: At the site of the work, the Contractor shall employ a competent construction superintendent or foreman who shall have full authority to act for the Contractor. The superintendent or foreman shall have been designated in writing by the Contractor as the Contractor's representative at the site. It is understood that such representative shall be acceptable to the Engineer and shall be the one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll. Such representative shall be present on the site at all times as required to perform adequate supervision and coordination of the Work.

17. Extra Work and Change Orders shall be processed as follows:

17.1 The Engineer may at any time by written order and without notice to the sureties require the performance of such extra work or changes in the work as may be found necessary. The amount of compensation to be paid to the Contractor for any extra work so ordered shall be made in accordance with one or more of the following methods in the order of precedence listed below:

a. A price based on unit prices previously approved; or

b. A lump sum price agreed upon between the parties and stipulated in the order for the extra work;

c. A price determined by adding 15 percent to the "reasonable cost" of the extra work performed, such "reasonable cost" to be determined by the Engineer in accordance with the following paragraph.

17.2 The Engineer shall include the reasonable cost to the Contractor of all materials used, of all labor, both common and skilled, of foreman, trucks, and the fair-market rental rate for all machinery and equipment for the period employed directly on the work. The reasonable cost for extra work shall include the cost to the Contractor of any additional

insurance that may be required covering public liability for injury to persons and property, the cost of workmen's compensation insurance, federal social security, and any other costs based on payrolls, and required by law. The cost of extra work shall not include any cost or rental of small tools, buildings, or any portion of the time of the Contractor, his project supervisor or his superintendent, as assessed upon the amount of extra work, these items being considered covered by the 15 percent added to the reasonable cost. The reasonable cost for extra work shall also include the premium cost, if any, for additional bonds and insurance required because of the changes in the work.

17.3 In the case of extra work which is done by Subcontractors under the specific contract, or otherwise if so approved by the Engineer, the 15 percent added to the reasonable cost of the work will be allowed only to the Subcontractor. On such work an additional percentage of the reasonable cost (before addition of the 15 percent) will be paid to the Contractor for his work in directing the operations of the Subcontractor, for administrative supervision, and for any overhead costs. Such percentage shall be in accordance with the following schedule: reasonable cost up to and including \$50,000—10 percent; next \$50,000 to and including \$100,000—7½ percent; greater than \$100,000—5 percent.

17.4 The Engineer may authorize minor changes or alterations in the work not involving extra cost and not inconsistent with the overall intent of the contract documents. These shall be accomplished by a written field order. However, if the Contractor believes that any minor change or alteration authorized by the Engineer entitles him to an increase in the contract price, he may make a claim therefore as provided in article 21.

18. Time For Completion and Liquidated Damages. The following paragraphs address time for completion and liquidated damages:

18.1 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are Essential Conditions of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed."

18.2 The Contractor agrees that said work shall be pursued regularly, diligently and continuously at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

18.3 If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.

18.4 The liquidated damages amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing

and ascertaining the actual damages the Owner would in such event sustain. Said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be deducted from time to time by the owner from current periodical payments.

18.5 It is further agreed that "time is of the essence" of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall "be of the essence". Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in the completion of the work is due to:

- a. A preference, priority or allocation order duly issued by the government;
- b. An unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather;
- c. Any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article:

18.6 The Contractor shall promptly notify the Owner in writing of the causes of the delay. The Owner shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of his decision in the matter.

19. Defective Work. Defective work shall be processed as follows:

19.1 The Contractor shall promptly remove from the premises all materials and work condemned by the Engineer as failing to meet contract requirements, whether incorporated in the work or not, and the Contractor shall promptly replace and re-execute his own work in accordance with the contract and without expense to the Owner and shall bear the expense of making good all work of other Contractors which was destroyed or damaged by such removal or replacement.

19.2 All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such condemned work and materials within 10 days after receipt of written notice, the Owner may remove them and store the material at the expense of the Contractor. If the Contractor does not pay the expense of such removal and storage within 10 days time thereafter, the Owner may, upon 10 days written notice, sell such materials at auction or at private sale and shall pay to the Contractor any net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

20. Differing Site Conditions. Claims for differing site conditions shall be processed as follows:

20.1 The Contractor shall promptly and before such conditions are disturbed, notify the Engineer in writing of:

- a. Subsurface or latent physical conditions at the site differing materially from those indicated in this contract; or,
- b. Unknown physical conditions at the site, differing materially from those ordinarily encountered and generally recognized as inherent in the type of work provided for in this contract.

20.2 The Engineer shall promptly investigate the conditions. If he finds that conditions differ materially and will cause an increase or decrease in the Contractor's cost or the time required to perform any part of the work under this contract whether or not changed as a result of such conditions, the Engineer shall make an equitable adjustment and modify the contract in writing.

20.3 No claim of the Contractor under this clause shall be allowed unless the Contractor has given proper notice as required in paragraph 20.1 of this clause.

20.4 No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

21. Claims For Extra Cost. Claims for extra cost shall be processed as follows:

21.1 No claim for extra work or cost shall be allowed unless the same was done pursuant to a written order by the Engineer, approved by the Owner and the claim presented for payment with the first estimate after the changed or extra work is done. When work is performed under the terms of article 17, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost when requested by the Owner and shall allow the Owner access to accounts relating thereto.

21.2 If the Contractor claims that any instructions by drawings or similar documents issued after the date of the contract involve extra cost under the contract, he shall give the Engineer written notice after the receipt of such instruction and before proceeding to execute the work, except in an emergency which threatens life or property, then the procedure shall be as provided for under article 17, "Extra Work & Change Orders." No claim shall be valid unless so made.

22. Right of Owner to Terminate Contract:

22.1 In the event that any of the provisions of this contract are violated by the Contractor, or by any of his Subcontractors, the Owner may serve written notice upon the Contractor and the surety of its intention to terminate the contract, and unless within 10 days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement for correction be made, the contract shall, upon the expiration of said 10 days cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the surety and the Contractor and the surety shall have the right to take over and perform the contract; provided, however, that if the surety does not commence performance thereof within 10 days from the date of the mailing to such surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Contractor and the Contractor and his surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner

may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

22.2 If the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should refuse or should fail, except in cases for which extensions of time are provided, to supply enough skilled workmen or materials, or if he should fail to make payments to Subcontractors or for material or labor, so as to affect the progress of the work, or be guilty of a violation of the contract, then the Owner, upon the written notice of the Engineer that sufficient cause exists to justify such action may, without prejudice to any other right or remedy and after giving the Contractor and his surety 7 days' written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools, equipment and other facilities installed on the work and paid for by the Owner, and finish the work by whatever method he may deem expedient. In the case of termination of this contract before completion from any cause whatever, the Contractor, if notified to do so by the Owner, shall promptly remove any part or all of his equipment and supplies at the expense of the Contractor. If such expense exceeds such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, and the damage incurred through the Contractor's default, shall be approved by the Engineer.

22.3 Where the contract has been terminated by the Owner, said termination shall not affect or terminate any of the rights of the Owner as against the Contractor or his surety then existing or which may thereafter accrue because of such default. Any retention or payment of monies by the Owner due the Contractor under the terms of the contract, shall not release the Contractor or his surety from liability for his default.

22.4 After ten (10) days from delivery of a Written Notice to the Contractor and the Engineer, the Owner may, without cause and without prejudice to any other remedy, elect to abandon the Project and terminate the Contract. In such case the Contractor shall be paid for all Work executed and any expense sustained plus reasonable profit.

22.5 If through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the Owner or under an order of court or other public authority, or the Engineer fails to act on any request for payment within thirty (30) days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Engineer or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a Written Notice to the Owner and the Engineer terminate the Contract and recover from the Owner payment for all Work executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the Engineer has failed to act on a request for payment or if the Owner has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to the Owner and the Engineer stop the Work until paid all amounts then due, in which event and upon resumption of the Work Change Orders shall be issued for adjusting the Contract Price or Extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the Work.

22.6 If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of failure of the Owner or Engineer to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be

made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner or Engineer.

23. Construction Schedule and Periodic Estimates shall provide for the following:

23.1 Before starting the work or upon request by the Engineer during its progress, the Contractor shall submit to the Engineer a work plan showing construction methods and the various steps he intends to take in completing the work.

23.2 Before the first partial payment is made, the Contractor shall prepare and submit to the Engineer:

- a. A written schedule fixing the dates for submission of drawings; and
- b. A written schedule fixing the respective dates for the start and completion of segments of the work. Each such schedule shall be subject to review and change during the progress of the work.
- c. Respective dates for submission of Shop Drawings and for the beginning of manufacture, the testing, and the installation of materials, supplies, and equipment.
- d. A schedule of payments that the Contractor anticipates will be earned during the course of the Work.

24. Payments to Contractor. Payments to the Contractor shall be made as follows:

24.1 Progress payments. The Owner will once each month make a progress payment to the Contractor on the basis of an estimate of the total amount of work done to the time of the estimate and its value as prepared by the Contractor and approved by the Engineer.

24.2 Retainage by Owner. The Owner will retain a portion of the progress payment, each month, in accordance with the following procedures:

- a. The Owner will establish an escrow account in the bank of the Owner's choosing. The account will be established such that interest on the principal will be paid to the Contractor. The principal will be the accumulated retainage paid into the account by the Owner. The principal will be held by the bank, available only to the Owner, until termination of the contract.
- b. Until the work is 50% complete, as determined by the Engineer, retainage shall be 10% of the monthly payments claimed. The computed amount of retainage will be deposited in the escrow account established above.
- c. After the work is 50% complete, and provided the Contractor has satisfied the Engineer in quality and timeliness of the work, and provided further that there is no specific cause for withholding additional retainage no further amount will be withheld. The escrow account will remain at the same balance throughout the remainder of the project, unless drawn upon by the Owner in accordance with articles 19, 22, and 58.

d. Upon substantial or final completion (as defined in article 25), the amount of retainage will be reduced to 2% of the total Contract Price plus an additional retainage based on the Engineer's estimate of the fair value of the punch list items and the cost of completing and/or correcting such items of work, with specified amounts for each incomplete or defective item of work. As these items are completed or corrected, they shall be paid for out of the retainage until the entire project is declared completed (See article 25). The final 2% retainage shall be held during the one-year warranty period and released only after the Owner has accepted the project.

24.3 In reviewing monthly estimates for payments of the value of work done, the Engineer may accept in the estimate, prior to subtracting the retainage, the delivered cost of certain equipment and nonperishable material which have been delivered to the site or off-site location and which are properly stored and protected from damage. With the estimate, the Contractor shall submit to the Engineer invoices as evidence that the material has been delivered to the site. Prior to submitting the next monthly estimate, the Contractor shall provide the Engineer with paid invoices or other evidence that the materials have been paid for. If the Contractor fails to submit such evidence, the Engineer may then subtract the value of such materials or equipment for which the Owner has previously paid, from the next monthly estimate. The type of equipment and material eligible for payment prior to being incorporated in the work will be at the Engineer's discretion. Material and equipment made specifically for the subject job will be eligible for payment.

24.4 All material and work for which partial payments have been made shall thereupon become the sole property of the Owner. This provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or for the restoration of any damaged work, or as a waiver of the right of the Owner to require compliance with all of the terms of the contract.

24.5 Owner's right to withhold payments and make application. The Contractor agrees that he will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts, equipment, power, tools and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all claims of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails to do so, then the Owner may, upon written notice to the Contractor either pay unpaid bills of which the Owner has written notice directly, or withhold from the Contractor's unpaid compensation a sum of money to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged. Payment to the Contractor shall then be resumed in accordance with the terms of this contract but in no event shall the above provisions be construed to impose any obligations upon the Owner to either the Contractor or his surety or any third party. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as payment made under contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

24.6 If the Owner fails to make payment forty-five (45) days after approval by the Engineer, in addition to other remedies available to the Contractor, there shall be added to

each such payment interest at an annual rate of 10% commencing on the first day after said payment is due and continuing until the payment is received by the Contractor.

25. Acceptance and Final Payment provisions shall be as follows:

25.1 Substantial completion and payment.

a. Substantial completion shall be that point, as certified by the Engineer, at which the contract has been completed to the extent that the Owner may occupy and/or make use of the work performed for the purposes for which it was intended. Upon substantial completion there may be minor items, such as seeding, landscaping, etc., yet to be completed or items of work to be corrected.

b. Upon receipt of written notice from the Contractor that the work is substantially complete, the Engineer shall promptly make an inspection, and when he finds the work complies with the terms of the contract and the contract is substantially completed, he will issue a signed and dated certificate, and a list of all items to be completed or corrected, stating that the work required by this contract has been substantially completed and is accepted by him.

c. Upon substantial completion, the entire balance due and payable to the Contractor less 2 percent of the Contract Price, and less a retention based on the Engineer's estimate of the fair value for the cost of completing or correcting listed items of work with specified amounts for each incomplete or defective item of work shall be made.

d. The general guarantee period for the work shall begin on the date certified by the Engineer that the work is substantially completed.

25.2 Final completion shall be that point at which all work has been completed and all defective work has been corrected. Unless the Engineer has issued a certificate of substantial completion, the general guarantee period shall begin upon certification by the Engineer of final completion.

25.3 At the end of the general guarantee period for the entire contract which has been certified finally completed or substantially completed, the Owner, through the Engineer, shall make a guarantee inspection of all or portions of the work. When it is found that the work is satisfactory and that no work has become defective under the terms of the contract, the Owner will accept the entire project and make final payment, including the reimbursement of monies retained pursuant to the guarantee period.

25.4 If the guarantee inspection discloses any work as being unsatisfactory, the Engineer will give the Contractor the necessary instructions for correction of such work, and the Contractor shall immediately execute such instructions. Upon correction of the work, another inspection will be made which shall constitute the guarantee inspection, provided the work has been satisfactorily completed.

25.5 Before issuance of final payment, the Contractor shall certify in writing to the Engineer that all payrolls, material bills, and other indebtedness connected with the work have been paid or otherwise satisfied; except that in case of disputed indebtedness or liens, if the contract does not include a payment bond, the Contractor may submit in lieu of certification of payment a surety bond in the amount of the disputed indebtedness or



liens, guaranteeing payment of all such disputed amounts, including all related costs and interest in connection with said disputed indebtedness or liens which the Owner may be compelled to pay upon adjudication.

25.6 If upon substantial completion, full completion is delayed through no fault of the Contractor, and the Engineer so certifies, the Owner may, upon certificate of the Engineer, and without termination of the contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

25.7 The acceptance by the Contractor of final payment shall release the Owner from all claims and all liability to the Contractor for all things relating to this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations of the performance and payment bond under this contract.

26. Payments by Contractor. The Contractor shall pay the costs:

26.1 For all transportation and utility services not later than the 20th day of the calendar month following that in which services are rendered;

26.2 For all materials, tools, and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the work and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used; and

26.3 To each of his Subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

27. Insurance. The Contractor and any Subcontractor shall obtain all the insurance required under this article and such insurance shall be approved by the Owner.

27.1 The Contractor and all Subcontractors shall procure and shall maintain during the life of this contract workmen's compensation insurance as required by applicable state law. The Contractor shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance.

Limits of Liability: \$100,000 each accident;  
\$500,000 disease - policy limit;  
\$100,000 disease - each employee.

27.2 The Contractor shall procure and shall maintain during the life of this contract Commercial General liability insurance to include contractual liability, explosion, collapse and underground coverages.

Limits of liability: \$1,000,000 each occurrence bodily injury and property damage;  
\$2,000,000 general aggregate - include per project aggregate endorsement;  
\$2,000,000 products/completed operations aggregate.

If blasting or demolition or both is required by the contract, the Contractor or Subcontractor shall obtain the respective coverage and shall furnish the Engineer a certificate of insurance evidencing the required coverages prior to commencement of any operations involving blasting or demolition or both.

27.3 The Contractor shall procure and shall maintain during the life of this contract comprehensive automobile liability insurance to include all motor vehicles including owned, hired, borrowed and non-owned vehicles.

Limits of liability: \$1,000,000 combined single limit for bodily injury and property damage.

27.4 The Contractor shall either:

a. Require each of his Subcontractors to procure and to maintain during the life of his subcontract commercial general liability insurance and comprehensive automobile liability insurance of the type and in the amounts specified in articles 27.2 and 27.3; or

b. Insure the activities of his Subcontractors in his policy.

27.5 The required insurance shall provide adequate protection for the Contractor and his Subcontractors, respectively, against damage claims which may arise from work under this contract, whether such work be by the insured or by anyone employed by him and also against any of the special hazards which may be encountered in the performance of this contract.

27.6 The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such insurance shall not be canceled or materially altered, except after 10 days written notice has been received by the Owner.

27.7 For builder's risk insurance (fire and extended coverage) and until the work is completed and accepted by the Owner, the Contractor is required to maintain builder's risk type insurance on a 100 percent completed value basis on the insurable portion of the work for the benefit of the Owner, the Contractor, and Subcontractors as their interests may appear.

27.8 The Contractor shall take out and furnish to the Owner and maintain during the life of this contract, complete Owner's protective liability insurance.

Limits of Liability: \$1,000,000 each occurrence;  
\$2,000,000 aggregate.

28. Contract Security. The Contractor shall within ten (10) days after the receipt of the Notice of Award furnish the Owner with a performance bond and a payment bond in penal sums equal to the amount of the contract price conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the Work provided by the contract Documents. Such Bonds shall be executed by the Contractor and a corporate bonding company licensed to transact business in the state in which the Work is to be performed

and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these Bonds shall be borne by the Contractor.

29. Additional or Substitute Bond. If at any time a surety on any such Bond is declared as bankrupt or loses its right to do business in the state in which the Work is to be performed, or is removed from the list of Surety Companies accepted on Federal Bonds, the Contractor shall within ten (10) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.
30. Assignments. The Contractor shall not assign the whole or any part of this contract or any monies due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any monies due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this contract.
31. Mutual Responsibility of Contractors. If, through acts of neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the work site, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractors will so settle. If such other Contractor or Subcontractors shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.
32. Subcontracting. When subcontracting, the Contractor:
  - 32.1 May utilize the services of specialty Subcontractors on those parts of the work which, under usual contracting practices, are performed by specialty Subcontractors.
  - 32.2 Shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
  - 32.3 Shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the contract documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.
  - 32.4 Shall not create any contractual relation between any Subcontractor and the Owner.
  - 32.5 Shall not award Work to Subcontractor(s), in excess of fifty percent (50%) of the Contract Price, without prior written approval of the Owner.

33. Authority of the Engineer. In performing his duties, the Engineer or his representative shall:

33.1 Have the authority to suspend the work in whole or in part for such periods as he may deem necessary due to the failure of the Contractor to carry out provisions of the Contract or for failure of the Contractor to suspend work in weather conditions considered by the Engineer to be unsuitable for the prosecution of the work. The Engineer shall give all orders and directions under this contract, relative to the execution of the work. The Engineer shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to the work. The Engineer's estimates and decisions shall be final and conclusive, except as otherwise provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the Engineer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this contract affected to any extent by such question. The Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found unclear. Any differences or conflicts in regard to their work which may arise between the Contractor under this contract and other Contractors performing work for the Owner shall be adjusted and determined by the Engineer.

a. The purpose of the above article is not in any way to relieve the Contractor of his responsibilities for the safety of workmen or general public in the execution of the work. Attention is drawn to Article 13 of these Conditions which refers to the safety obligations of the Contractor.

b. The Engineer, acting on behalf of the Owner, has the authority to enforce corrective action for work not in accordance with the specifications.

c. In addition, the Engineer, acting on behalf of the Owner, is to ensure that the work is in accordance with the Contract documents. He is not held responsible, however, for the methods of construction, sequences, schedules and procedures in the execution of the work. The Engineer does have the opportunity under 33.1 to reject the method of construction, work plan schedule, procedures, as he thinks appropriate.

33.2 Appoint assistants and representatives as he desires, and they shall be granted full access to the work under the contract. They have the authority to give directions pertaining to the work, to approve or reject materials, to suspend any work that is being improperly performed, to make measurements of quantities, to keep records of costs, and otherwise represent the Engineer in all matters except as provided below. The Contractor may, however, appeal from their decision to the Engineer himself, but any work done pending its resolution is at the Contractor's own risk. Except as permitted and instructed by the Engineer, the assistants and representatives are not authorized to revoke, alter, enlarge, relax, or release any requirements of these specifications, nor to issue instructions contrary to the plans and specifications. They are not authorized to act as superintendents or foremen for the Contractor, or to interfere with the management of the work by the Contractor. Any advice which the assistants or representatives of the Engineer may give the Contractor shall not be construed as binding the Engineer or the Owner in any way, nor as releasing the Contractor from the fulfillment of the terms of the contract. All transactions between the Contractor and the representatives of the Engineer which are liable to protest or where payments are involved shall be made in writing.

34. Stated Allowances. The Contractor shall include in his proposal for costs of materials not shown in his bid under “cash allowances” or “allowed materials,” any cash allowances stated in the supplemental general conditions or other contract documents. The Contractor shall purchase the “allowed materials” as directed by the Owner on the basis of the lowest and best bid of at least 3 competitive bids. If the actual price for purchasing the “allowed materials” is more or less than the “cash allowance,” the contract price shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance or any other incidental expenses. The cost of installation of the “allowed materials” shall be included in the applicable sections of the contract specifications covering this work.
35. Use of Premises, Removal of Debris, Sanitary Conditions. In the use of premises or removal of debris, the Contractor expressly undertakes at his own expense: to take every precaution against injuries to persons or damage to property; to maintain sanitary conditions; to store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not interfere with the progress of his work or the work of any other Contractors; to place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work; to clean up frequently all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the site of the work shall present an orderly and workmanlike appearance; before final payment to remove all surplus material falsework, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in an orderly condition; to effect all cutting, fitting or patching of his work required to make the same conform to the plans and specifications and, except with the consent of the Engineer, not to cut or otherwise alter the work of any other Contractor; to provide and maintain in a sanitary condition such toilet accommodations for the use of his employees as may be necessary to comply with the requirements of the state and local boards of health, or of other bodies or authorities having jurisdiction.
36. Quantities of Estimate. Wherever the estimated quantities of work to be done and materials to be furnished under this contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is specifically reserved except as herein otherwise specifically limited, to increase or decrease them as may be deemed reasonably necessary by the Owner to complete the work contemplated by this contract, and such increase or decrease shall in no way invalidate this contract, nor shall any such increase or decrease give cause for claims or liability for damages. Such increases or decreases shall not exceed 25 percent of the estimated quantities of work. An increase or decrease in quantities for subsurface materials (e.g. ledge, unsuitable backfill), which overrun or underrun by 25% or more of the bid quantity may be the basis for a contract price adjustment, at the rate of a negotiated adjusted unit rate. Negotiated unit price rates shall be equitable and shall take into account, but not be limited to the following factors; bid unit rate, distribution of rates and bid balance, and the scope of work as affected by the changed quantities. Claims for extra work resulting from changed quantities shall be processed under article 21.
37. Lands and Rights-of-Way. Acquisition and usage of lands and rights-of-way shall be as follows:

- 37.1 Prior to issuing the Notice to Proceed, the Owner shall legally obtain all lands and rights-of-way necessary for carrying out and completing the work to be performed under this contract.
- 37.2 The Contractor shall not (except after written consent from the Owner) enter or occupy with men, tools, materials, or equipment, any land outside the rights-of-way or property of the Owner. A copy of the written consent shall be given to the Engineer.
- 37.3 The Owner shall provide to the Contractor information which delineates and describes the lands owned and the rights-of-way acquired.
- 37.4 The Contractor shall provide at its own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.
38. General Guarantee. With reference to warranties, neither the final certificate of payment nor any provision in the contract documents, nor partial or entire occupancy of the premises by the Owner, shall constitute an acceptance of work not done in accordance with the contract documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which appear within the warranty period one year or longer if required by the contract, from the certified date of completion or substantial completion of the work. The Owner will give notice of observed defects within two working days of their discovery.
39. Errors and Inconsistencies. With reference to errors and inconsistency in contract documents, any provisions in any of the contract documents which may be in conflict with the paragraphs in these general conditions shall be subject to the following order of precedence for interpretation:
- 39.1 Drawings will govern technical specifications.
- 39.2 General conditions will govern drawings and technical specifications.
- 39.3 Supplemental general conditions will govern general conditions, drawings and technical specifications.
- 39.4 Special conditions will govern supplemental general conditions, general conditions, drawings and technical specifications.
- 39.5 The Contractor shall take no advantage of any apparent error or omission in the plans or specifications. In the event the Contractor discovers such an error or omission, he shall notify the Engineer. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the plans and specifications.
- 39.6 Figure dimensions on Drawings shall govern over general drawings.
40. Notice and Service Thereof. Any notice to the Contractor from the Owner relative to any part of this contract will be in writing and will be considered delivered and the service completed, when said notice is mailed, by certified registered mail, to the Contractor at

his last given address, or delivered in person to the Contractor or his authorized representative on the work.

41. Required Provisions Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted (example; miswording, etc.), then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

42. Protection of Lives and Health. The work under this contract is subject to the safety and health regulations (CRF 29, part 1926, and all subsequent amendments) as promulgated by the U.S. Department of Labor on June 24, 1974. Contractors are urged to become familiar with the requirements of these regulations.

43. OSHA Construction Safety Program.

43.1 Pursuant to NHRSA 277:5-a, the Contractor shall provide an Occupational Health and Safety Administration (OSHA) 10-hour construction safety program for its on-site employees. All employees are required to complete the program prior to beginning work. The training program shall utilize an OSHA-approved curriculum. Graduates shall receive a card from OSHA certifying the successful completion of the training program.

43.2 Any employee required to complete the OSHA 10-hour construction safety program, and who can not within 15 days provide documentation of completion of such program, shall be subject to removal from the job site.

43.3 The following individuals are exempt from the requirements of the 10-hour construction safety program: law enforcement officers involved with traffic control or jobsite security; flagging personnel who have completed the training required by the Department of Transportation; all relevant federal, state and municipal government employees and inspectors; and all individuals who are not considered to be on the site of work under the federal Davis-Bacon Act, including, but not limited to, construction and non-construction delivery personnel and non-trade personnel.

44. Equal Employment Opportunity. Under equal employment opportunity requirements and during the performance of this contract the Contractor agrees to the following:

44.1 The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, or sex. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, or sex. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

44.2 The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment, without regard to race, creed, color, national origin, or sex.

44.3 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or worker's representative of the Contractor's commitment under section 202 of executive order no. 11246 of September 24, 1965, and 11375 of October, 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

44.4 The Contractor will comply with all provisions of executive orders no. 11246 and 11375.

44.5 The Contractor will furnish all information and reports required by executive orders no. 11246 and 11375.

44.6 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part by the Owner or the Department of Labor and the Contractor may be declared ineligible for further government contracts or federally-assisted construction, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

44.7 A breach of this article may be grounds for termination of this contract and for debarment as provided in 29 CFR 5.6.

45. Interest of Federal, State or Local Officials. No federal, state or local official shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

46. Other Prohibited Interests. No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, Engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, Engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

47. Use and Occupancy Prior to Acceptance. Use and occupancy of a portion or unit of the project, upon completion of that portion or unit, and before substantial completion of the project, shall be a condition of this contract with the following provisions:

47.1 The Owner will make his request for use or occupancy to the Contractor in writing.

47.2 There must be no significant interference with the Contractor's work or performance of duties under the contract.



47.3 The Engineer, upon request of the Owner and agreement by the Contractor, will make an inspection of the complete part of the work to confirm its status of completion.

47.4 Consent of the surety and endorsement of the insurance carrier must be obtained prior to use and/or occupancy by the Owner. Also, prior to occupancy, the Owner will secure the required insurance coverage on the building.

47.5 The Owner will have the right to exclude the Contractor from the subject portion of the project after the date of occupancy but will allow the Contractor reasonable access to complete or correct items.

47.6 The warranty period shall begin upon substantial completion.

48. Suspension of Work. The Owner may, at any time and without cause, suspend the work or any portion thereof for a period of not more than 90 days by notice in writing to the Contractor and the Engineer. The Owner shall fix the date on which work shall be resumed. The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension if he makes a claim therefore as provided in articles 17 and 21.

49. [Reserved]

50. [Reserved]

51. [Reserved]

52. Project Sign. Furnish and erect a sign at the project site to identify the project and to indicate that the State Government is participating in the development of the project. Place the sign in a prominent location as directed by the Engineer. Do not place or allow the placement of other advertising signboards at the project site or along rights-of-way furnished for the project work. See Exhibit 1 for details of construction.

53. [Reserved]

54. Public Convenience and Traffic Control requirements:

54.1 The Contractor shall at all times so conduct his work as to assure minimal obstruction to traffic. The safety and convenience of the general public and the residents along the work site route and the protection of property shall be provided for by the Contractor. The Contractor shall be responsible for timely notification to local residents before causing any interruptions of their access.

54.2 Fire hydrants and water holes for fire protection on or adjacent to the work site shall be kept accessible to fire apparatus at all times, and no obstructions shall be placed within 10 feet of any such facility. No footways, gutters, drain inlets, or portions of highways adjoining the work site shall be obstructed. In the event that all or part of a roadway is officially closed to traffic during construction, the Contractor shall provide and maintain safe and adequate traffic accessibility, satisfactory to the Engineer, for residences and businesses along and adjacent to the roadway so closed.

54.3 When the maintenance of traffic is considered by the Engineer to be minimal, the contract may not show this work as a pay item. In such cases, the Contractor shall bear all expense of maintaining traffic over the sections of road undergoing improvement and of constructing and maintaining such approaches, crossings, intersections, and other features as may be necessary, without direct reimbursement.

55. Pre-Construction Conference. The Contractor shall not commence work until a pre-construction conference has been held at which representatives of the Contractor, Engineer, Division and Owner are present. The pre-construction conference shall be scheduled by the Engineer.

56. Maintenance During Construction.

56.1 The Contractor shall maintain the work during construction and until it is accepted by the Owner. This maintenance shall be continuous and effective work prosecuted day by day, with adequate equipment and forces, to the end that roads or structures are kept in satisfactory condition at all times.

56.2 All cost of maintenance during construction and before the work is accepted by the Owner shall be included in the unit prices bid on the various pay items and the Contractor shall not be paid an additional amount for such maintenance.

56.3 If the Contractor, at any time, fails to comply with the provisions above, the Engineer may direct the Contractor to do so. If the Contractor fails to remedy unsatisfactory maintenance within the time specified by the Engineer, the Engineer may immediately cause the project to be maintained and the entire cost of this maintenance will be deducted from money to become due the Contractor on this contract.

57. Cooperation with Utilities.

57.1 The Owner will notify all utility companies, all pipe line owners, or other parties affected, and have all necessary adjustments of the public or private utility fixtures, pipe lines, and other appurtenances within or adjacent to the limits of construction made as soon as practicable.

57.2 Water lines, gas lines, wire lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the owners of such utilities at their expense, except as may otherwise be provided for in the special conditions or as noted on the plans.

57.3 It is understood and agreed that the Contractor has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated positions as shown on the plans and as evident on the site, and that no additional compensation will be allowed for any delays, inconvenience, damage sustained by him due to any interference from such utility appurtenances or the operation of moving them.

57.4 The Contractor shall cooperate with the Owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication of rearrangements may be reduced to a minimum, and that services rendered by those parties will be minimal.

57.5 In the event of interruption to a water or utility service as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with said authority in the restoration of services. If water service is interrupted, repair work shall be continuous until the service is restored. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority. If any utility service is interrupted for more than 4 hours, the Contractor shall make provisions for temporary service at his own expense until service is resumed.

58. Work Performed at Night and on Sundays and Holidays shall comply with the following:

58.1 No work will be permitted at night or on Sundays or holidays except as approved in writing by the Engineer, and provided such work is not in violation of a local ordinance. When working at night, the Contractor shall provide flood lighting sufficient to insure the same quality of workmanship and the same conditions regarding safety as would be achieved in daylight.

58.2 Whenever Memorial Day or Fourth-of-July is observed on a Friday or a Monday and during the weekend of Labor Day, the Contractor may be required to suspend work for the 3 calendar days. Prior to the close of work, the work site shall be placed in a condition acceptable to the Engineer for the comfort and safety of the traveling public. An arrangement shall be made for responsible personnel acceptable to the Engineer to maintain the project in the above conditions.

59. Laws to be Observed. With reference to laws that shall be observed:

59.1 The Contractor shall keep fully informed of all federal and state laws, all local laws, ordinances, and regulations, and all orders and decrees of tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work. He shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the state and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself or his employees.

59.2 Indemnification

The Contractor will indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the Contractor, and Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

In any and all claims against the Owner or the Engineer, or any of their agents of employees, by any employees of the Contractor, and Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by disability benefit or other employee benefit acts.

The obligation of the Contractor under this paragraph shall not extend to the liability of the Engineer, his agents or employees arising out of the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or Specifications.

60. Permits. Permits to be obtained by the Contractor shall be in accordance with the following:

60.1 Permits and licenses of a temporary nature necessary for the prosecution of the work shall be obtained and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities will be secured and paid for by the Owner. Permits may include:

- a. New Hampshire Department of Transportation Highway Trench Permits.
- b. RSA 485-A:17 and 483-A N.H. DES Wetlands Bureau Dredge and Fill Permit.
- c. RSA 485-A:17 - N.H. DES Site Specific Permit (Water Quality)
- d. RSA 149-M:10 N.H. DES Solid Waste Management Bureau - disposal of construction debris and/or demolition waste.
- e. N.H. Department of Environmental Services Air Resources Division (burning permits).
- f. Other permits, as required by State and Local laws and ordinances.
- g. Notice of intent for coverage under EPA's General NPDES Permit for construction dewatering activities.

61. Control of Pollution due to construction shall comply with the following:

61.1 During construction, the Contractor shall take precautions sufficient to avoid the leaching or runoff of polluting substances such as silt, clay, fuels, oils, bitumens, calcium chloride and any other polluting materials which are unsightly or which may be harmful to humans, fish, or other life, into groundwaters and surface waters of the State.

61.2 In waters used for public water supply or used for trout, salmon, or other game or forage fish spawning or nursery, control measures must be adequate to assure that turbidity in the receiving water will be increased not more than 10 standard turbidity units (s.t.u.) in the absence of other more restrictive locally-established limitations, unless otherwise permitted by the Division. In no case shall the classification for the surface water be violated.

61.3 In water used for other purposes, the turbidity must not exceed 25 s.t.u. unless otherwise permitted by the Division.

62. Use of Explosives.

62.1 When the use of explosives is necessary for the prosecution of the Work, exercise the utmost care not to endanger life or property. The Contractor shall be responsible for any and all damage resulting from the use of explosives.

62.2 Store all explosives in a secure manner, in compliance with all State and local laws and ordinances, and legally mark all such storage places. Storage shall be limited to such quantity as may be needed for the work underway.

62.3 Designate as a "Blasting Area" all sites where electric blasting caps are located and where explosive charges are being placed. Mark all blasting areas with signs as required by law. Place signs as required by law from each end of the blasting area and leave in place while the above conditions prevail. Immediately remove signs after blasting operations or the storage of caps is over.

62.4 Notify each property Owner and public utility company having structures in proximity to the site of the work sufficiently in advance to enable the companies to take such steps as they may deem necessary to protect their property. Such notice shall not relieve the Contractor of any of his responsibility for damage resulting from his blasting operation. Warn all persons within the danger zone of blasting operations and do not perform blasting work until the area is cleared. Provide sufficient flagmen outside the danger zone to stop all approaching traffic and pedestrians. Provide watchmen during the loading period and until charges have been exploded. Place adequate protective covering over all charges before being exploded.

63. Arbitration by Mutual Agreement.

63.1 All claims, disputes, and other matters in question arising out of, or relating to, the Contract Documents or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided in Section 25, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

63.2 Notice of the request for arbitration shall be filed in writing with the other party to the Contract Documents and a copy shall be filed with the Engineer. Request for arbitration shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations.

63.3 The Contractor will carry on the Work and maintain the progress schedule during any arbitration proceedings, unless other wise mutually agreed in writing.

64. Taxes. The Contractor shall pay all sales, consumer, use, and other similar taxes required by the laws of the place where the Work is performed.

65. Separate Contracts.

65.1 The Owner reserves the right to let other contracts in connection with this Project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall properly connect and coordinate the Work with theirs. If the proper execution or results of any part of the Contractor's Work depends upon the Work of any other Contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such Work that render it unsuitable for such proper execution and results.

65.2 The Owner may perform additional Work related to the Project or the Owner may let other contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such Contracts (or the Owner, if the Owner is performing the additional Work) reasonable opportunity for the introduction and storage of materials and equipment and the execution of the Work, and shall properly connect and coordinate the Work with theirs.

65.3 If the performance of the additional Work by other Contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, written notice shall thereof be given to the Contractor prior to starting such additional Work. If the Contractor believes that the performance of such additional Work by the Owner or others involves it in additional expense or entitles it to an extension of the Contract Time, the Contractor may make a claim thereof as provided in Sections 17 and 18.

## SUPPLEMENTAL GENERAL CONDITIONS

### Supplemental General Conditions

The following supplemental general conditions modify, change, delete, or add to the "General Conditions." Where any part of the General Conditions is modified or voided by these Sections, the unaltered provisions of that part shall remain in effect.

<u>Section No.</u>	<u>Section Title</u>	<u>Page No.</u>
SGC- 14.1	Inspection	C-1.2
SGC- 15	Reports, Records and Data	C-1.13
SGC-17.1	Extra Work and Change Orders	C-1.13
SGC-20.2	Claims for Differing Site Conditions	C-1.16
SGC-24.2	Retainage by Owner	C-1.18
SGC-27	Insurance	C-1.21, 1.22
SGC-28	Contract Security	C-1.22
SGC-44.2	Non-Discrimination	C-1.27
SGC-52	Project Sign	C-1.29
SGC-55	Pre-Construction Conference	C-1.30
SGC-59.2	Indemnification	C-1.31
SGC- 62.5	Use of Explosives	C-1.32







## SUPPLEMENTAL GENERAL CONDITIONS

**Change** the following in paragraph two, Article 27.8:

“Limits of Liability:                                 \$2,000,000 each occurrence;  
   \$2,000,000 aggregate.”

### SGC-28 Contract Security (Supplement to GC 28)

**Add** the following paragraphs to Article 28 of the General Conditions:

The payment bond and performance bond furnished by the contractor shall be in the form of the bonds shown on Page C-2.5 and C-2.6 and C-2.7 and C-2.8, unless approved otherwise by the engineer.

The terms contained in the performance bond shall in no way invalidate the provisions of the contract documents or the right of the owner to terminate the contract as specified therein.

### SGC-44 Non-Discrimination

**Add** the following sentence to paragraph 44.2:

“Pursuant to New Hampshire law, the Contractor shall not discriminate on the basis of sexual orientation.”

### SGC-55 Pre-Construction Conference

Replace first sentence to read: “The Contractor shall not commence work until a pre-construction conference has been held at which representatives of the Contractor, Engineer, and Owner are present. The pre-construction conference shall be scheduled by the Engineer.”

### SGC-59.2 Indemnification (Special Condition to GC 59.2)

**Delete** the first paragraph in its entirety.

**Replace** with the following paragraph:

“Contractor will indemnify Owner and Engineer against all suits, claims, judgments, awards, loss, cost or expense (including without limitation attorneys fees) arising in any way out of the Contractor’s negligence or breach of its obligations or warranties under this Contract. Contractor will defend all such actions with counsel satisfactory to the Owner at Contractor’ expense, including attorneys’ fees and will satisfy any judgment rendered against Owner in such action.”

### SGC-62.5 Use of Explosives (Special Condition to GC 62)

**Add** the following after paragraph 62.4:

## SUPPLEMENTAL GENERAL CONDITIONS

All blasting shall conform fully with all applicable local, state and Federal laws.

*Section D*  
***TECHNICAL SPECIFICATIONS***

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SPECIAL REQUIREMENTS FOR CDBG  
SPECIAL PROVISIONS  
SPECIAL PROVISION 616.201  
SPECIAL PROVISION 616.202  
SUPPLEMENTAL SPECIFICATION 608

## **SPECIAL REQUIREMENTS FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDED PROJECTS**

### **AUTHORITY**

Provisions of this Agreement are pursuant to the authority set forth in Title 24 of the Code of Federal Regulations, Part 570 (Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)), and all other applicable federal, state, county or municipal authorities which shall impose any local laws, regulations and policies governing funds provided under this Agreement.

### **FUNDING**

This project is funded in part by the City's Community Development Block Grant (CDBG), which is received from the U.S. Department of Housing and Urban Development and administered by the Portsmouth Community Development Department. Project work must be completed in accordance with all applicable statutes, laws, and regulations.

### **ASSURANCES**

1. The CONTRACTOR will comply with Title VI of the Civil Rights Act of 1964, codified in United States Code Title 42 2000 (d), and implemented at 24 CFR Part 1 as well as 24 CFR Part 570.602, and in accordance therewith, no person in the United States shall, on the grounds of race, color, national origin, religion, age or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with the Community Development funds or any other Federal financial assistance. The CONTRACTOR will immediately take any measures necessary to effectuate this Agreement.
2. CONTRACTOR will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended; and implemented at 24 CFR Part 135 and in accordance therewith, in all work made possible by or resulting from this Agreement, affirmative action will be taken to ensure that residents (preferably low to moderate income as defined by U.S. Housing and Urban Development) of the City are given maximum opportunities for training and employment and that business concerns located in or owned in substantial part by residents of the City are to the greatest extent feasible, awarded contracts.
3. As this Agreement is funded by monies of the United States, CONTRACTOR shall comply with all of the provisions of Executive Order No. 11246 ("Equal Employment Opportunity") as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. All activities and contracts are subject to Executive Order 11246, as amended and implemented at 41 CFR Chapter 60. In carrying out the Statement of Work (Exhibit A), the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, marital or familial status, age, mental or physical handicap. The CONTRACTOR shall post in conspicuous places, available to employees

and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause. The CONTRACTOR shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, marital or familial status, age, mental or physical handicap. The CONTRACTOR shall incorporate the foregoing requirements of this paragraph in all of its contracts for program work, and will require all of its subcontractors for such work to incorporate all such EEO requirements as are applicable. CONTRACTOR further agrees to permit the State, the United States, or any designated representative of either, to have access to any of the CONTRACTOR's books, records, and accounts for the purpose of ascertaining compliance with the aforesaid rules regulations and orders, and the covenants and conditions of this Agreement.

4. CONTRACTOR shall comply with all other program requirements as described in this Agreement and in 24 CFR Part 570.503, and listed in Appendix A "Compliance by Grantee and Any Contractors, and Subcontractors with Laws and Regulations."
5. CONTRACTOR shall comply with Federal Labor Standards and Applicable Davis-Bacon Wage Rates, as attached in Appendices B and C and incorporated herein by reference.

#### **CONFLICT OF INTEREST**

No officer, employee or agent of the City, or any other person who exercises any functions or responsibilities in connection with the Community Development Program, shall have any personal or financial interest, direct or indirect, in this Agreement; and, the CONTRACTOR shall take appropriate steps to assure compliance with the conflict of interest rules in 2 CFR Part 200.112.

#### **POLITICAL ACTIVITY PROHIBITED - HATCH ACT**

Neither the Community Development funds provided under this Agreement, nor administration of this project shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.

#### **FAITH-BASED ORGANIZATIONS**

Executive Order 13279 allows a government contractor or subcontractor that is a religious organization, corporation, association, educational institution, or society to take religion into consideration in the employment of individuals to perform work connected with the services offered by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempt or excused from complying with the other requirements contained in Executive Order 11246. CONTRACTOR must adhere to 24 CFR 570.200(j) Faith-based activities.

#### **DRUG FREE WORKPLACE**

The CONTRACTOR shall establish a drug-free workplace policy that shall include:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the

CONTRACTOR's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

2. Establish an ongoing drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The CONTRACTOR's policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation, and employee assistance programs; and;
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

## **ENVIRONMENTAL REVIEW COMPLIANCE**

The CONTRACTOR agrees to abide by provisions of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act as required by Title 1 of the Housing and Community Development Act of 1974 as amended from time to time and in compliance with the Environmental Review Procedures of the Community Development Block Grant Program at CFR Part 58 and any subsequent regulations issued by the U.S. Department of Housing and Urban Development (HUD). The CONTRACTOR agrees that any costs incurred prior to the City receiving a Release of Funds authorization from HUD are not eligible for reimbursement. The CONTRACTOR further agrees not to obligate funds or begin implementation of the project prior to the CONTRACTOR receiving specific written authorization from the City to proceed and where applicable, a formal Removal of Grant Conditions by U.S. Department of Housing and Urban Development (HUD).

## **LEAD BASED PAINT**

The CONTRACTOR agrees to abide by provisions of 24 CFR Part 35 Lead Based Paint Poisoning Prevention in Certain Residential Structures. The Final Rule Published by U.S. Department of Housing and Urban Development (HUD) effective as of January 11, 2002.

## **TERMINATION**

CONTRACTOR and the City will comply with the noncompliance and termination provisions in 2 CFR 200.338. In addition to the remedies for noncompliance in 2 CFR §200.338, in accordance with 2 CFR §200.338 and 339, the City may suspend or terminate this Agreement in whole or in part if the CONTRACTOR fails to comply with any terms and conditions of this Agreement or upon the occurrence of any Event of Default or any other breach of this Agreement. The City can withhold all funding and disbursements, demand repayment for amounts disbursed, terminate all payments, and/or exercise all rights and remedies available to it under the terms of this Agreement, the Grant Documents, under statutory law, equity or under common law. If the City terminates this Agreement, the CONTRACTOR shall also forfeit to the City all unexpended monies awarded under the Agreement. CONTRACTOR may also be required to refund all CDBG funds awarded by the City. In accordance with 2 CFR §200.339, the City can terminate the Agreement with the consent of the CONTRACTOR in which case the CONTRACTOR and the City must agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. In accordance with 2 CFR §200.339(a)(4), this Agreement may also be terminated by the City with written

notification setting forth the reason for such termination, the effective date and in the case of partial termination, the portion to be terminated. However, if the City determines in the case of partial termination that the reduced or modified portion of the award will not be accomplished for which the award was made, the City may terminate the award in its entirety. If this award is terminated or partially terminated, the CONTRACTOR remains responsible for compliance with the closeout requirements in 2 CFR §200.343 and post-closeout requirements set forth in 2 CFR §200.344. All remedies shall be deemed cumulative and, to the extent permitted by law, the election of one or more remedies shall not be construed as a waiver of any other remedy the City may have available to it.

## **PRE-CONSTRUCTION CONFERENCE**

- Once the Contract Document is completed, the City coordinates timeframe for the pre-construction conference with the CONTRACTOR.
- The purpose of the pre-construction conference is to coordinate the construction start-up timeframe and to ensure that all of the proper payroll documentation will be produced and that federal requirements describing Equal Employment Opportunity and Section 3 requirements will be met.

## **COMPLIANCE MONITORING**

- The General CONTRACTOR must submit weekly certified payrolls including weekly certified payrolls for all Subcontractors to the City for review and compliance with applicable State or Davis Bacon Wage Rates;
- Construction Progress Payments are submitted to the City for review and approval;
- The City is responsible for conducting on-site employee interviews for compliance with applicable prevailing wage rates and compliance with all federal, state and local requirements concerning – Section 3, MBE/WBE, etc.;
- The City will periodically monitor the construction; and
- Prior to the issuance of final contractor payment the following must be received:
  1. Certification that all prevailing wage documentation has been completed;
  2. Copies of employee interview forms completed by the City;
  3. Release of Liens Statement from general CONTRACTOR;
  4. Final Field Report from project manager authorizing final payment; and
  5. All required Section 3 and EEO forms (if applicable)



## SPECIAL PROVISIONS

### A. TECHNICAL SPECIFICATIONS

Incorporated into the Contract Documents by reference is the current edition of the New Hampshire Department of Transportation Standard Specifications for Road and Bridge Construction,

Division 100 – General Provisions shall apply to the extent that it does not conflict with the General Conditions of the Contract. Where a conflict exists between the adopted specification and the General Conditions, the General Conditions shall govern. Provisions of the adopted specifications are not superseded by the General Conditions. The adopted specifications shall apply.

Wherever in the adopted Technical Specifications reference is made to specific sections or paragraphs in the NHDOT Specification Division 100, that reference shall be interpreted to refer to similar sections or paragraphs in the herein incorporated Modified General Conditions of the Contract for Construction.

The Contractor shall be responsible for obtaining and familiarizing himself with all such NHDOT standards, amendments, and supplements. Copies of the Standard Specifications may be obtained from the NHDOT, John O. Morton Building, 7 Hazen Drive, Concord, NH 03302

#### 1. Special Provisions

All provisions of NHDOT shall apply except as modified herein by these Special Provisions.

#### 2. References to State

Wherever reference is made in NHDOT to “the State,” “FHWA,” “the Commissioner,” “the Department,” “the Bureau” or “the Bureau of,” “The Agency” it shall be understood to refer to the OWNER, except where otherwise indicated in the individual Special Provisions.

#### 3. References to Engineer

Wherever reference is made in NHDOT to “the Engineer,” “the Bridge Engineer,” “the Materials and Research Engineer,” “the Inspector,” and similar terms, it shall be understood to refer to the individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for engineering supervision of the Contract work and acting directly through an authorized representative, except where otherwise indicated in the individual Special Provisions.

## B. MEASUREMENT AND PAYMENT

### 1. General

- a. Each unit and lump sum price stated in the Bid Proposal shall constitute full compensation, as herein specified, for each item of the work completed.
- b. All unit price bid items will be measured in accordance with NHDOT Specification 109 to determine final quantities of Work in place after completion of the Work.
- c. All units of measurement shall be standard United States units as applied to the specific items of work by industry tradition and as interpreted by the ENGINEER.

### 2. Partial Payment/Monthly Pay Estimate

- a. After Award of the Contract and prior to the CONTRACTOR'S mobilization on-site, the CONTRACTOR shall submit a breakdown of component items and associated prices of the individual lump sum units. This information shall form the basis for preparation of the monthly cost estimate in the "Monthly Progress Summation" form.
- b. Prior to request for partial payment, the CONTRACTOR'S superintendent or other authorized representative of the CONTRACTOR shall meet with the Resident Engineer and determine and agree upon quantities of work accomplished and/or completed during the work period.
- c. Once each month the CONTRACTOR will prepare a "Monthly Progress Summation" form as part of his partial payment request.
- d. These completed forms will provide the basis of the ENGINEER'S review of monthly quantity estimates upon which payment will be made. Items not appearing on the "Monthly Progress Summation" will not be considered for payment.
- e. The CONTRACTOR shall submit with each payment application a bill of sale, invoice or other documentation warranting that the OWNER has received the material and equipment free and clear of all liens and that the materials and equipment are covered by appropriate insurance.
- f. The CONTRACTOR shall submit copies of Lien Waivers for work or materials supplied by subcontractors and suppliers with each payment application. Lien waiver forms to be approved by Engineer prior to first payment application.
- g. The CONTRACTOR shall make prompt payment to subcontractors and suppliers in accordance with the attached NHDOT Supplemental Specification Section 109.

### 3. Scope of Payment

- a. For lump sum payment items, payments to the CONTRACTOR will be based upon the ENGINEER'S approved estimate of percentage completion of the lump sum tasks. The estimate shall be based on approximated quantities of work completed in accordance with the Plans and Specifications and shall be reviewed and approved by the ENGINEER.
- b. For unit price payment items, payments to the CONTRACTOR will be made for the actual measured quantities of contract items performed and accepted in accordance with the Plans and Specifications. Upon completion of the construction, if these actual quantities show either an increase or decrease from the quantities given in the Proposal Form, the contract unit prices will still prevail, except as provided hereinafter.

Measurements for quantities shall be based on actual field surveys performed jointly by the ENGINEER and CONTRACTOR unless other measurement techniques are approved by the ENGINEER. The volume calculations shall be based on the average end area method except as approved by the ENGINEER. When measurement of materials in vehicles is permitted by the ENGINEER, the quantity will be determined as 80 percent of the loose volume.

- c. The CONTRACTOR shall accept as payment as herein provided, full compensation for furnishing all materials, labor, tools, equipment, and incidentals necessary to the completed work and for performing all work contemplated and embraced by the contract. The payment shall be made with the prices contained in the Bid Proposal and shall include compensation for all loss or damage arising from the nature of the work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work and until its final acceptance by the ENGINEER, and for all risks of every description connected with the prosecution of the work, except as provided herein, and also for all expenses incurred in consequence of the suspension of the work as herein authorized.

### 4. Payment for Increased or Decreased Quantities

- a. When alterations in the quantities of work not requiring supplemental agreements are ordered and performed, the CONTRACTOR shall accept payment in full at the contract price for the actual quantities of work done. No allowance will be made for anticipated profits.
- b. Measurements for increased or decreased work shall be based on actual field surveys performed jointly by the ENGINEER and CONTRACTOR unless other measurement techniques are approved by the ENGINEER.

## 5. Eliminated Items

The ENGINEER may eliminate any items from the Contract should they be found unnecessary for the proper completion of the work contracted. Such action shall in no way invalidate the contract, and no allowance will be made for items so eliminated in making final payment to the CONTRACTOR. The contract price shall be reduced by the lump sum amount or unit price amount provided in the CONTRACTOR'S Bid Proposal.

## 6. Partial Payment

- a. Partial Payments shall be made monthly as the work progresses. All partial invoices and payments shall be subject to correction in the final quantity invoice and payment.
- b. No monthly payment shall be required to be made when, in the judgment of the ENGINEER, the work is not proceeding in accordance with the provisions of the contract, or when, in his judgment, the total value of the work done since the last payment amounts to less than \$10,000.

## 7. Payment for Material Delivered on Lump Sum Projects

- a. At the discretion of the ENGINEER, acting upon the request of the CONTRACTOR, an invoice, accompanied by receipted bills, may be made for payment of all or part of the value of acceptable, non-perishable materials and equipment which are to be incorporated into the contract which have been delivered to the site of the work or in acceptable storage places, and not used at the time of such invoice.
- b. Materials, when so paid for by the OWNER shall become the property of the OWNER and in the event of default on the part of the CONTRACTOR, the OWNER may use, or cause to be used, these materials in the construction of the work provided for in the contract
- c. The CONTRACTOR shall be responsible for any damage to, or loss of, stored materials.
- d. The amount thus paid by the OWNER shall go to reduce estimated amounts due the CONTRACTOR as the material is used in the work.

## 8. Incidental Work

- a. Incidental work items for which payment is not measured or made include but are not limited to, the following items:
  - i. Bond, insurance and administrative costs.
  - ii. Incidental Site Preparation, including removing of existing debris in the work area, and disposing of the materials at authorized disposal facilities.
  - iii. Clean up.

- iv. Security, signs, safety equipment, etc.
- v. Restoration of property.
- vi. Cooperation with other Contractors.
- vii. Utility crossing, unless otherwise paid for.
- viii. Dewatering.
- ix. Construction Signs.
- x. Erosion control.
- xi. Preconstruction photographs and video tapes.
- xii. Temporary utilities.
- xiii. Site safety.
- xiv. Testing.
- xv. Mailbox relocations.
- xvi. Removal and/or relocation of existing signs.
- xvii. Invasive species control.
- xviii. As-built/record plans.
- xix. Tack coat.
- xx. All other work indicated on the Drawings or in the Specifications which is required and not specifically indicated in the bid items.

### C. HOT BITUMINOUS PAVEMENT

#### 1. General

- a. All Hot Bituminous Pavement Job Mixes require shop drawing approval.
- b. Asphalt Binder grade for all Hot Bituminous Job Mixes shall be **PG 64-28**.
- c. All Hot Bituminous Pavement Job Mixes shall conform to **50 Gyration** superpave mix design criteria. **Minimum Binder Content** to be 5.9% for 1/2" mix designs and 5.1% for 3/4" mix designs. All pavement mixes shall have a maximum **Total Reused Binder (TRB)** content of 0.5% and meet all the volumetric mix design criteria.
- d. Hot Bituminous Pavement to be placed under NHDOT Section 401 "**Method Requirements**" (not "QC/QA").
- e. Pavement Joint Adhesive (Item 403.6) shall be applied to longitudinal joints in accordance with NHDOT Section 401.
- f. The **CONTRACTOR is required to repair any pavement defects** (rutting, cracking, aggregate separation, delamination, etc.) that occur in placed pavement within the 1-year correction period following the date of Substantial Completion at no cost to the OWNER. Suitable repair methods and materials (such as routing and crack sealing or cutting and patching) to be reviewed and approved by OWNER and ENGINEER prior to installation.

END OF SECTION

**PORTSMOUTH****SPECIAL PROVISION****Item 616.201 – Single-Sided Rectangular Rapid Flashing Beacon Assembly****Description**

**1.1** This work shall consist of furnishing and installing single-sided rectangular rapid flashing beacon (RRFB) assemblies at the locations shown on the Plans or as ordered.

All provisions of Section 616, except as changed below, shall apply.

**Materials**

**2.1** RRFB assembly components shall conform to Plan details and notes and FHWA, MUTCD, NEMA, ADA, and Table 1 requirements:

<b>Table 1</b>	
MUTCD Approval, Optional Use of RRFB	Interim FHWA Approval Memorandum (1A-11)
Housing	Powder coated aluminum
LED Modules (2 per direction)	6 amber LED array, 3" x 7" (RRFB-XL), with side emitting pedestrian verification lights, SAE J595 certified
Flash Pattern	Meet 2-4-1 FHWA regulations. Multiple units to flash in synchronized pattern in the same direction without the need for wiring.
Mounting Hardware	Stainless steel u-bolts for 4" to 4 1/2" O.D. pole
Housing	NEMA 4 rated fiberglass cabinet with lockable clasps
Solar Panel	Manufacturer to size solar panel to provide sufficient electrical power for all year operation, with full consideration of the local climate, surrounding vegetation, and structures. Panel to conform to IP-67 and include aluminum mounting bracket for 4" to 4½" O.D. pole.
Batteries (one per assembly)	12V, 40AH Sealed Gel battery requiring no periodic watering.
Battery Warranty	3 years
Autonomy	Minimum 14 days without sun.

**PORTSMOUTH**

Control Circuit	IP-67 NEMA rated enclosure, dustproof and waterproof in water up to 3' for 30 minutes.
Frequency	900 MHz FHSS
Range	Minimum 1,500 feet.
Programmability	Up to 50 systems in one network
Push-button Activation	ADA pushbutton
Communication Port	RS232
Programming	Programming via Windows basic software
Sign Substrate	Highway grade aluminum meeting MUTCD and NHDOT requirements.
Reflective Sheeting	3M™ DG3 with anti-graffiti overlay
Hardware	Zinc-plated steel anti-vandal fasteners for signs and RRFB units.

**Construction Requirements****3.1 General**

**3.1.1** RRFB assemblies to be set plumb at the required locations on a concrete base, buried a minimum of 6-feet below finish grade, in conformance with Plan details and notes and FHWA, MUTCD, NEMA, and ADA requirements.

**3.1.2** Refer to related Item 616.202 – Double-Sided RRFB.

**Method of Measurement**

**4.1** Each Single-Sided RRFB assembly will be measured as a Unit.

**4.1.1** No separate payment will be made for tree trimming, concrete, steel, paint, signs, pushbuttons, wiring, sawcutting, cold planing, excavation, conduit, pull boxes, backfill, surface restoration, and electrical meters, required for the RRFB assembly placement as shown on the Plans or as ordered.

**Basis of Payment**

**5.1** The accepted quantity of RRFB assemblies will be paid for at the Contract Unit Price, complete in place. The price bid under this item shall be considered as fair compensation for all labor, equipment, tools, supervision, and materials necessary to complete the work associated

**PORTSMOUTH**

with construction and installation of RRFB assemblies as shown on the Plans and specified herein. The work shall include, but not be limited to tree trimming, excavation, concrete foundation installation, breakaway bracket, erection, electrical work, sawcutting, cold planing, conduit, pull boxes, backfill, surface restoration, electrical meters, system programming, testing, and all other work required to complete the RRFB installation not paid for under other items as specified herein.

**Pay Item and Unit:**

616.201	Single-Sided Rectangular Rapid Flashing Beacon Assembly	Unit
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END OF SECTION



**PORTSMOUTH**

**SPECIAL PROVISION**

**Item 616.202 – Double-Sided Rectangular Rapid Flashing Beacon Assembly**

**Description**

**1.1** This work shall consist of furnishing and installing double-sided rectangular rapid flashing beacon (RRFB) assemblies at the locations shown on the Plans or as ordered.

All provisions of Section 616, except as changed below, shall apply.

**Materials**

**2.1** RRFB assembly components shall conform to Plan details and notes and FHWA, MUTCD, NEMA, ADA, and Table 1 requirements:

<b>Table 1</b>	
MUTCD Approval, Optional Use of RRFB	Interim FHWA Approval Memorandum (1A-11)
Housing	Powder coated aluminum
LED Modules (2 per direction)	6 amber LED array, 3" x 7" (RRFB-XL), with side emitting pedestrian verification lights, SAE J595 certified, double-sided
Flash Pattern	Meet 2-4-1 FHWA regulations. Multiple units to flash in synchronized pattern in the same direction without the need for wiring.
Mounting Hardware	Stainless steel u-bolts for 4" to 4 1/2" O.D. pole
Housing	NEMA 4 rated fiberglass cabinet with lockable clasps
Solar Panel	Manufacturer to size solar panel to provide sufficient electrical power for all year operation, with full consideration of the local climate, surrounding vegetation, and structures. Panel to conform to IP-67 and include aluminum mounting bracket for 4" to 4½" O.D. pole.
Batteries (one per assembly)	12V, 40AH Sealed Gel battery requiring no periodic watering.
Battery Warranty	3 years
Autonomy	Minimum 14 days without sun.

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Control Circuit	IP-67 NEMA rated enclosure, dustproof and waterproof in water up to 3' for 30 minutes.
Frequency	900 MHz FHSS
Range	Minimum 1,500 feet.
Programmability	Up to 50 systems in one network
Communication Port	RS232
Programming	Programming via Windows basic software
Sign Substrate	Highway grade aluminum meeting MUTCD and NHDOT requirements.
Reflective Sheeting	3M™ DG3 with anti-graffiti overlay
Hardware	Zinc-plated steel anti-vandal fasteners for signs and RRFB units.

**Construction Requirements****3.1 General**

**3.1.1** RRFB assemblies to be set plumb at the required locations on a concrete base, buried a minimum of 6-feet below finish grade, in conformance with Plan details and notes and FHWA, MUTCD, NEMA, and ADA requirements. Signs and beacons shall be visible to both directions of traffic; pedestrian verification light shall be visible to both pedestrian approaches.

**3.1.2** Refer to related Item 616.201 – Single-Sided RRFB.

**Method of Measurement**

**4.1** Each Double-Sided RRFB assembly will be measured as a Unit.

**4.1.1** No separate payment will be made for tree trimming, concrete, steel, paint, signs, pushbuttons, wiring, sawcutting, cold planing, excavation, conduit, pull boxes, backfill, surface restoration, and electrical meters, required for the RRFB assembly placement as shown on the Plans or as ordered.

**Basis of Payment**

**5.1** The accepted quantity of RRFB assemblies will be paid for at the Contract Unit Price, complete in place. The price bid under this item shall be considered as fair compensation for all

**PORTSMOUTH**

labor, equipment, tools, supervision, and materials necessary to complete the work associated with construction and installation of RRFB assemblies as shown on the Plans and specified herein. The work shall include, but not be limited to tree trimming, excavation, concrete foundation installation, breakaway bracket, erection, electrical work, sawcutting, cold planing, conduit, pull boxes, backfill, surface restoration, electrical meters, system programming, testing, and all other work required to complete the RRFB installation not paid for under other items as specified herein.

**Pay Item and Unit:**

616.202      Double-Sided Rectangular Rapid Flashing Beacon Assembly      Unit

END OF SECTION

## Portsmouth

**SUPPLEMENTAL SPECIFICATION**  
**AMENDMENT TO SECTION 608 – SIDEWALKS**

**Amendment** to Basis of Materials

Paragraph 2.2 is removed and replaced with the following:

**2.2** Portland cement concrete shall be Class A, 4,000 psi at 28 days with 5 to 7 percent air entrained. The maximum concrete slump is 5. All concrete shall be reinforced.

Paragraph 2.3 is removed and replaced with the following:

**2.3 Reinforcement.** Synthetic fiber reinforcement shall be MasterFiber F70 or approved equal, at rate of 1.5 lbs/cy. 6" x 6" x 10ga welded wire mesh reinforcement shall be used in conjunction with truncated dome panels only, all other areas will use fiber reinforcement.

**Amendments** to Construction Requirements

Paragraph 3.2.6.3 should be added as follows:

**3.2.6.3** Contractor shall install expansion joints a minimum of twenty feet (25') on center and where concrete pavement abuts all vertical surfaces including, but not limited to, all buildings, steps, walkways, structures, curbs, walls, light poles, etc.

Paragraph 3.2.6.4 should be added as follows:

**3.2.6.4** Joint sealer for non-color concrete for use at expansion and control joints shall meet Federal Specification TT-S-00230C, Type II, Class A, and shall be a sealing compound, synthetic, rubberbase, single component, chemically curing material.

Paragraph 3.2.6.5 should be added as follows:

**3.2.6.5** Expansion joint backer rod shall be round, closed cell polyethylene rod with a diameter 1/8" (3mm) larger than the width of the joint.

Paragraph 3.3.3 is removed and replaced with the following:

**3.3.3** Install detectable warning devices and any anchoring hardware in accordance with manufacturer's instructions. Panels shall be set into a bed of 6" wet reinforced concrete.

Paragraph 3.3.6 should be added as follows:

**3.3.6** All hardware used in association with the panels shall be stainless steel.

**Amendment** to Method of Measurement

Paragraph 4.1 is removed and replaced with the following:

**4.1** Concrete sidewalks will not be measured, but shall be the square yard final pay quantities in accordance with 109.11 for sidewalks required as shown on the plans. Bituminous sidewalks will be measured by the square yard to the nearest 0.1 of a square yard. The area occupied by the curb will not be included in the final pay quantity. Reinforcement will not be measured separately for payment.

**Amendment** to Basis of Payment

Paragraph 5.1 is removed and replaced with the following:

**5.1** Concrete sidewalks are final pay quantity items and will be paid for at the Contract unit price per square yard complete in place in accordance with 109.11. Bituminous sidewalks will be paid for at the Contract unit price per square yard complete in place.

**Amendment** to Basis of Payment

Add the following:

608.1\_\_ 1 \_\_ in Bituminous Sidewalk      Square Yard

END OF SECTION

# ***APPENDICES***

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APPENDIX A – COMPLIANCE WITH LAWS AND REGULATIONS

APPENDIX B – FEDERAL LABOR STANDARDS PROVISIONS

APPENDIX C – APPLICABLE DAVIS-BACON WAGE RATE DECISION

APPENDIX D – BUS SHELTER DETAILS

## APPENDIX A:

### CITY OF PORTSMOUTH COMMUNITY DEVELOPMENT DEPARTMENT

#### Compliance by Grantee and Any Contractors and Subcontractors with Laws and Regulations

CONTRACTOR and all subcontractors shall comply with the following federal and state laws and all applicable standards, rules, orders, or regulations issued pursuant thereto:

1. The Copeland "Anti-Kickback" Act, as amended (118 USC 874) as supplemented in Department of Labor regulations (41 CFR Chapter 60).
2. Nondiscrimination, Title VI of the Civil Rights Act of 1974 (PL 88- 352), as amended, (42 USC 2000d) the Fair Housing Act of 1968 (PL 90-284), Executive Orders 11063 and 12259, and the requirements imposed by the Regulations of the Department of Housing and Urban Development (24 CFR 107 and 24 CFR 570.496) issued pursuant to that Title.
3. Labor Standards. Contract Work Hours and Safety Standards Act (40 USC 327-333).
4. The Flood Disaster Protection Act of 1973 (PL 93-234), as amended, regulations issued pursuant to that act, and Executive Order 11985.
5. Architectural Barriers Act (PL 90-480), 42 USC 4151, as amended, and the regulations issued or to be issued thereunder, including uniform accessibility standards (24 CFR 40) for public buildings with 15 or more residential units. RSA 275-C:10 and the New Hampshire Architectural Barrier Free Design Code (Han 100, et. seq.) also apply.
6. Rehabilitation Act of 1973, 29 USC 794, Sections 503 and 504, Executive Order 11914 and U.S. Department of Labor regulations issued pursuant thereto.
7. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646), as amended, 15 CFR Part 916 including amendments thereto and regulations thereunder.
8. The National Environmental Policy Act of 1969 (PL 90-190): the National Historic Preservation Act of 1966 (80 Stat 915, 116 USC 470); and Executive Order No. 11593 of May 31, 1971, as specified in 24 CFR 58.
9. The Clean Air Act, as Amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

10. RSA 354 and rules of the New Hampshire Human Rights Commission (HUM 100, et. seq.) on discrimination in employment, membership, accommodations, and housing.
11. The Age Discrimination Act of 1975 as amended (42 USC 6101, et. seq.) and implementing regulations.
12. The lead paint requirements (24 CFR 35) of The Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et. seq.).
13. The NH State Energy Code (RSA 155-D).
14. The NH State Life Safety Code (RSA 155:1) and rules of the NH State Fire Marshall.
15. Citizen Participation Requirements. The 1987 amendments to the Housing and Community Development Act of 1974, stated in Section 508.
16. Affirmative Action Requirements.
17. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended by the Housing and Community Development Act of 1992 (42 USC 5301).
18. In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable. [**APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS**]

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”



(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”) (see Attachment B). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination (see Attachment C, Wage Rate Decision). The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or CONTRACTOR must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or CONTRACTOR wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or CONTRACTOR must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing

regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

**APPENDIX B:**

**Federal Labor Standards Provisions**

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.



**APPENDIX C:**

**Applicable Davis-Bacon Wage Rate Decision**

General Decision Number: NH160033 01/08/2016 NH33

Superseded General Decision Number: NH20150033

State: New Hampshire

Construction Type: Highway

County: Rockingham County in New Hampshire.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/08/2016

\* SUNH2011-029 08/15/2011

	Rates	Fringes
CARPENTER (Excluding Form Work).....	\$ 23.13	2.51
CARPENTER (Form Work Only).....	\$ 20.57	1.06
ELECTRICIAN.....	\$ 23.22	2.78
INSTALLER - GUARDRAIL.....	\$ 22.29	11.84
IRONWORKER, REINFORCING.....	\$ 18.00	0.00
IRONWORKER, STRUCTURAL.....	\$ 34.45	17.20

LABORER: Blaster Rock.....	\$ 28.38	9.46
LABORER: Common or General.....	\$ 16.99	2.60
LABORER: Flagger.....	\$ 10.42	1.37
LABORER: Highway/Parking Lot Striping.....	\$ 16.77	0.00
LABORER: Landscape.....	\$ 14.65	0.00
LABORER: Pipelayer.....	\$ 18.29	4.33
OPERATOR: Auger.....	\$ 26.07	0.00
OPERATOR: Backhoe.....	\$ 27.72	4.17
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 19.25	0.00
OPERATOR: Bucket.....	\$ 30.00	0.00
OPERATOR: Bulldozer.....	\$ 24.59	6.11
OPERATOR: Crane.....	\$ 23.95	3.29
OPERATOR: Drill Rig Caissons....	\$ 36.86	19.78
OPERATOR: Excavator.....	\$ 24.72	5.58
OPERATOR: Grader/Blade.....	\$ 25.16	6.97
OPERATOR: Loader.....	\$ 24.10	5.72
OPERATOR: Mechanic.....	\$ 16.92	3.44
OPERATOR: Oiler.....	\$ 29.54	16.15
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 23.43	0.00
OPERATOR: Roller.....	\$ 22.27	6.57
OPERATOR: Post Driver/Pounder....	\$ 27.24	7.90
TRUCK DRIVER, Includes all axles including Dump Trucks (Excludes Low Bed Trucks).....	\$ 17.59	2.99
TRUCK DRIVER: Low Bed Truck.....	\$ 21.43	6.30

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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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 clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**APPENDIX D:**  
**Bus Shelter Details**

# Specifications for Surface Mounted Transit Shelter

## Dimensions (approximate)

- Overall (including roof): 14' (l) x 7' (w) x 9' (h)
- Footprint (excluding roof): 12' (l) x 4' (w)

## Snow Load

- Must be able to withstand at least 3.0 kPa (6.5 lb./ft<sup>2</sup>).

## Wind Load

- Must be able to withstand at least 0.75 kPa (80 mph).

## Product Standards

- All first quality materials, workmanship and finish.
- One (1) year guarantee on all materials and workmanship.
- All stainless steel fasteners at ground level and key connection points.
- All exposed fasteners must be colored to match finish.
- Foot anchors: HILTI, all stainless steel anchors.

## Frame Components

- Corner columns are to be 3" x 3", minimum 1/8" wall thickness aluminum AA 6063-T5.
- Adjustable feet for leveling, of zinc chromate plated steel, finished in matching color, base plate 3/8" thick with welded stubs.
- Roof trim/fascia unique aluminum AA 6063-T5 extrusion, hollow section, minimum 1/8" wall thickness supporting the canopy, skylight, with 4" high fascia, and with integral gasketed upper glazing channel.
- Roof corner assemblies with 2 1/2" radius curved fascia; 3-way keyed interlock for structural integrity with a socket for corner post, and 4" welded stubs locking into roof trim. No mitered corner joints.

## Roof

- ~~"Gable" or "Hip" roof~~, made up of translucent, high impact, co-extruded, double skin polycarbonate thermoplastic panels, (Lexan<sup>®</sup> Thermoclear<sup>®</sup> or equivalent), 6mm (1/4"), with ultra violet protection, bronze tint to reduce light and heat transmission. Ribs; 1 1/2" x 2" x 1/8" aluminum tubing, support 1 1/2" high crown on rooftop for drainage.

## Wall Panels

- Clear tempered safety glass with fired-in simulated "wrought iron" grillwork for the antique look with an easy to clean, unobstructed surface (CAN2-12.1 Type 2 Class B), 10mm (3/8") thickness, float tempered.
- Glass supports, if applicable, are to be stainless steel.

## Glazing Channels

- Gasketed top glass channel integral in roof frame. Vertical and horizontal mullions with aluminum, tamperproof, "Snap" glazing system, pressure fit, fully gasketed, with no exposed fasteners.

## Paint Finish

- All surface components are to be thoroughly cleaned and degreased.
- Finish is to be long life, electrostatic applied black (standard) powder coat.

## Advertising Display Case

- three sided with two sides used for placement of copy
- Copy size (approximate): 47 1/4" (w) x 68 1/4" (h)
- Side-hinged doors fitted with aluminum hinges
- Tamper-proof button pin-head door locking mechanism
- Weather-proof gaskets

DAYTECH  
Comments  
09 28/15

6"

N/A.

- ✓
  - 5mm (3/16") tempered safety glass
  - Stainless steel fasteners
  - Stub-shafts at base and top plate connections to roof cross beams

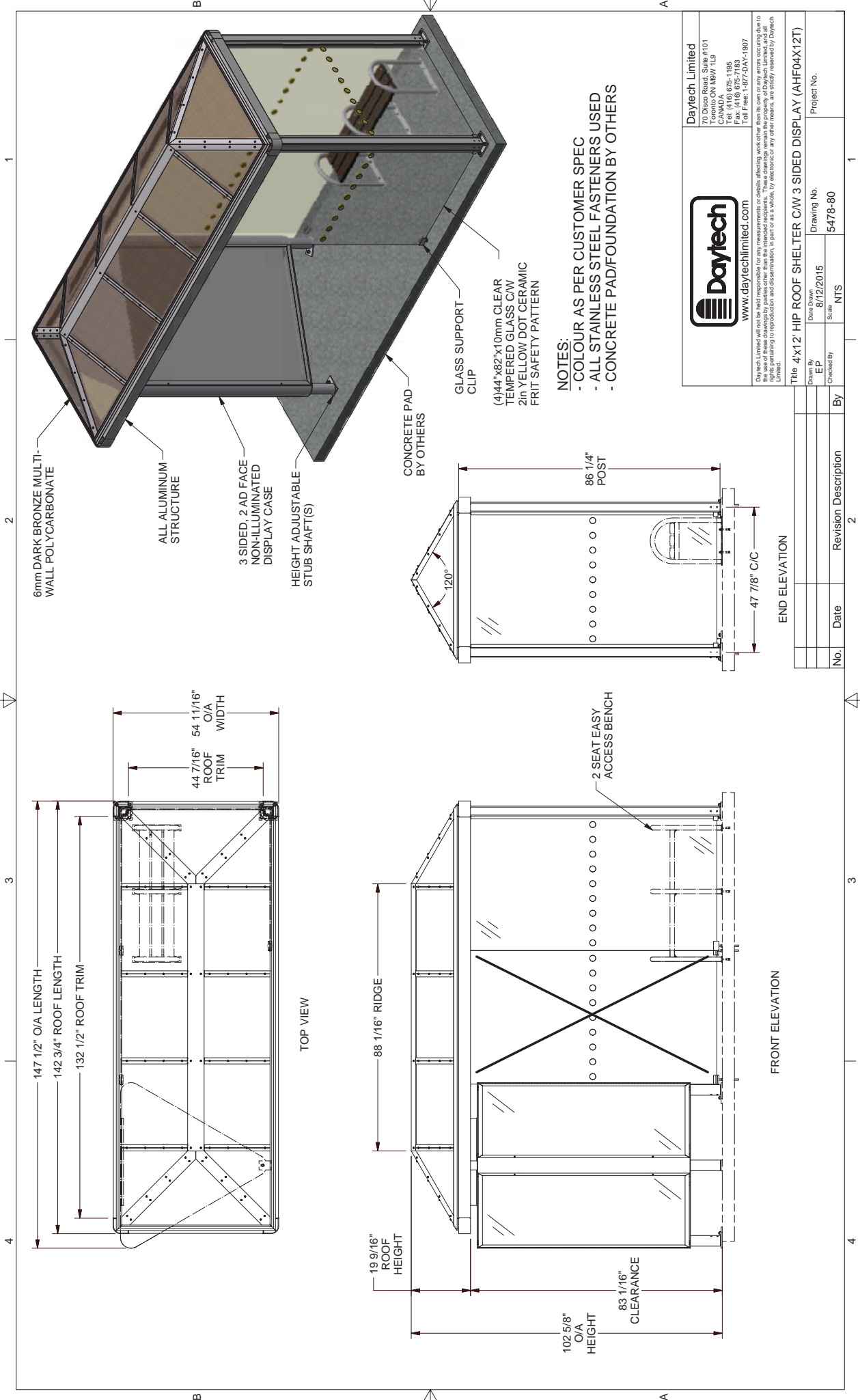
### **Bench**

- ✓
  - One (1) two seat freestanding bench
  - Individual aluminum bench arms, anti-vagrant.
  - Stainless steel hardware
  - Maintenance free, recycled plastic or aluminum slats.

### **Layout**

- ✓
  - See attached sample drawing.





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- NOTES:
- COLOUR AS PER CUSTOMER SPEC
  - ALL STAINLESS STEEL FASTENERS USED
  - CONCRETE PAD/FOUNDATION BY OTHERS

(4) 44"x82"x10mm CLEAR TEMPERED GLASS C/W 2in YELLOW DOT CERAMIC FRIT SAFETY PATTERN

Title		4x12 HIP ROOF SHELTER C/W 3 SIDED DISPLAY (AHF04X12T)	
Drawn By	Date Drawn	Drawing No.	Project No.
EP	8/12/2015	5478-80	
Checked By	Scale	NTS	

No.	Date	Revision Description	By