



AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the _____ day of November in the year 2025
(In words, indicate day, month, and year.)

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

Town of Hamden
2750 Dixwell Avenue
Hamden, CT 06518

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

7 Summits Construction, LLC
36 John Street
Hartford, CT 06106
(860) 7565577

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

RFP #26-02: Newhallville Foundations Project
Hamden, CT 06062

The Architect/Engineer:
(Name, legal status, address, and other information)

Haley & Aldrich
100 Corporate Pl. #105
Rocky Hill, CT 06067

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

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

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

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

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

RFP#26-02 (including all documents referenced therein) contains a summary of the Project.

§ 1.1.2 The Project's physical characteristics:

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

Please see RFP 26-02.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

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

The GMP shall be determined as provided for herein and established in an Amendment to this Agreement.

Init.

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User Notes:

(810967382)

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

.1 Design phase milestone dates, if any:

See RFP#26-02.

.2 Estimated Construction commencement date:

March 1, 2026.

.3 Substantial Completion date or dates:

Substantial Completion date shall be established in the GMP Amendment, but Substantial Completion must be achieved by April 30, 2028.

.4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD based on discussions between Owner and Construction Manager.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

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

TBD.

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other contact information.)

Oversight Committee

§ 1.1.10 The Owner shall retain the following consultants and contractors:

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

.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

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

Rohan Freeman, PE, LSPresident and CEO

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

See Construction Manager's Proposal, dated 08/14/2025.

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

Compliance with the Connecticut General Statutes and Regulations of State Agencies, requirements of the Town Charter and Town Ordinances of the Town of Hamden.

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

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

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, Owner's RFP#26-02 (including all Addenda), Construction Manager's Proposal dated 8/14/2025, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

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

§ 2.3 General Conditions

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

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

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in this Article 3, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall not commence the Construction Phase until it receives a written Notice to Proceed from the Owner. The Construction Manager hereby designates Rohan Freeman as its representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. The Construction Manager shall develop a master milestone schedule for the Project, analyze and reconcile the existing construction budget, update and analyze cost estimates to reflect ongoing design development, identify potential value enhancement solutions for consideration by the Owner's construction team, assist the Owner and its agents with analysis and study of building sustainability strategies, review design specifications for consistency with design intent and budget, coordinate and assist with permitting (as required) and assist the Owner in maximizing opportunities to receive funds from any other available funding sources.

The Construction Manager shall attend all meetings of the Building Committee and confer with any and all private or public agencies, Owner's agents, boards, Town Council, commissions, committees and elected officials of Owner designated by the Owner as being involved in or connected to the Project. The Construction Manager shall review the Project documents with the Architect and suggest to the Owner and the Architect potential modifications that would reduce the total cost of the Project, without reducing the scope or program or amenities of the structure, to assist in meeting the Owner's budgetary restrictions (referred to as "Value Engineering"). A detailed report of the Construction Manager's suggestions shall be promptly submitted to the Owner, no later than thirty (30) days after the receipt by Construction Manager of each of the complete and final Schematic Documents, Design Development Documents and Construction Documents, respectively. Such Value Engineering Services shall be considered a part of Preconstruction Services whether performed before or after commencement of the Construction Phase. Construction Manager recognizes the importance of completing the Project within the available funding and will make every effort to ensure same.

§3.1.1.2 The Construction Manager shall review progress drawings and specifications developed by the Architect to provide value analysis of construction materials and systems to the Owner and Architect in an attempt to maximize value within Owner's budget. The Construction Manager shall collaborate with the Owner and Architect to identify bidding packages to be distributed by the Construction Manager as required herein.

§3.1.1.3 The Construction Manager shall assist the Owner and Architect in gaining the necessary approvals and permits required by governmental authorities. The Construction Manager shall attend public hearings, advise the Owner and Architect as appropriate in the securing of approvals and permits and will actively participate in the seeking of necessary approvals and permits for the Project.

§ 3.1.2 Subcontractors and Suppliers

In conjunction with and in accordance with the public bidding process requirements of the Town Charter and Town Ordinances, the Construction Manager shall develop bidders' interest in the Project.

§ 3.2 The estimated Cost of the Work and the Guaranteed Maximum Price shall include a separately identified line item for the Construction Manager's contingency of no more than five percent (5%), a sum established by the Construction Manager for the Construction Manager's use with the Owner's prior written permission to cover costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order. The Construction Manager's contingency (CM Contingency) shall be used to cover costs properly reimbursable under Article 7 (as amended). The CM Contingency is not allocated to any particular line item of the cost of the work, and is established for the Construction Manager's use as may be required for costs incurred in the work from unforeseen causes that should have been anticipated by the Construction Manager at the time of the Owner's approval of the Guaranteed Maximum Price (GMP). Such unforeseen causes include but are not limited to (a) refinement and coordination of details of design (not inclusive of errors and omissions or programmatic change) within the scope of standards, quality and quantities which are reasonably inferable from the Guaranteed Maximum Price documents, (b) labor and material overruns not inclusive of general conditions; (c) additional costs relating to trade contractor defaults, provided any such default is not due to the Owner's actions or failures to act; (d) costs associated with premium time expenses to expedite labor specifically to improve or correct the project schedule.

§ 3.2.1 Costs incurred as a result of the Construction Manager's or Subcontractor's error, or non-compliant work will not be paid by the Owner or from the CM contingency. These costs shall be borne by the Construction Manager or Subcontractor responsible for the error or non-compliant work.

§3.2.2 The Construction Manager need not seek pre-approval for incurring expenses consistent with those items as allowed under Article 7, which have a value of less than \$5,000 per individual occurrence. The Construction Manager shall update the CM Contingency account balance on a monthly basis and review it with the Owner for the duration of the Project.

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§3.2.3 The Guaranteed Maximum Price proposal shall include a construction schedule that delineates a critical path of construction activities as described in Section 3.10 of A201-2017, as amended. This GMP schedule will serve as the base schedule when evaluating time extensions during the course of the Project.

§3.3 Construction Phase

§3.3.1 General

§3.3.1.2 The Construction Manager shall furnish only skilled and properly trained staff for the performance of the Work. The key members of the Construction Manager's staff shall be people agreed upon with the Owner.

§3.3.1.3 Such key members of the Construction Manager's staff shall not be changed without the written consent of the Owner, unless such person becomes unable to perform any required duties due to death, disability, transfer or termination of employment with the Construction Manager. If a key member is no longer capable of performing in the capacity so agreed, the Owner and the Construction Manager shall agree on a mutually acceptable substitute.

§3.3.1.4 During the performance of the Work, the Construction Manager shall keep a competent superintendent at the Project site, fully authorized to act on behalf of the Construction Manager. Notice from the Owner or the Architect to such superintendent (or to Construction Manager's project manager or project executive) in connection with defective Work and instructions for performance of the Work shall be considered notice of such issues to the Construction Manager.

§3.3.1.5 The Construction Manager is responsible for the coordination and oversight of all construction activities.

§3.3.1.6 The Construction Manager shall maintain supervisory and/or management personnel on site at all times when construction or construction related activities are taking place.

§3.3.1.7 The Construction Manager shall create and maintain a detailed construction task schedule which tracks actual construction progress against the schedule established in the preconstruction phase of the Project. The Construction Manager shall communicate the schedule to the construction subcontractors, the Owner and the Architect and take appropriate steps within the Construction Manager's authority to ensure all parties adhere to the schedule.

§3.3.1.8 The Construction Manager shall arrange and conduct a preconstruction conference with the construction subcontractors, the Architect and the Owner to cover the general practices, relationships of the parties, construction site rules, regulations, and procedures and to encourage positive working relationships among all parties.

§3.3.1.9 The Construction Manager shall maintain quality control of the construction progress by way of its full-time supervision on the site to ensure work is progressing in accordance with construction documents.

§3.3.1.10 The Construction Manager shall maintain job site records including all contracts for construction, construction documents, submittals, materials samples, as-built drawings, or other documentation relevant to the construction of the Project.

§3.3.1.11

§3.3.1.11 The Construction Manager shall maintain a construction cost accounting system which provides up to date costs for both actual expenses and anticipated costs. The accounting system must also provide comparisons of these costs to the design and construction control budget.

§3.3.1.12 The Construction Manager shall record and prepare proposals for change orders. The proposals for change orders shall be submitted to the Owner and the Architect for review, approval or rejection, and change order preparation by the Architect. A record listing all change orders proposed, rejected and approved shall be maintained by the Construction Manager.

§3.3.1.13 The Construction Manager shall be the sole source of all questions from subcontractors and suppliers relating to clarifications of the construction documents and changes to the construction contracts. The Construction Manager shall review all such requests for clarification and/or information from the subcontractors and suppliers, as appropriate, and forward these requests to the Architect for clarification with copy to the Owner.

§.3.3.1.14 The Construction Manager, in cooperation with the Architect, shall prepare a list of required submittals for the Project at the earliest time possible after commencement of the construction phase. The Construction Manager shall prepare a schedule for each required submittal by each construction subcontractor to expedite and coordinate the receipt, review and ordering of materials within the necessary sequence of the construction.

§.3.3.1.15 The Construction Manager shall endeavor to minimize or prevent construction activities from negatively affecting the ongoing working environment of the Owner.

§.3.3.1.16 The Construction Manager shall create and maintain a construction site safety program to ensure all personnel in and around the construction areas are reasonably protected at a minimum to the requirements of the law. The Construction Manager shall monitor the activities on the site to promote safe and secure conditions.

§.3.3.1.17 The Construction Manager shall develop a project close-out program including the assembling for transmittal to the Owner all operations and maintenance manuals, warranties, as-built drawings, approved materials submittals and any other records for delivery to the Owner. As-built drawings shall be required from all trade contractors and shall be included in the trade contractor's overhead and profit.

§.3.3.1.18 The Construction Manager shall apply and arrange for a Certificate of Occupancy as required by the Building Code and the local authority having jurisdiction.

§.3.3.1.19 The Construction Manager shall attend or otherwise assist with public meetings, meetings with the Owner's employees or governmental conferences deemed necessary in the execution of the Project.

§.3.3.1.20 The Construction Manager shall coordinate the startup, testing and training of Owner personnel as required under the construction documents. The Construction Manager shall also cooperate with the commissioning agent engaged directly by the Owner and shall manage and coordinate any necessary corrective work discovered during the commissioning process. The Construction Manager shall also arrange for and coordinate any warranty work until the date one year after the date of substantial completion.

§ 3.4 Extent of Responsibility

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

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

§ 3.4.2 Consultation

§ 3.4.2.1 The Construction Manager shall schedule and conduct bi-weekly meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.4.2.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.4.2.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.4.3 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule using the Critical Path Method ("CPM") for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify probable critical and long lead time items, as well as any other items that could affect the Project's timely completion. The Project schedule shall incorporate a detailed schedule for the construction operations in all phases of the Project, including realistic activity sequences and durations, the processing of shop drawings and samples, the Owner's occupancy requirements and priorities, and the delivery of products or materials requiring long lead time procurement. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner. The Project schedule shall be updated, in writing and provided to Owner, no less than once per month. As design proceeds, the preliminary Project schedule shall be updated to indicate proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, and proposed date of Substantial Completion. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations to the Owner and Architect.

§ 3.4.4 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.4.5 Cost Estimates

§ 3.4.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. The Construction Manager shall prepare a Project Cash Flow Projection in an easily understood format for the Owner's approval and update it periodically, but not less than (1) at the completion of the Schematic Design Phase, (2) at completion of the Design Development Phase, and (3) at the completion of the Construction Documents Phase. The Project Cash Flow Projection shall be prepared to include only the Cost of the Work and fee under this Agreement in a format approved by Owner within 30 days of executing this Agreement or in an approved format provided to Construction Manager. The Construction Manager shall advise the Owner and the Architect if it appears that the Projected Cash Flow Projection, as provided to the Construction Manager by the Owner, will be inaccurate, and it shall promptly make recommendations as to possible corrective actions.

§ 3.4.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget and make recommendations for corrective action. If any estimate submitted to the Owner exceeds previously approved estimates or the Owner's budget by 5% or more, the Construction Manager shall make appropriate recommendations to the Owner and Architect for appropriate value engineering changes and shall work

with the Architect to implement them to the extent they are acceptable to the Owner. Construction Manager shall not be entitled to additional compensation for the foregoing services.

§ 3.4.5.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.4.5.4 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.4.5.5 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.4.5.6 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.4.5.7 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.4.6 Subcontractors and Suppliers

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

§ 3.4.6.2 The Construction Manager, in conjunction with the Architect, shall develop overall bid package strategy and take appropriate action to stimulate and maximize prospective bidders' interest in the Project. The Construction Manager shall include, in its planning and bid package strategy, local workforce development plans and plans to attract interest of and participation by MBEs and WBEs, residents of the Town of Hamden and residents of New Haven County. The Construction Manager shall be responsible for compliance with all applicable Town and State of Connecticut MBE, SBE and WBE participation and set aside requirements, including but not limited to all requirements of Public Act 15-5 and the statutes and regulations promulgated thereunder, and also warrants to Town that Construction Manager shall at all times ensure full compliance with applicable State and Federal laws and regulations, including Executive Orders.

§3.4.6.3 The Construction Manager shall advise the Owner and the Architect with respect to the division of the Project in the construction documents in order to facilitate the bidding and awarding of individual contracts with Subcontractors. The Construction Manager shall review the construction documents and make such recommendations as required to ensure that:

- a) the Work is coordinated;
- b) all requirements for the Project have been assigned to the appropriate contract;
- c) the likelihood of jurisdictional disputes has been minimized;
- d) proper coordination has been provided for phased construction; and
- e) all bidding and procurement requirements imposed by the Connecticut Department of Economic and Community Development have been satisfied.

§3.4.6.4 The Construction Manager shall conduct pre-bid conferences to familiarize prospective bidders with the Project and the bid documents. The Construction Manager shall assist the Architect with regard to responding to questions from bidders and with the issuance of addenda to the bid documents. All bid opening dates and times shall be scheduled through the Owner's Purchasing Department.

§3.4.6.5 The Work shall be performed under Subcontracts or by other appropriate agreements with the Construction Manager. The Owner, in conjunction with the Construction Manager, shall receive all bids. The Construction Manager shall prepare an analysis of the bids and make recommendations to the Owner regarding the acceptance or rejection of bids. The Construction Manager shall advise the Owner as to the acceptability of each Subcontractor and any material suppliers proposed by such Subcontractors, as well as advise the Owner as to the lowest responsive, qualified and responsible bidder and prepare adequate documentation as required by the Owner's Purchasing Department with respect to the recommended rejection of any bids submitted. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids constitute the lowest responsive, responsive and qualified bids and direct acceptance of same. After selection of the lowest responsive, qualified and responsible bidder, Owner shall assign each successful bid to the Construction Manager and the Construction Manager shall enter into all trade contracts. The form of Subcontract shall be Construction Manager's standard subcontract agreement, modified to contain any terms and conditions identified herein (or in the A201) as required for inclusion in the subcontracts. All Subcontracts shall be in accordance and compliance with State and local regulations, laws and ordinances.

Construction Manager will conduct pre-award conferences with successful bidders.

The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§3.4.6.6 Any rejection of any bid must be approved by the Owner's Building Committee.

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

§ 3.4.7 Procurement

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

(Paragraph deleted)

§3.4.7.1 Permits and Approvals: The Construction Manager shall obtain building permits and special permits for permanent improvements, except for those permits required to be obtained directly by the various Subcontractors. The Construction Manager shall assist the Owner and the Architect with regard to the filing of documents required for the approval of governmental authorities having jurisdiction over the Project.

(Paragraph deleted)

§3.4.8 Project Safety Precautions: The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety precautions and programs on the Project among the Subcontractors, temporary Project facilities, and equipment, materials and services for the common use of the Subcontractors. It shall verify that these requirements and assignments of responsibility are incorporated in the Construction Documents. Construction Manager shall be responsible for reviewing, approving, monitoring and enforcing Subcontractor safety and loss control plans.

(Paragraph deleted)

§ 3.4.9 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Construction Manager will exercise due diligence in providing and updating schedules on at least a monthly basis so as to include such actions as are reasonably anticipated and necessary to achieve the Substantial Completion date for the Project. The Construction Manager is not required to ascertain that the Drawings and

Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

(Paragraph deleted)

§ 3.4.10 Compliance with Laws

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

(Paragraph deleted)

§ 3.5 Other Preconstruction Services

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

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

(Paragraphs deleted)

§ 3.6 Guaranteed Maximum Price Proposal

Construction shall not begin until the Guaranteed Maximum Price ("GMP") has been established by Amendment to the Agreement. In no event shall the GMP be determined later than forty five (45) days after the selection of the trade contractor bids. After the Drawings and Specifications are sufficiently complete, and fourteen (14) days after Construction Manager has received bids from ninety percent (90%) of all Subcontractors and suppliers, the Construction Manager shall propose a GMP, which shall be the sum of the estimated Cost of the Work (including the Construction Manager's Contingency) and the Construction Manager's Fee. Any qualifications, assumptions or exclusions asserted by the Construction Manager shall be set forth within the Construction Manager's proposed GMP. As used in this paragraph, the phrase "sufficiently complete" shall mean Drawings and Specifications that are adequate to describe the Work in graphic and written form. The Drawings will graphically depict the Work, generally in the form of plans, elevations, sections, details, schedules and diagrams. The Specifications will contain the written requirements for materials, equipment, systems, standards, and workmanship for the Work.

(Paragraphs deleted)

§ 3.6.1 If the Drawings and Specifications are not 100% complete at the time the Guaranteed Maximum Price proposal is prepared, the Construction Manager shall propose to Owner appropriate contingencies in the Guaranteed Maximum Price for further development of the Drawings and Specifications by the Architect that is consistent with the Contract Documents and reasonably inferable therefrom. The GMP is not intended to include changes in scope from that which is shown or reasonably inferred from the information in the Contract Documents upon which the GMP is based, subject to Exhibit C to the GMP amendment. Such changes, if required, are excluded because they would warrant an adjustment to the GMP by Change Order.

(Paragraph deleted)

§ 3.6.2 The estimated Cost of the Work shall include the Construction Manager's contingency, which is a sum established by the Construction Manager for the Construction Manager's use to cover costs arising under Section 2.2.2 and other costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order, Costs of the Work, and other costs incurred in connection with the Construction Manager's obligations hereunder that are not otherwise reimbursable as a Cost of the Work. Use of the Construction Manager's Contingency shall be to cover costs described in this Paragraph. Construction Manager's use of the CM Contingency to cover costs described in this Paragraph shall not occur until the Owner has approved the CM's written Contingency Draw Request. Permissible uses of the CM contingency, with Owner's approval are: (1) estimating errors, (2) trade buy-out differentials, (3) unanticipated market conditions, including price escalation after the GMP is accepted through a written Amendment to this Agreement, (4) labor and material market conditions, (5) interface and coordination omissions between various Subcontractor packages, (6) overtime and/or premium time not due to delays beyond Construction Manager's control under 8.3.1 of the General

Conditions or beyond the control of Subcontractors, (7) acceleration and/or expediting, (8) bidder, Subcontractor, and vendor defaults, (9) legal expenses except for legal expenses incurred in connection with a dispute between the Construction Manager and the Owner. The Construction Manager's contingency shall not, however, be used to fund costs of corrective work. The Construction Manager's contingency shall not be used to fund changes in the Work as described in Article 7 of AIA Document A201, including any adjustments to any of the allowances included in the GMP, nor shall it be used to fund costs that, with the exception of the acceptable uses result from the negligence or misconduct of Construction Manager. Construction Manager shall furnish documentation evidencing expenditures charged to the contingency and the reasons therefor. Such evidence shall be furnished contemporaneously with Construction Manager's charge against contingency. It is expressly understood that any unused sums from the Construction Manager will revert to the Owner upon final payment to the Construction Manager.

If the Construction Manager incurs legal fees as a result of the Owner's failure to fulfill an obligation attributable to the Owner under this Agreement, such reasonable legal fees shall not be part of the GMP. However, if the Construction Manager incurs legal fees in connection with claims which, if proven, amount to the Construction Manager's failure to satisfy its obligations to the Owner hereunder, no increase in the GMP shall be allowed for such fees. Upon final completion of the project, any unused portion of the Construction Manager's contingency shall revert to and be the property of Owner.

(Paragraph deleted)

§ 3.6.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances (including all labor, materials, and equipment); the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

(Paragraphs deleted)

§ 3.6.4 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

(Paragraphs deleted)

§ 3.6.5 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

(Paragraphs deleted)

§ 3.6.6 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

Init.

(Paragraph deleted)

§ 3.6.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

(Paragraphs deleted)

§ 3.6.8 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed. Construction Manager recognizes that Owner, as a Connecticut municipality, is not subject to Connecticut Sales Tax.

(Paragraphs deleted)

§ 3.7 Construction Phase

(Paragraphs deleted)

§ 3.7.1 General

(Paragraphs deleted)

§ 3.7.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase. The Construction Manager shall, when it is ready to proceed with the construction phase, submit a written request to the Owner for a Notice to Proceed. The Construction Manager shall not proceed with the commencement of the Construction Phase until the Owner issues a written Notice to Proceed.

(Paragraph deleted)

§ 3.7.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

(Paragraphs deleted)

§ 3.7.2 Administration

(Paragraphs deleted)

§ 3.3.2.1 The Construction Manager shall schedule and conduct pre-mobilization meeting with its subcontractors as well as weekly meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

(Paragraphs deleted)

§ 3.7.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.7.2.3 Monthly Report

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

§ 3.7.2.4 Daily Logs

The Construction Manager shall maintain daily logs, which shall be made available to the Owner and Architect, shall, at a minimum, contain a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner. Construction Manager shall also, in conjunction with the Architect, provide Owner with weekly project observation and construction management reports in a format to be presented to and approved by the Owner during the pre-construction phase.

§ 3.7.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

§3.7.2.6 Construction Manager shall monitor and track MBE and WBE, local workforce and overall labor participation, including Set Aside documentation. This Project is funded in part by State of Connecticut funds.

This contract is subject to state contract compliance requirements, including nondiscrimination statutes and spending allocation goals. State law requires a minimum spending allocation goal of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification as Small Business Enterprises ("SBE") from the Connecticut Department of Administrative Services ("DAS"). A minimum spending allocation goal of 6.25% of the state-funded portion for subcontractors holding current DAS certification as Minority-, Women-, and/or Disabled-owned businesses ("M/W/DisBE"). The contractor must demonstrate good faith effort to meet the 25% spending allocation goals.

The Contractor shall comply with CONN. GEN. STAT. §§ 4a-60, 4a-60g, and 46a-68b through 46a-68f.

State law requires a minimum spending allocation goal of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the total state-funded value with DAS-certified Small Businesses and 6.25% of the total state-funded value with DAS-certified Minority-, Women-, and/or Disabled-owned Businesses.) The contractor must demonstrate good faith effort to meet the spending allocation goals.

The Owner is required by the Connecticut Commission on Human Rights and Opportunities (CHRO), pursuant to C.G.S. § 46a-68c and 46a-68d, to withhold 2% of the total state-funded portion of the contract per month until such time as the CHRO has approved the Contractor's affirmative action plan.

Contractor shall comply with the Procedures for Nonresident Contractors, if applicable, as set forth in C.G.S. §12-430.

Contractor shall, at all times, ensure compliance with all federal laws, in addition to laws of the State of Connecticut, and shall indemnify, defend and hold Town harmless from and against any damages arising from Contractor's failure to strictly comply with applicable laws.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

(Paragraph deleted)

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall, if deemed necessary by Owner, thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. Construction Manager shall have no

claim against Owner if any of the information provided by Owner is deficient or incorrect. Notwithstanding the foregoing, in the event that site conditions differ from that indicated in information provided to the Construction Manager by the Owner and Construction Manager's subcontractor(s) seeks an increase in its subcontract price due to additional costs directly attributable to such differing site condition(s), Construction Manager may apply to the Owner for an increase in the Guaranteed Maximum Price in accordance with 3.7.4 of the General Conditions. Construction Manager shall work with Owner to minimize any additional costs or impact to the schedule if any information provided by the Owner is deficient or incorrect.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. Construction Manager shall observe any tests, record and report to Owner on test procedures, test results and verify testing invoices to be paid by Owner.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

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

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative. Any and all extra work authorization must be accompanied by a Purchase Order issued by Owner or a fully executed Change Order.

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

§ 4.3 Architect

The Owner has retained an Architect to provide services, duties and responsibilities as described in Owner's Agreement with Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner. Upon Construction Manager's request, shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

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

The Parties agree that the Preconstruction Phase shall commence on November 1, 2025.

Construction Manager shall be compensated for Preconstruction Services commencing upon Owner's issuance of a Notice to Proceed in the total amount not to exceed Three Hundred Fifty Five Thousand One Hundred Fourteen Dollars (\$355,114.00) for all preconstruction services. The preconstruction fee shall be billed in equal monthly installments in accordance with the RFP and Contractor's Proposal.

Construction Manager's Proposal is made a part hereof as Exhibit B.

All hourly rates set forth in Construction Manager's Proposal include cost plus burden.

Reimbursable expenses, including the items identified in Contractor's Proposal and other out-of-pocket expenses, are included in the above lump sum amount.

Payments shall be due within 30 days after approval by the Building Committee. No retainage shall be withheld on Preconstruction Services.

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

(Paragraphs deleted)

in the Construction Manager's Proposal, dated 2/19/25 and made a part hereof.

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

(Paragraphs deleted)

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

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

Construction Manager's fee shall be in the fixed lump sum amount equal to 5% of the Cost of the Work as determined at the time of the Owner's acceptance of the GMP via execution of the GMP Amendment.

Construction Manager shall receive a CM Fee of 5% of the Cost of the Work for an approved change order, to cover overhead and profit on any properly approved and authorized Changes in the Work. Approved change orders shall also include the CM's additional insurance and bond premiums attributable and allocable to the Changes in the Work.

Init.

To the extent Construction Manager is requested to coordinate and oversee the work of third-party contractors retained directly by the Owner, Construction Manager shall receive a fee of 5% of the cost to the Owner of the third-party work, as a separate service that shall not be included as part of the GMP.

The Construction Manager shall be reimbursed for General Conditions Costs and General Requirements costs as defined in **Exhibit B** in an amount not to exceed One Million Nine Hundred Seventy One Thousand Five Hundred Seventy Eight Dollars (\$1,971,578.00). In addition, Construction Manager shall be reimbursed for the premiums paid by it for payment and performance bonds, CGL and workers' compensation insurance, and professional liability insurance at the rates set forth in Construction Manager's Proposal.

(Paragraphs deleted)

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Total of 15% Percent (10% for overhead and 5% for profit) for overhead and profit combined. 5% total overhead and profit on second tier subcontractors.

(Paragraph deleted)

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 6.1.7 Other:

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

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work if such changes extend the duration of the performance of the Project.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201-2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

(Paragraph deleted)

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.1.4 The payment or partial payment of any Application for Payment by the Owner, including the final Application for Payment shall not constitute approval or acceptance of any Work or cost in such Application.

§ 7.1.5 Any provision to the contrary notwithstanding, Owner shall not be obligated to make any payment to Construction Manager if any one or more of the following conditions exist.

- .1 defective Work not remedied;
- .2 reasonable evidence that the Work will not be completed within the Contract Time and/or established milestone dates and that the unpaid balance would not be adequate to cover actual or the anticipated delay;
- .3 reasonable evidence that the Work will not be completed for the unpaid balance of the Guaranteed Maximum Price;
- .4 failure to carry out the Work in accordance with the Contract Documents;
- .5 reasonable evidence that Construction Manager has failed to pay subcontractors and/or suppliers; or
- .6 Construction Manager becomes insolvent or files for bankruptcy.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval are included in the not to exceed General Conditions set forth in **Exhibit B**. In the event that a change order requires additional personnel costs under this Section, the costs shall be calculated using the rates set forth in Construction Manager's Proposal.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work. Such wages and salaries are included in the not to exceed General Conditions set forth in Construction Manager's Proposal. In the event that a change order requires

additional personnel costs under this Section, the costs shall be calculated using the rates set forth in Construction Manager's Proposal.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, Construction Manager's customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3. Such costs are included in the not to exceed General Conditions set forth in **Exhibit B**. In the event that a change order requires additional personnel costs under this Section, the costs shall be calculated using the rates set forth in Construction Manager's Proposal.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement, including the cost of payment and performance bonds provided by subcontractors.

7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

(Paragraph deleted)

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction are included in the not to exceed General Requirements or General Conditions and/or the GMP.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage are included in the Construction Manager's not to exceed General Requirements or General Conditions. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work and/or the GMP.

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

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value. Any such costs are included in the not to exceed General Requirements or General Conditions and/or the Guaranteed Maximum Price.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. Any such costs are included in the not to exceed General Conditions or General Requirements and/or the GMP. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal. Any such costs are included in the not to exceed General Conditions or General Requirements and/or the GMP.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.5.6 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office. Any such costs are included in the not to exceed General Conditions or General Requirements.

§ 7.5.7 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. Any such costs are included in the not to exceed General Conditions or General Requirements. **Non-local travel or lodging must be pre-approved by Owner.**

§ 7.5.8 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

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

§ 7.6.1.1 Premiums for that portion of the Construction Manager's insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval. The Construction Manager's Liability Insurance shall be invoiced at the rate of 1% of the Cost of the Work. Performance and payment bonds of Construction Manager shall be collectively billed at the rate of 1.20% of the Cost of the Work.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable. Owner is exempt from Connecticut Sales tax.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval. These costs are included in Construction Manager's not to exceed General Requirements or General Conditions.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld. Such costs shall not be payable by Owner if the disputes are caused by or attributable to Construction Manager's failure to fulfill a specific responsibility to the Owner as set forth in this Agreement. If the Construction Manager incurs legal fees as a result of something the Owner did or did not do (e.g., failure to pay without just cause, delayed project, approved but did not pay for change order work), such legal fees shall not be part of the GMP. However, if the Construction Manager incurs legal fees in connection with claims for which the Owner has no responsibility (e.g., claims that Construction Manager failed to properly coordinate, schedule, sequence or supervise the work), no increase in the GMP shall be allowed for such fees.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9. Unless otherwise provided, when such reimbursable costs are properly included in the Cost of the Work, the Construction Manager shall only be entitled to reimbursement of its direct, out-of-pocket costs without allowance for any surcharge, overhead, or profit. Except where agreed rates are applicable, the Construction Manager, when entitled to reimbursable costs under this Agreement, shall promptly furnish in a form satisfactory to the Owner itemized statements of the costs incurred, including, but not limited to, certified payrolls and copies of documents, bills and vouchers.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the

transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase; and
10. Costs incurred as a result of Construction Manager's failure to comply with or fulfill an obligation set forth in this Agreement (including the obligations set forth in the A201).

§7.9.2 Except as otherwise provided in this Agreement, costs due to the fault, negligence, or failure to fulfill a specific responsibility to the Owner as set forth in this Agreement of the Construction Manager, Subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including but not limited to costs for the correction of damaged, defective or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and repairing damage to property not forming part of the Work. If the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

§ 7.9.3 Penalties, fines or costs imposed by governmental authorities in connection with, or resulting from any violation of, or noncompliance with laws, regulations, codes, ordinances or directives by the Construction Manager or any Subcontractor.

§ 7.9.4 Cost of Work authorized or performed by the CM as described in Sections 6.1.1 through 6.1.8 not authorized in advance by the Owner will not be reimbursed unless such work is within the approved GMP.

7.10 All records shall be maintained in accordance with generally accepted accounting procedures, consistently applied. Subcontractors retained by the Construction Manager on a cost-plus basis shall have the same obligations to retain records and permit audits as required of the Construction Manager.

7.10.1 If requested by the Owner, the Construction Manager shall promptly, within 30 days, deliver to the Owner copies of all correspondence, estimates, budgets, breakdowns, accounting data, bid proposals, cost control information and any other documents relating to the Project, in a form acceptable to the Owner.

7.10.2 Without limitation of the foregoing, the Owner shall have the right, at any time and from time to time, upon notice to the Construction Manager, to audit the Construction Manager's books and records in connection with the Work at the Construction Manager's offices. The Construction Manager shall facilitate any such audit by making necessary facilities available to the Owner and its representatives.

§ 7.10.3 If any inspection by the Owner of the Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and any other data relating to the Contract Documents reveals an overcharge, including, without limitation, any untimely request for payment as described in Paragraph 13.3, the Construction Manager

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shall pay the Owner upon demand, when the overage is in excess of 0.25% of the Work, all the overcharged amount along with the complete cost of the administrative expenses incurred in determining the overage. The requirements of this Paragraph 6.4.5 shall not apply to any portion of an overcharge which is the subject of a good faith dispute between the Owner and the Construction Manager.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

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

ARTICLE 10 ACCOUNTING RECORDS

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

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

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

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 15th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 15th day of the following month, assuming that the Application for Payment is approved by the Owner. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Application for Payment is approved by the Owner.

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

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

§ 11.1.5 Each Application for Payment shall be based on the approved schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

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

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

Five percent (5%) of each progress payment

§ 11.1.8.1.1 The following items are not subject to retainage:

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

General Conditions; General Requirements; Project Requirements; Insurance; Bonds; Permits; CM Allowances.

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment, including an executed final release for payment of materials and services rendered, in an acceptable form, and Owner has reviewed and approved said final accounting, Application for Payment and release; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

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

adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

(Paragraphs deleted)

INTENTIONALLY OMITTED

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

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

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in Connecticut Superior Court in and for the Judicial District of New Haven at New Haven
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed payment for Work actually completed as of the date of termination.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without

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cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201-2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed payment for Work actually completed as of the date of termination.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work completed to the date of termination at the rate stated in Section 6.1; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

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

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201-2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a

condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager

(Paragraphs deleted)

only the amount due for Work actually completed as of the date of termination.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2017.

The Construction Manager shall maintain the following insurance for the duration of the Project: see Exhibit C hereto..

The Construction Manager's General Liability Insurance shall be invoiced at the rate set forth in the Construction Manager's Proposal. Construction Manager shall obtain and maintain insurance coverage as follows:

(Paragraphs deleted)

§ 14.3.1.1 Commercial General Liability with policy limits of not less than Three Million (\$ 3,000,000.00) for each occurrence and Five Million Dollars (\$ 5,000,000.00) in the aggregate for bodily injury and property damage.

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

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower

coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than One Million Dollars (\$ 1,000,000.00) each accident, One Million Dollars (\$ 1,000,000.00) each employee, and One Million Dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Five million dollars (\$ 5,000,000.00) per claim and Five Million Dollars (\$ 5,000,000.00) in the aggregate.

§ 14.3.1.6 Excess Insurance: Ten million dollars (\$10,000,000.00) per occurrence, ten million dollars (\$10,000,000.00) products/completed operations aggregate for the Project, and ten million dollars (\$10,000,000.00) annual general aggregate for the Project.

§ 14.3.1.7 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

Payment and Performance Bonds

100% of the Cost of the Work

The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the total project revenue. The Construction Manager's Payment and Performance Bond will be recalculated at time of GMP, based on the rate set forth in the Construction Manager's Proposal. The Construction Manager shall require Payment and Performance Bond from its subcontractor (s) and the cost thereof shall be included in the Cost of the Work.

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

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 14.5 Other provisions:

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

.6 Other Exhibits:
(Check all boxes that apply.)

AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

- .7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit B: Construction Manager's Proposal (including Fee Proposal dated 8/14/25)
Exhibit C: Owner's RFP#26-02.
Addendum #1, dated 8/7/25, to RFP 26-02.

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


OWNER (Signature)


CONSTRUCTION MANAGER (Signature)

init

Lauren Garrett, Mayor
(Printed name and title)

Robert A. Freeman, President
(Printed name and title)

init.

Additions and Deletions Report for AIA® Document A133® – 2019

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:04:36 ET on 11/05/2025.

PAGE 1

AGREEMENT made as of the day of November in the year 2025

...

Town of Hamden
2750 Dixwell Avenue
Hamden, CT 06518

...

7 Summits Construction, LLC
36 John Street
Hartford, CT 06106
(860) 7565577

...

RFP #26-02: Newhallville Foundations Project

...

Hamden, CT 06062

The ~~Architect~~ Architect/Engineer:

...

Haley & Aldrich
100 Corporate Pl. #105
Rocky Hill, CT 06067
PAGE 2

RFP#26-02 (including all documents referenced therein) contains a summary of the Project.

...

Please see RFP 26-02.

...

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

The GMP shall be determined as provided for herein and established in an Amendment to this Agreement.

PAGE 3

See RFP#26-02.

.2 Estimated Construction commencement date:

March 1, 2026.

...

Substantial Completion date shall be established in the GMP Amendment, but Substantial Completion must be achieved by April 30, 2028.

...

TBD based on discussions between Owner and Construction Manager.

...

TBD.

...

Oversight Committee

PAGE 4

Rohan Freeman, PE, LSPresident and CEO

...

See Construction Manager's Proposal, dated 08/14/2025.

...

Compliance with the Connecticut General Statutes and Regulations of State Agencies, requirements of the Town Charter and Town Ordinances of the Town of Hamden.

PAGE 5

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, Owner's RFP#26-02 (including all Addenda), Construction Manager's Proposal dated 8/14/2025, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

...

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an

expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents. Construction Manager's duty to Owner shall be that of a fiduciary.

...

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

...

The Construction Manager's Preconstruction Phase responsibilities are set forth in ~~Sections 3.1 and 3.2~~, this Article 3, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall ~~identify a not commence the Construction Phase until it receives a written Notice to Proceed from the Owner.~~ The Construction Manager hereby designates Rohan Freeman as its representative authorized to act on behalf of the Construction Manager with respect to the Project.

...

§ 3.1.1 ~~Extent of Responsibility~~

~~The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. The Construction Manager shall develop a master milestone schedule for the Project, analyze and reconcile the existing construction budget, update and analyze cost estimates to reflect ongoing design development, identify potential value enhancement solutions for consideration by the Owner's construction team, assist the Owner and its agents with analysis and study of building sustainability strategies, review design specifications for consistency with design intent and budget, coordinate and assist with permitting (as required) and assist the Owner in maximizing opportunities to receive funds from any other available funding sources.~~

The Construction Manager shall attend all meetings of the Building Committee and confer with any and all private or public agencies, Owner's agents, boards, Town Council, commissions, committees and elected officials of Owner designated by the Owner as being involved in or connected to the Project. The Construction Manager shall review the Project documents with the Architect and suggest to the Owner and the Architect potential modifications that would reduce the total cost of the Project, without reducing the scope or program or amenities of the structure, to assist in meeting the Owner's budgetary restrictions (referred to as "Value Engineering"). A detailed report of the Construction Manager's suggestions shall be promptly submitted to the Owner, no later than thirty (30) days after the receipt by Construction Manager of each of the complete and final Schematic Documents, Design Development Documents and Construction Documents, respectively. Such Value

Engineering Services shall be considered a part of Preconstruction Services whether performed before or after commencement of the Construction Phase. Construction Manager recognizes the importance of completing the Project within the available funding and will make every effort to ensure same.

§3.1.1.2 The Construction Manager shall review progress drawings and specifications developed by the Architect to provide value analysis of construction materials and systems to the Owner and Architect in an attempt to maximize value within Owner's budget. The Construction Manager shall collaborate with the Owner and Architect to identify bidding packages to be distributed by the Construction Manager as required herein.

§3.1.1.3 The Construction Manager shall assist the Owner and Architect in gaining the necessary approvals and permits required by governmental authorities. The Construction Manager shall attend public hearings, advise the Owner and Architect as appropriate in the securing of approvals and permits and will actively participate in the seeking of necessary approvals and permits for the Project.

§ 3.1.2 Subcontractors and Suppliers

In conjunction with and in accordance with the public bidding process requirements of the Town Charter and Town Ordinances, the Construction Manager shall develop bidders' interest in the Project.

§ 3.2 The estimated Cost of the Work and the Guaranteed Maximum Price shall include a separately identified line item for the Construction Manager's contingency of no more than five percent (5%), a sum established by the Construction Manager for the Construction Manager's use with the Owner's prior written permission to cover costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order. The Construction Manager's contingency (CM Contingency) shall be used to cover costs properly reimbursable under Article 7 (as amended). The CM Contingency is not allocated to any particular line item of the cost of the work, and is established for the Construction Manager's use as may be required for costs incurred in the work from unforeseen causes that should have been anticipated by the Construction Manager at the time of the Owner's approval of the Guaranteed Maximum Price (GMP). Such unforeseen causes include but are not limited to (a) refinement and coordination of details of design (not inclusive of errors and omissions or programmatic change) within the scope of standards, quality and quantities which are reasonably inferable from the Guaranteed Maximum Price documents, (b) labor and material overruns not inclusive of general conditions; (c) additional costs relating to trade contractor defaults, provided any such default is not due to the Owner's actions or failures to act; (d) costs associated with premium time expenses to expedite labor specifically to improve or correct the project schedule.

§ 3.2.1 Costs incurred as a result of the Construction Manager's or Subcontractor's error, or non-compliant work will not be paid by the Owner or from the CM contingency. These costs shall be borne by the Construction Manager or Subcontractor responsible for the error or non-compliant work.

§3.2.2 The Construction Manager need not seek pre-approval for incurring expenses consistent with those items as allowed under Article 7, which have a value of less than \$5,000 per individual occurrence. The Construction Manager shall update the CM Contingency account balance on a monthly basis and review it with the Owner for the duration of the Project.

§3.2.3 The Guaranteed Maximum Price proposal shall include a construction schedule that delineates a critical path of construction activities as described in Section 3.10 of A201-2017, as amended. This GMP schedule will serve as the base schedule when evaluating time extensions during the course of the Project.

§3.3 Construction Phase

§3.3.1 General

§3.3.1.2 The Construction Manager shall furnish only skilled and properly trained staff for the performance of the Work. The key members of the Construction Manager's staff shall be people agreed upon with the Owner.

§3.3.1.3 Such key members of the Construction Manager's staff shall not be changed without the written consent of the Owner, unless such person becomes unable to perform any required duties due to death, disability, transfer or termination of employment with the Construction Manager. If a key member is no longer capable of performing in the capacity so agreed, the Owner and the Construction Manager shall agree on a mutually acceptable substitute.

§3.3.1.4 During the performance of the Work, the Construction Manager shall keep a competent superintendent at the Project site, fully authorized to act on behalf of the Construction Manager. Notice from the Owner or the Architect to such superintendent (or to Construction Manager's project manager or project executive) in connection with defective Work and instructions for performance of the Work shall be considered notice of such issues to the Construction Manager.

§3.3.1.5 The Construction Manager is responsible for the coordination and oversight of all construction activities.

§3.3.1.6 The Construction Manager shall maintain supervisory and/or management personnel on site at all times when construction or construction related activities are taking place.

§3.1.7 The Construction Manager shall create and maintain a detailed construction task schedule which tracks actual construction progress against the schedule established in the preconstruction phase of the Project. The Construction Manager shall communicate the schedule to the construction subcontractors, the Owner and the Architect and take appropriate steps within the Construction Manager's authority to ensure all parties adhere to the schedule.

§3.3.1.8 The Construction Manager shall arrange and conduct a preconstruction conference with the construction subcontractors, the Architect and the Owner to cover the general practices, relationships of the parties, construction site rules, regulations, and procedures and to encourage positive working relationships among all parties.

§3.3.1.9 The Construction Manager shall maintain quality control of the construction progress by way of its full-time supervision on the site to ensure work is progressing in accordance with construction documents.

§3.3.1.10 The Construction Manager shall maintain job site records including all contracts for construction, construction documents, submittals, materials samples, as-built drawings, or other documentation relevant to the construction of the Project.

§3.3.1.11

§3.3.1.11 The Construction Manager shall maintain a construction cost accounting system which provides up to date costs for both actual expenses and anticipated costs. The accounting system must also provide comparisons of these costs to the design and construction control budget.

§3.3.1.12 The Construction Manager shall record and prepare proposals for change orders. The proposals for change orders shall be submitted to the Owner and the Architect for review, approval or rejection, and change order preparation by the Architect. A record listing all change orders proposed, rejected and approved shall be maintained by the Construction Manager.

§3.3.1.13 The Construction Manager shall be the sole source of all questions from subcontractors and suppliers relating to clarifications of the construction documents and changes to the construction contracts. The Construction Manager shall review all such requests for clarification and/or information from the subcontractors and suppliers, as appropriate, and forward these requests to the Architect for clarification with copy to the Owner.

§3.3.1.14 The Construction Manager, in cooperation with the Architect, shall prepare a list of required submittals for the Project at the earliest time possible after commencement of the construction phase. The Construction Manager shall prepare a schedule for each required submittal by each construction subcontractor to expedite and coordinate the receipt, review and ordering of materials within the necessary sequence of the construction.

§3.3.1.15 The Construction Manager shall endeavor to minimize or prevent construction activities from negatively affecting the ongoing working environment of the Owner.

§3.3.1.16 The Construction Manager shall create and maintain a construction site safety program to ensure all personnel in and around the construction areas are reasonably protected at a minimum to the requirements of the law. The Construction Manager shall monitor the activities on the site to promote safe and secure conditions.

§.3.3.1.17 The Construction Manager shall develop a project close-out program including the assembling for transmittal to the Owner all operations and maintenance manuals, warranties, as-built drawings, approved materials submittals and any other records for delivery to the Owner. As-built drawings shall be required from all trade contractors and shall be included in the trade contractor's overhead and profit.

§.3.3.1.18 The Construction Manager shall apply and arrange for a Certificate of Occupancy as required by the Building Code and the local authority having jurisdiction.

§.3.3.1.19 The Construction Manager shall attend or otherwise assist with public meetings, meetings with the Owner's employees or governmental conferences deemed necessary in the execution of the Project.

§.3.3.1.20 The Construction Manager shall coordinate the startup, testing and training of Owner personnel as required under the construction documents. The Construction Manager shall also cooperate with the commissioning agent engaged directly by the Owner and shall manage and coordinate any necessary corrective work discovered during the commissioning process. The Construction Manager shall also arrange for and coordinate any warrantee work until the date one year after the date of substantial completion.

§ 3.4 Extent of Responsibility

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

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

§ 3.4.2 Consultation

§ 3.4.2.1 The Construction Manager shall schedule and conduct bi-weekly meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.4.2.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.4.2.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.4.3 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule using the Critical Path Method ("CPM") for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify probable critical and long lead time items, as well as any other items that could affect the

Project's timely completion. The Project schedule shall incorporate a detailed schedule for the construction operations in all phases of the Project, including realistic activity sequences and durations, the processing of shop drawings and samples, the Owner's occupancy requirements and priorities, and the delivery of products or materials requiring long lead time procurement. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner. The Project schedule shall be updated, in writing and provided to Owner, no less than once per month. As design proceeds, the preliminary Project schedule shall be updated to indicate proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, and proposed date of Substantial Completion. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations to the Owner and Architect.

§ 3.4.4 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.4.5 Cost Estimates

§ 3.4.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. The Construction Manager shall prepare a Project Cash Flow Projection in an easily understood format for the Owner's approval and update it periodically, but not less than (1) at the completion of the Schematic Design Phase, (2) at completion of the Design Development Phase, and (3) at the completion of the Construction Documents Phase. The Project Cash Flow Projection shall be prepared to include only the Cost of the Work and fee under this Agreement in a format approved by Owner within 30 days of executing this Agreement or in an approved format provided to Construction Manager. The Construction Manager shall advise the Owner and the Architect if it appears that the Projected Cash Flow Projection, as provided to the Construction Manager by the Owner, will be inaccurate, and it shall promptly make recommendations as to possible corrective actions.

§ 3.4.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget and make recommendations for corrective action. If any estimate submitted to the Owner exceeds previously approved estimates or the Owner's budget by 5% or more, the Construction Manager shall make appropriate recommendations to the Owner and Architect for appropriate value engineering changes and shall work with the Architect to implement them to the extent they are acceptable to the Owner. Construction Manager shall not be entitled to additional compensation for the foregoing services.

§ 3.4.5.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.4.5.4 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.4.5.5 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.4.5.6 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.4.5.7 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.4.6 Subcontractors and Suppliers

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

§ 3.4.6.2 The Construction Manager, in conjunction with the Architect, shall develop overall bid package strategy and take appropriate action to stimulate and maximize prospective bidders' interest in the Project. The Construction Manager shall include, in its planning and bid package strategy, local workforce development plans and plans to attract interest of and participation by MBEs and WBEs, residents of the Town of Hamden and residents of New Haven County. The Construction Manager shall be responsible for compliance with all applicable Town and State of Connecticut MBE, SBE and WBE participation and set aside requirements, including but not limited to all requirements of Public Act 15-5 and the statutes and regulations promulgated thereunder, and also warrants to Town that Construction Manager shall at all times ensure full compliance with applicable State and Federal laws and regulations, including Executive Orders.

§3.4.6.3 The Construction Manager shall advise the Owner and the Architect with respect to the division of the Project in the construction documents in order to facilitate the bidding and awarding of individual contracts with Subcontractors. The Construction Manager shall review the construction documents and make such recommendations as required to ensure that:

- a) the Work is coordinated;
- b) all requirements for the Project have been assigned to the appropriate contract;
- c) the likelihood of jurisdictional disputes has been minimized;
- d) proper coordination has been provided for phased construction; and
- e) all bidding and procurement requirements imposed by the Connecticut Department of Economic and Community Development have been satisfied.

§3.4.6.4 The Construction Manager shall conduct pre-bid conferences to familiarize prospective bidders with the Project and the bid documents. The Construction Manager shall assist the Architect with regard to responding to questions from bidders and with the issuance of addenda to the bid documents. All bid opening dates and times shall be scheduled through the Owner's Purchasing Department.

§3.4.6.5 The Work shall be performed under Subcontracts or by other appropriate agreements with the Construction Manager. The Owner, in conjunction with the Construction Manager, shall receive all bids. The Construction Manager shall prepare an analysis of the bids and make recommendations to the Owner regarding the acceptance or rejection of bids. The Construction Manager shall advise the Owner as to the acceptability of each Subcontractor and any material suppliers proposed by such Subcontractors, as well as advise the Owner as to the lowest responsive, qualified and responsible bidder and prepare adequate documentation as required by the Owner's Purchasing Department with respect to the recommended rejection of any bids submitted. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids constitute the lowest responsive, responsive and qualified bids and direct acceptance of same. After selection of the lowest responsive, qualified and responsible

bidder, Owner shall assign each successful bid to the Construction Manager and the Construction Manager shall enter into all trade contracts.

The form of Subcontract shall be Construction Manager's standard subcontract agreement, modified to contain any terms and conditions identified herein (or in the A201) as required for inclusion in the subcontracts. All Subcontracts shall be in accordance and compliance with State and local regulations, laws and ordinances.

Construction Manager will conduct pre-award conferences with successful bidders.

The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§3.4.6.6 Any rejection of any bid must be approved by the Owner's Building Committee.

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

§ 3.4.7 Procurement

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

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

§3.4.7.1 Permits and Approvals: The Construction Manager shall obtain building permits and special permits for permanent improvements, except for those permits required to be obtained directly by the various Subcontractors. The Construction Manager shall assist the Owner and the Architect with regard to the filing of documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.3 Consultation

§3.4.8 Project Safety Precautions: The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety precautions and programs on the Project among the Subcontractors, temporary Project facilities, and equipment, materials and services for the common use of the Subcontractors. It shall verify that these requirements and assignments of responsibility are incorporated in the Construction Documents. Construction Manager shall be responsible for reviewing, approving, monitoring and enforcing Subcontractor safety and loss control plans.

~~§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.~~

§ 3.4.9 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Construction Manager will exercise due diligence in providing and updating schedules on at least a monthly basis so as to include such actions as are reasonably anticipated and necessary to achieve the Substantial Completion date for the Project. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any

nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

~~§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.~~

§ 3.4.10 Compliance with Laws

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

~~§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project.~~

§ 3.5 Other Preconstruction Services

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

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.1.4 Project Schedule

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

§ 3.6 Guaranteed Maximum Price Proposal

Construction shall not begin until the Guaranteed Maximum Price ("GMP") has been established by Amendment to the Agreement. In no event shall the GMP be determined later than forty five (45) days after the selection of the trade contractor bids. After the Drawings and Specifications are sufficiently complete, and fourteen (14) days after Construction Manager has received bids from ninety percent (90%) of all Subcontractors and suppliers, the Construction Manager shall propose a GMP, which shall be the sum of the estimated Cost of the Work (including the Construction Manager's Contingency) and the Construction Manager's Fee. Any qualifications, assumptions or exclusions asserted by the Construction Manager shall be set forth within the Construction Manager's proposed GMP. As used in this paragraph, the phrase "sufficiently complete" shall mean Drawings and Specifications that are adequate to describe the Work in graphic and written form. The Drawings will graphically depict the Work, generally in the form of plans, elevations, sections, details, schedules and diagrams. The Specifications will contain the written requirements for materials, equipment, systems, standards, and workmanship for the Work.

§ 3.1.5 Phased Construction

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

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

§ 3.6.1 If the Drawings and Specifications are not 100% complete at the time the Guaranteed Maximum Price proposal is prepared, the Construction Manager shall propose to Owner appropriate contingencies in the Guaranteed Maximum Price for further development of the Drawings and Specifications by the Architect that is consistent with the Contract Documents and reasonably inferable therefrom. The GMP is not intended to include changes in scope from that which is shown or reasonably inferred from the information in the Contract Documents upon which the GMP is based, subject to Exhibit C to the GMP amendment. Such changes, if required, are excluded because they would warrant an adjustment to the GMP by Change Order.

§ 3.1.6 Cost Estimates

§ 3.6.2 The estimated Cost of the Work shall include the Construction Manager's contingency, which is a sum established by the Construction Manager for the Construction Manager's use to cover costs arising under Section 2.2.2 and other costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order, Costs of the Work, and other costs incurred in connection with the Construction Manager's obligations hereunder that are not otherwise reimbursable as a Cost of the Work. Use of the Construction Manager's Contingency shall be to cover costs described in this Paragraph. Construction Manager's use of the CM Contingency to cover costs described in this Paragraph shall not occur until the Owner has approved the CM's written Contingency Draw Request. Permissible uses of the CM contingency, with Owner's approval are: (1) estimating errors, (2) trade buy-out differentials, (3) unanticipated market conditions, including price escalation after the GMP is accepted through a written Amendment to this Agreement, (4) labor and material market conditions, (5) interface and coordination omissions between various Subcontractor packages, (6) overtime and/or premium time not due to delays beyond Construction Manager's control under 8.3.1 of the General Conditions or beyond the control of Subcontractors, (7) acceleration and/or expediting, (8) bidder, Subcontractor, and vendor defaults, (9) legal expenses except for legal expenses incurred in connection with a dispute between the Construction Manager and the Owner. The Construction Manager's contingency shall not, however, be used to fund costs of corrective work. The Construction Manager's contingency shall not be used to fund changes in the Work as described in Article 7 of AIA Document A201, including any adjustments to any of the allowances included in the GMP, nor shall it be used to fund costs that, with the exception of the acceptable uses result from the negligence or misconduct of Construction Manager. Construction Manager shall furnish documentation evidencing expenditures charged to the contingency and the reasons therefor. Such evidence shall be furnished contemporaneously with Construction Manager's charge against contingency. It is expressly understood that any unused sums from the Construction Manager will revert to the Owner upon final payment to the Construction Manager.

If the Construction Manager incurs legal fees as a result of the Owner's failure to fulfill an obligation attributable to the Owner under this Agreement, such reasonable legal fees shall not be part of the GMP. However, if the Construction Manager incurs legal fees in connection with claims which, if proven, amount to the Construction Manager's failure to satisfy its obligations to the Owner hereunder, no increase in the GMP shall be allowed for such fees. Upon final completion of the project, any unused portion of the Construction Manager's contingency shall revert to and be the property of Owner.

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

§ 3.6.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

- 2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- 3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances (including all labor, materials, and equipment); the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- 4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- 5 A date by which the Owner must accept the Guaranteed Maximum Price.

~~§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.~~

~~§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.~~

§ 3.6.4 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

~~§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.~~

~~§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.~~

~~§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.~~

§ 3.6.5 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

~~§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.~~

~~§ 3.1.11 Subcontractors and Suppliers~~

§ 3.6.6 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

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

§ 3.6.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

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

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

§ 3.6.8 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed. Construction Manager recognizes that Owner, as a Connecticut municipality, is not subject to Connecticut Sales Tax.

§ 3.1.12 Procurement

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

§ 3.1.13 Compliance with Laws

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

§ 3.7 Construction Phase

§ 3.1.14 Other Preconstruction Services

~~Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document
(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)~~

§ 3.2 Guaranteed Maximum Price Proposal

~~§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.~~

§ 3.7.1 General

~~§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.~~

~~§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:~~

- ~~.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;~~
- ~~.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;~~
- ~~.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;~~
- ~~.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and~~
- ~~.5 A date by which the Owner must accept the Guaranteed Maximum Price.~~

~~§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.~~

~~§ 3.7.1.1 For purposes of Section 8.1.2 of A201-2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase. The Construction Manager shall, when it is ready to proceed with the construction phase, submit a written request to the Owner for a Notice to Proceed. The Construction Manager shall not proceed with the commencement of the Construction Phase until the Owner issues a written Notice to Proceed.~~

~~§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.~~

~~§ 3.7.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.~~

~~§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.~~

~~§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.~~

~~§ 3.7.2 Administration~~

~~§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.~~

~~§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.~~

~~§ 3.3 Construction Phase~~

~~§ 3.3.1 General~~

~~§ 3.3.1.1 For purposes of Section 8.1.2 of A201-2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.~~

~~§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.~~

~~§ 3.3.2 Administration~~

~~§ 3.3.2.1 The Construction Manager shall schedule and conduct pre-mobilization meeting with its subcontractors as well as weekly meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.~~

~~§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017.~~

~~§ 3.3.2.3 Monthly Report~~

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

~~§ 3.3.2.4 Daily Logs~~

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

~~§ 3.3.2.5 Cost Control~~

~~The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.~~

§ 3.7.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017.

§ 3.7.2.3 Monthly Report

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

§ 3.7.2.4 Daily Logs

The Construction Manager shall maintain daily logs, which shall be made available to the Owner and Architect, shall, at a minimum, contain a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner. Construction Manager shall also, in conjunction with the Architect, provide Owner with weekly project observation and construction management reports in a format to be presented to and approved by the Owner during the pre-construction phase.

§ 3.7.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

§3.7.2.6 Construction Manager shall monitor and track MBE and WBE, local workforce and overall labor participation, including Set Aside documentation. This Project is funded in part by State of Connecticut funds. This contract is subject to state contract compliance requirements, including nondiscrimination statutes and spending allocation goals. State law requires a minimum spending allocation goal of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification as Small Business Enterprises ("SBE") from the Connecticut Department of Administrative Services ("DAS"). A minimum spending allocation goal of 6.25% of the state-funded portion for subcontractors holding current DAS certification as Minority-, Women-, and/or Disabled-owned businesses ("M/W/DisBE"). The contractor must demonstrate good faith effort to meet the 25% spending allocation goals.

The Contractor shall comply with CONN. GEN. STAT. §§ 4a-60, 4a-60g, and 46a-68b through 46a-68f. State law requires a minimum spending allocation goal of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the total state-funded value with DAS-certified Small Businesses and 6.25% of the total state-funded value with DAS-certified Minority-, Women-, and/or Disabled-owned Businesses.) The contractor must demonstrate good faith effort to meet the spending allocation goals.

The Owner is required by the Connecticut Commission on Human Rights and Opportunities (CHRO), pursuant to C.G.S. § 46a-68c and 46a-68d, to withhold 2% of the total state-funded portion of the contract per month until such time as the CHRO has approved the Contractor's affirmative action plan.

Contractor shall comply with the Procedures for Nonresident Contractors, if applicable, as set forth in C.G.S. §12-430.

Contractor shall, at all times, ensure compliance with all federal laws, in addition to laws of the State of Connecticut, and shall indemnify, defend and hold Town harmless from and against any damages arising from Contractor's failure to strictly comply with applicable laws.

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~~§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.~~

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall shall, if deemed necessary by Owner, thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. Construction Manager

shall have no claim against Owner if any of the information provided by Owner is deficient or incorrect. Notwithstanding the foregoing, in the event that site conditions differ from that indicated in information provided to the Construction Manager by the Owner and Construction Manager's subcontractor(s) seeks an increase in its subcontract price due to additional costs directly attributable to such differing site condition(s), Construction Manager may apply to the Owner for an increase in the Guaranteed Maximum Price in accordance with 3.7.4 of the General Conditions. Construction Manager shall work with Owner to minimize any additional costs or impact to the schedule if any information provided by the Owner is deficient or incorrect.

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§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. Construction Manager shall observe any tests, record and report to Owner on test procedures, test results and verify testing invoices to be paid by Owner.

...

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative. Any and all extra work authorization must be accompanied by a Purchase Order issued by Owner or a fully executed Change Order.

...

The Owner shall retain-has retained an Architect to provide services, duties and responsibilities as described in AIA Document B133™ 2019, Standard Form of Agreement Between Owner and Owner's Agreement with Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

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The Parties agree that the Preconstruction Phase shall commence on November 1, 2025. Construction Manager shall be compensated for Preconstruction Services commencing upon Owner's issuance of a Notice to Proceed in the total amount not to exceed Three Hundred Fifty Five Thousand One Hundred Fourteen Dollars (\$355,114.00) for all preconstruction services. The preconstruction fee shall be billed in equal monthly installments in accordance with the RFP and Contractor's Proposal.. Construction Manager's Proposal is made a part hereof as Exhibit B.

All hourly rates set forth in Construction Manager's Proposal include cost plus burden.

Reimbursable expenses, including the items identified in Contractor's Proposal and other out-of-pocket expenses, are included in the above lump sum amount.

Payments shall be due within 30 days after approval by the Building Committee. No retainage shall be withheld on Preconstruction Services.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position

Rate

in the Construction Manager's Proposal, dated 2/19/25 and made a part hereof.

...

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

§ 5.2 Payments

~~§ 5.2.1~~ Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

~~§ 5.2.2~~ Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid () days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

—%

...

Construction Manager's fee shall be in the fixed lump sum amount equal to 5% of the Cost of the Work as determined at the time of the Owner's acceptance of the GMP via execution of the GMP Amendment.

Construction Manager shall receive a CM Fee of 5% of the Cost of the Work for an approved change order, to cover overhead and profit on any properly approved and authorized Changes in the Work. Approved change orders shall also include the CM's additional insurance and bond premiums attributable and allocable to the Changes in the Work.

To the extent Construction Manager is requested to coordinate and oversee the work of third-party contractors retained directly by the Owner, Construction Manager shall receive a fee of 5% of the cost to the Owner of the third-party work, as a separate service that shall not be included as part of the GMP.

The Construction Manager shall be reimbursed for General Conditions Costs and General Requirements costs as defined in Exhibit B in an amount not to exceed One Million Nine Hundred Seventy One Thousand Five Hundred Seventy Eight Dollars (\$1,971,578.00). In addition, Construction Manager shall be reimbursed for the premiums paid by it for payment and performance bonds, CGL and workers' compensation insurance, and professional liability insurance at the rates set forth in Construction Manager's Proposal.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Total of 15% Percent (10% for overhead and 5% for profit) for overhead and profit combined. 5% total overhead and profit on second tier subcontractors.

~~§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed _____ percent (____%) of the standard rental rate paid at the place of the Project.~~

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~~§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. Work if such changes extend the duration of the performance of the Project.~~

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~~§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.~~

...

~~§ 7.1.4 The payment or partial payment of any Application for Payment by the Owner, including the final Application for Payment shall not constitute approval or acceptance of any Work or cost in such Application.~~

~~§ 7.1.5 Any provision to the contrary notwithstanding, Owner shall not be obligated to make any payment to Construction Manager if any one or more of the following conditions exist.~~

- ~~_____ .1 defective Work not remedied;~~
- ~~_____ .2 reasonable evidence that the Work will not be completed within the Contract Time and/or established milestone dates and that the unpaid balance would not be adequate to cover actual or the anticipated delay;~~
- ~~_____ .3 reasonable evidence that the Work will not be completed for the unpaid balance of the Guaranteed Maximum Price;~~
- ~~_____ .4 failure to carry out the Work in accordance with the Contract Documents;~~
- ~~_____ .5 reasonable evidence that Construction Manager has failed to pay subcontractors and/or suppliers; or~~
- ~~_____ .6 Construction Manager becomes insolvent or files for bankruptcy.~~

...

~~§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval, approval are included in the not to exceed General Conditions set forth in Exhibit B. In the event that a change order requires additional personnel costs under this Section, the costs shall be calculated using the rates set forth in Construction Manager's Proposal.~~

...

~~§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work. Such wages and salaries are included in the not to exceed General Conditions set forth in Construction Manager's Proposal. In the event that a~~

change order requires additional personnel costs under this Section, the costs shall be calculated using the rates set forth in Construction Manager's Proposal.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, Construction Manager's customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3. Such costs are included in the not to exceed General Conditions set forth in Exhibit B. In the event that a change order requires additional personnel costs under this Section, the costs shall be calculated using the rates set forth in Construction Manager's Proposal.

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Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this ~~Agreement~~ Agreement, including the cost of payment and performance bonds provided by subcontractors.

7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

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

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed ~~construction~~ construction are included in the not to exceed General Requirements or General Conditions and/or the GMP.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and ~~spoilage~~ spoilage are included in the Construction Manager's not to exceed General Requirements or General Conditions. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work and/or the GMP.

...

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value. Any such costs are included in the not to exceed General Requirements or General Conditions and/or the Guaranteed Maximum Price.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. Any such costs are included in the not to exceed General Conditions or General Requirements and/or the GMP. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal. Any such costs are included in the not to exceed General Conditions or General Requirements and/or the GMP.

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§ 7.5.6 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office. Any such costs are included in the not to exceed General Conditions or General Requirements.

§ 7.5.7 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. Any such costs are included in the

not to exceed General Conditions or General Requirements. Non-local travel or lodging must be pre-approved by Owner.

§ 7.5.8 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

...

§ 7.6.1.1 ~~Costs for self-insurance, Premiums for that portion of the Construction Manager's insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval. The Construction Manager's Liability Insurance shall be invoiced at the rate of 1% of the Cost of the Work. Performance and payment bonds of Construction Manager shall be collectively billed at the rate of 1.20% of the Cost of the Work.~~

...

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable. Owner is exempt from Connecticut Sales tax.

...

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval. These costs are included in Construction Manager's not to exceed General Requirements or General Conditions.

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§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld. Such costs shall not be payable by Owner if the disputes are caused by or attributable to Construction Manager's failure to fulfill a specific responsibility to the Owner as set forth in this Agreement. If the Construction Manager incurs legal fees as a result of something the Owner did or did not do (e.g., failure to pay without just cause, delayed project, approved but did not pay for change order work), such legal fees shall not be part of the GMP. However, if the Construction Manager incurs legal fees in connection with claims for which the Owner has no responsibility (e.g., claims that Construction Manager failed to properly coordinate, schedule, sequence or supervise the work), no increase in the GMP shall be allowed for such fees.

...

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9. Unless otherwise provided, when such reimbursable costs are properly included in the Cost of the Work, the Construction Manager shall only be entitled to reimbursement of its direct, out-of-pocket costs without allowance for any surcharge, overhead, or profit. Except where agreed rates are applicable, the Construction Manager, when entitled to reimbursable costs under this Agreement, shall promptly furnish in a form satisfactory to the Owner itemized statements of the costs incurred, including, but not limited to, certified payrolls and copies of documents, bills and vouchers.

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- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

- .9 Costs for services incurred during the Preconstruction ~~Phase~~Phase; and
10. Costs incurred as a result of Construction Manager's failure to comply with or fulfill an obligation set forth in this Agreement (including the obligations set forth in the A201).

§7.9.2 Except as otherwise provided in this Agreement, costs due to the fault, negligence, or failure to fulfill a specific responsibility to the Owner as set forth in this Agreement of the Construction Manager, Subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including but not limited to costs for the correction of damaged, defective or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and repairing damage to property not forming part of the Work. If the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

§ 7.9.3 Penalties, fines or costs imposed by governmental authorities in connection with, or resulting from any violation of, or noncompliance with laws, regulations, codes, ordinances or directives by the Construction Manager or any Subcontractor.

§ 7.9.4 Cost of Work authorized or performed by the CM as described in Sections 6.1.1 through 6.1.8 not authorized in advance by the Owner will not be reimbursed unless such work is within the approved GMP.

7.10 All records shall be maintained in accordance with generally accepted accounting procedures, consistently applied. Subcontractors retained by the Construction Manager on a cost-plus basis shall have the same obligations to retain records and permit audits as required of the Construction Manager.

7.10.1 If requested by the Owner, the Construction Manager shall promptly, within 30 days, deliver to the Owner copies of all correspondence, estimates, budgets, breakdowns, accounting data, bid proposals, cost control information and any other documents relating to the Project, in a form acceptable to the Owner.

7.10.2 Without limitation of the foregoing, the Owner shall have the right, at any time and from time to time, upon notice to the Construction Manager, to audit the Construction Manager's books and records in connection with the Work at the Construction Manager's offices. The Construction Manager shall facilitate any such audit by making necessary facilities available to the Owner and its representatives.

§ 7.10.3 If any inspection by the Owner of the Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and any other data relating to the Contract Documents reveals an overcharge, including, without limitation, any untimely request for payment as described in Paragraph 13.3, the Construction Manager shall pay the Owner upon demand, when the overage is in excess of 0.25% of the Work, all the overcharged amount along with the complete cost of the administrative expenses incurred in determining the overage. The requirements of this Paragraph 6.4.5 shall not apply to any portion of an overcharge which is the subject of a good faith dispute between the Owner and the Construction Manager.

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

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

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 15th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the day of the

~~month-15th day of the following month, assuming that the Application for Payment is approved by the Owner. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment. Payment is approved by the Owner.~~
(Federal, state, or local laws may require payment within a certain period of time.)

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

§ 11.1.5 Each Application for Payment shall be based on the ~~most recent~~ approved schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

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Five percent (5%) of each progress payment

...

General Conditions; General Requirements; Project Requirements; Insurance; Bonds; Permits; CM Allowances.
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- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final ~~Application for Payment; Payment, including an executed final release for payment of materials and services rendered, in an acceptable form, and Owner has reviewed and approved said final accounting, Application for Payment and release; and~~

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

~~—%—~~ INTENTIONALLY OMITTED

...

- [] ~~Litigation in a court of competent jurisdiction~~ X] Litigation in Connecticut Superior Court in and for the Judicial District of New Haven at New Haven

...

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed ~~the compensation set forth in Section 5.1.~~ payment for Work actually completed as of the date of termination.

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§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed ~~the compensation set forth in Section 5.1.~~ payment for Work actually completed as of the date of termination.

- ...
- 2 Add the Construction Manager's Fee computed upon the Cost of the Work completed to the date of termination at the rate stated in Section 6.1 or, ~~if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~ 6.1; and

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

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

only the amount due for Work actually completed as of the date of termination.

...

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2017.

The Construction Manager shall maintain the following insurance for the duration of the Project: see Exhibit C hereto..

The Construction Manager's General Liability Insurance shall be invoiced at the rate set forth in the Construction Manager's Proposal. Construction Manager shall obtain and maintain insurance coverage as follows:

§ 14.3.1 Preconstruction Phase

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

§ 14.3.1.1 Commercial General Liability with policy limits of not less than Three Million (\$ 3,000,000.00) for each occurrence and Five Million Dollars (\$ 5,000,000.00) in the aggregate for bodily injury and property damage.

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

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§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than One Million Dollars (\$ 1,000,000.00) each accident, One Million Dollars (\$ 1,000,000.00) each employee, and One Million Dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Five million dollars (\$ 5,000,000.00) per claim and Five Million Dollars (\$ 5,000,000.00) in the aggregate.

§ 14.3.1.6 ~~Other Insurance~~ Excess Insurance: Ten million dollars (\$10,000,000.00) per occurrence, ten million dollars (\$10,000,000.00) products/completed operations aggregate for the Project, and ten million dollars (\$10,000,000.00) annual general aggregate for the Project.

§ 14.3.1.7 Other Insurance

...

Payment and Performance Bonds 100% of the Cost of the Work
The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the total project revenue. The Construction Manager's Payment and Performance Bond will be recalculated at time of GMP, based on the rate set forth in the Construction Manager's Proposal. The Construction Manager shall require Payment and Performance Bond from its subcontractor (s) and the cost thereof shall be included in the Cost of the Work.

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

...

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with ~~a building information modeling exhibit, AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit~~, if completed, or as otherwise set forth below:
(If other than in accordance with ~~a building information modeling exhibit, AIA Document E203-2013~~, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)
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- .5** ~~Building Information Modeling Exhibit, if completed, AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
(Insert the date of the E203-2013 incorporated into this Agreement.)

...

Exhibit B: Construction Manager's Proposal (including Fee Proposal dated 8/14/25)
Exhibit C: Owner's RFP#26-02,
Addendum #1, dated 8/7/25, to RFP 26-02.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Jeffrey M. Donofrio, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:04:36 ET on 11/05/2025 under Order No. 3104238686 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Attorney for Owner

(Title)

11/20/25

(Dated)



AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

RFP#26-02 Newhallville Foundations ProjectHamden, CT 06518

THE OWNER:
(Name, legal status and address)

Town of Hamden
2750 Dixwell AvenueHamden, CT 06518

THE ARCHITECT/Engineer:
(Name, legal status and address)

Haley & Aldrich

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
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- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

ADDITIONS AND DELETIONS:

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

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

Init.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, Owner's RFP #26-02, Contractor's Proposal dated August 14, 2025, and other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect..

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties. Subcontractors are not intended thirty-party beneficiaries to the Contract and shall have no direct cause of action against the Owner.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

Intentionally Deleted.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. During the bidding phase, questions, RFIs or discrepancies shall be called to the Owner's attention in writing and will be answered by the Owner by means of an addendum. All addenda shall become part of the Contract Documents. If any item of work is shown on the Drawings and not specified or mentioned in the Specifications and not shown on the Drawings, the matter shall be brought to the attention of the Owner during the bidding period so an addendum can be

issued correcting the omission. If such correction as is identified in an addendum is not made, the Work in question shall be considered to be required as if it has been specified and shown on the Drawings.

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 Dimensions given on the Drawings govern scale measurements and large-scale drawings govern small scale drawings. All documents are complementary and specific items of work are shown only where most appropriate for clarity. The Drawings are generally made to scale, but all working dimensions shall be taken from the figured dimensions, or by actual measurements taken at the job, and in no case by scaling. Whether or not an error is believed to exist, deviation from the Drawings and the dimensions given thereon shall be made only after approval in writing from the Architect.

§ 1.2.5 All indications or notations which apply to one or a number of similar situations, materials or processes shall be deemed to apply to all such situations, materials or processes wherever they appear in the Work, except where a contrary result is clearly indicated by the Contract Documents.

§ 1.2.6 It shall be understood that the drawings are diagrammatic, and the Contractor and subcontractors shall work in cooperation with each other in determining the running of pipe lines and locating equipment. Any necessary variation shall be made to conform to the intent of the diagrammatic drawings without additional costs. Where there are intersections involving various piping and equipment, etc., particular consideration shall be given to clearance.

§ 1.2.7 All manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturers' written instruments unless specifically indicated otherwise in the Contract Documents.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if

any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

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

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraphs deleted)

§ 2.2.4 Where the Owner has designated information furnished as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 Intentionally omitted.

§ 2.3.3 Intentionally omitted.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall conduct its own due diligence, familiarize itself with the site where the Work will be performed and exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect and backcharge the Contractor for the cost of such corrective work. The Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

§ 2.5.1 The Owner shall, at all times, have full access to and the right to inspect all portions of the Work for quality, progress and conformance to the Contract Documents.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, conducted its own due diligence and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect in writing any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities. If the Contractor or a Subcontractor fails to submit a Claim in accordance with the requirements of Article 15, the Contractor or Subcontractor knowingly, voluntarily and irrevocably waives any Claim for additional compensation or time.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§3.4.4 The Contractor (and its Subcontractors) shall pay prevailing wages in accordance with Connecticut law. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.2.1 The Contractor agrees to assign to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

§3.5.2.2 The Contractor expressly warrants its Work for one year after the date of Substantial Completion, or for such longer period as provided in the Contract Documents. Contractor, at no cost to Owner, shall make any repair or replacement to the Work resulting from defective materials and/or workmanship. Contractor shall commence making the repairs or replacements required pursuant to this Warranty within ten days after the Owner gives written notice to the Contractor. In the event of Contractor's failure to make timely corrections, Owner shall have the right to make corrections, and Contractor shall be responsible for immediate payment thereof. Any other specific or extended warranties are as identified in the Project Manual.

§3.5.2.3 The warranty required by this Paragraph 3.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

§ 3.5.2.4 The Contractor shall procure and deliver to the Architect, no later than thirty (30) calendar days after the Date of Substantial Completion, all warranties required by the Contract Documents.

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§3.5.2.5 The Warranty shall include the repair and/or replacement of all damaged materials resulting from the defective materials and/or workmanship. This shall include but not be limited to furniture, fixtures, equipment, finishes or any other affected materials or property.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Town is exempt from the payment of Connecticut Sales Tax.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide written notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

- 2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- 3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information and approval a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The schedule shall set forth milestone dates agreed to by the parties. The failure of the Contractor to achieve a milestone shall constitute a material default hereunder. Failure to meet a milestone date shall entitle but not require the Owner to supplement the Contractor's forces, at the sole cost and expense of the Contractor, and the Contractor shall be solely responsible for coordinating its efforts with and supervising the work of any supplemental labor.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The construction schedule shall be in a detailed critical path method (CPM) type format satisfactory to the Owner and Architect and shall also (1) provide a graphic representation of all activities and events that will occur during performance of the Work, including but not limited to hazardous material remediation, demolition, furniture and equipment deliveries, Substantial Completion, move-in activities, commissioning, training, punch list, and final cleaning; (2) identify each phase of construction and occupancy; (3) identify float time associated with non-critical path activities, and (4) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as Milestone Dates). Upon review and acceptance by the Architect and Owner, the construction schedule shall be deemed the Baseline

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Construction Schedule for the project and will be used to determine the validity of Claims for Additional Time as identified in Article 15. This Baseline Construction Schedule can only be modified with approved changes in Contract Time through the execution of a Change Order. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner and Architect of any delays or potential delays. The construction schedule shall be updated regularly to reflect actual conditions or if requested by the Owner or at least monthly. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to a Change Order.

§ 3.10.5 At weekly or biweekly construction progress meetings, the Contractor shall submit detailed two (2) week look ahead schedules which depict specific activities to occur during that period.

§ 3.10.6 The Contractor shall schedule and conduct construction and progress meetings, on a frequency required to effect coordination, to discuss such matters as procedures, progress, problems and scheduling. The Contractor shall prepare and distribute minutes within three working days of such meetings.

§ 3.10.7 The Contractor shall record the progress of the Project and submit written progress reports not less frequently than monthly to the Owner and the Architect, including information on each Subcontractor and each Subcontractor's Work, as well as the entire Project, showing percentages of completion and the number and amounts of Change Orders. The Contractor will keep a daily log containing a record of weather, Subcontractors' Work on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the Owner may require. Upon request, Contractor shall make a log available to the Owner and the Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action. The Contractor's approval shall be noted on the submitted item or in its transmittal letter, together with written notice of any deviation in the submitted item from the requirements of the Work and of the Contract Documents. In collaboration with the Architect, Contractor shall establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal

schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors. Each Shop Drawing, Product Data, Sample and similar submittals shall have a cover sheet on them identifying the project name and address, contractor information, drawing and/or specification reference, submission date and contents of the submittal. Ample space shall be provided on this cover sheet to allow for the Contractor's and Architect's review stamps. The Contractor's approval shall be noted on the submitted items or in its transmittal letter, together with written notice of any deviation in the submitted item from the requirements of the Work and of the Contract Documents.

§ 3.12.6 By submitting and approving Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents and (4) coordinated with information on Shop Drawings, Product Data, Samples, or similar submittals previously approved by the Architect or submitted by the Contractor for approval but not yet acted upon by the Architect, and verification of compliance with all the requirements of the Contract Documents. The accuracy of all such information is the responsibility of the Contractor. In approving Shop Drawings, Product Data, Samples, and similar submittals, the Architect shall be entitled to rely upon the Contractor's representation that such information is accurate and in compliance with the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. If the Contractor procures, performs or installs portions of the Work without required approval, the Contractor does so at its own risk and such Work may be removed or replaced with approved Work at no cost to the Owner.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. Any submittals forwarded to the Architect for review that include a deviation from the requirements of the Contract Documents or are not the specific make, model or manufacturer that was listed in the Contract Documents shall have a completed Substitution Request Form attached to the submittal. This Substitution Request Form shall be provided by the Owner. Unless such deviation is identified by utilizing the Substitution Request Form, the Contractor shall not be relieved of the responsibility for the specific requirements of the Contract Documents even though the subject submittal was approved by the Architect. The Contractor shall not be relieved of responsibility for the contractor's, subcontractor's or vendor's errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional who shall have and maintain reasonable limits of insurance, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy

and completeness of the services, certifications, and approvals performed or provided by such design professionals. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 Services provided by the Architect to evaluate Contractor product substitution requests or to review shop drawings or other project submittals which are required to be submitted more than three (3) times shall be paid for by the Contractor to the Owner.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, actions, causes of action, proceedings, fines, penalties, injuries, costs, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, to the extent caused by the failure of the

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Contractor to comply with the Contract Documents or the negligent or willful acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due to the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed.

However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect and/or Owner may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. A good faith, objective determination that a proposed subcontractor is not qualified shall be deemed a reasonable objection. If a proposed subcontractor is not in compliance with all applicable regulations and laws, such non-compliance shall be deemed a good faith basis for finding the proposed subcontractor not responsible.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract but does not accept and shall not be liable for Contractor's obligations prior to the effective date of the assignment.

(Paragraph deleted)

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, to supplement to the Contractor's forces at Contractor's cost and to staff the job with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

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§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. The decision as to whether the Change Work is executed via a Change Order, Construction Change Directive, or a minor change in the Work is the decision of the Owner.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires signature by the Owner and Architect and may or may not be agreed to by the Contractor. Except as permitted in Section 7.3, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order or by Construction Change Directive. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alteration or addition to the Work, whether or not there is, in fact, any unjust enrichment, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§7.1.4 The Contractor's itemized accounts for all expenditures or savings for additions to, or deductions from, the Work in the Contract Documents shall at all times be open to inspection by the Owner and Architect.

§7.1.5 Proposed changes in the Work requested during the construction phase shall be priced by the Contractor and submitted to the Architect and Owner for review, in such form as the Architect and Owner may require, within seven (7) calendar days following the Contractor's receipt of the request. The Contractor shall promptly revise and resubmit such proposal if the Architect and Owner determine that it is not in compliance with the requirements of this Article, or that it contains errors of fact or mathematical errors. If required by the Architect or Owner, in order to establish the exact cost of new Work added or previously required Work omitted, the Contractor shall obtain and furnish to the Architect and Owner bona fide proposals from recognized suppliers for furnishing and material included in such Work. Such proposals shall be furnished at the Contractor's expense.

§ 7.1.6 The Contractor's proposal for a change in the Work (Change Order Proposal) shall be itemized completely and shall include: Specific number of calendar days for additional time (if applicable); an explanation of the overall schedule impact (if any); an explanation of why the proposed work is not included in the Contract Documents or otherwise constitutes a change; all material costs and quantities accompanied by the original manufacturer invoices; labor wages; unit prices; subcontractor costs; mark ups; equipment costs, profit, overhead, general conditions, fees, bond costs and approved daily time sheet tickets for work performed under the utilization of labor rates. The Architect's and Owner's refusal to approve a Change Order or Change Order Proposal due to the Contractor's lack of itemized backup information shall not be used to substantiate a claim for additional time.

§ 7.1.7 The methods used in determining the adjustment of the Contract Sum due to the Change in the Work may include those listed in Section 7.3.3 and are at the discretion of the Owner.

§ 7.1.8 If the method utilized to execute the Change in the Work is based on labor rates, unit prices and material costs, then actual daily time sheets / tickets, approved by the Superintendent and the Owner, must accompany the Change Order, Construction Change Directive, or minor change in the Work. Not including these actual daily time sheets / tickets, approved by the Superintendent and the Owner, with the Change Order, Construction Change Directive, or minor change in the Work may be cause for their rejection.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§7.2.2 Agreement on any Change Order shall constitute a final settlement on all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.

§ 7.2.2.1 Change Order Proposals shall be complete and all inclusive. The amount of the adjustment in the Contract Sum and Contract Time, if any, shall be stated in the proposal for all Work affected by the proposed change. Once a Change Order is executed, the Contractor shall be required to perform all of the Work required therein (including incidental work and changes to related Work which may be required to complete the Change Order) in accordance with the Contract Documents, for the amount stated in the Change Order.

§ 7.2.3 The amount of the credit to be issued by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both addition and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. The Owner may also by Construction Change Directive order work to be performed that has been interpreted by the Owner and Architect to be part of the Work but is disputed by the Contractor through submission of a Claim.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order or work interpreted by the Owner or Architect to be part of the Contract.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices and rates stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

(Paragraphs deleted)

§7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the Work involved and advise the Owner and Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining same. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect and Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect and Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security and unemployment insurance, fringe benefits required by agreement or custom, workers' compensation insurance;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect and Owner will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect and Owner determines in the Architect's and Owner's professional judgment, to be reasonably justified. The Architect's and Owner's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.9 When the Contractor agrees with a determination made by the Owner and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Contractor will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be

reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect, with prior approval from the Owner, has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE CONTRACT. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2.4 The Contractor shall proceed expeditiously in accordance with the construction schedule with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor shall at all times ensure that each Subcontractor is providing and maintaining sufficient skilled workers, materials and equipment to achieve Substantial Completion within the Contract Time. Absent Change Orders signed by the Owner or a delay for which the Contractor is entitled to an extension of time by § 8.3.1, the Contractor shall not make any claims for additional payment of straight time, overtime or premium time in undertaking to achieve Substantial Completion of the Work in accordance with the construction schedule. The burden of lost time and costs related to any Subcontractor's nonperformance shall not be charged to Owner.

§ 8.2.5 If the Architect determines that there have been delays to critical path activities and that in the Owner's sole discretion, there is reasonable concern that the Project will not be Substantially Completed by the date described in the Agreement (GMP Amendment), the Owner may, in addition to any other remedy it may have, direct the Contractor to submit a written description of the steps the Contractor intends to take (i.e., recovery plan) to get the Project back on schedule. At the Owner's sole discretion, the Owner may also, in addition to any other remedy it may, have direct the Contractor to take some or all of the following actions: (a) increase the number of workers in such quantities and trades as the Owner directs; (b) increase the number of working hours per shift, shifts per day, working days per week, amount of construction equipment, or any combination of the foregoing; and/or (c) reschedule activities at the Owner's discretion.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. Under no circumstances shall Owner be responsible or liable for any delay damages, including any *Eichleay* or other type of extended overhead, or lost profit claims or damages, idle equipment costs, lost productivity or labor inefficiency costs, acceleration damages, suspension damages, consequential damages, incidental damages, or lost opportunity costs. Contractor acknowledges that it is aware of and considered this provision when submitting and pricing its Proposal and Contractor accepts the risk of delays.

§ 8.3.2 Claims for extension of time shall be made in accordance with applicable provisions of Article 15. Extensions of time for excusable delay shall be Contractor's sole remedy in the event of delays.

(Paragraph deleted)

§ 8.3.3 Notwithstanding anything to the contrary in the Contract Documents, the Contractor's remedy for any (i) delay in the commencement, prosecution or completion of the Work, (ii) hindrance or obstruction in the performance of the Work, (iii) loss of productivity, or (iv) other similar claims (collectively referred to as "Delays") whether or not such Delays are foreseeable, shall be an extension of time in which to complete the Work if permitted under Section 8.3.1. In no event shall the Contractor be entitled to any other remedy, compensation, recovery, or any damages in connection with any Delay.

§ 8.3.4 No extension of time, or increase in the Contract Sum, shall be granted because of seasonal variations in temperature, humidity or precipitation, which conditions, excepting force majeure, shall be wholly at the risk of the Contractor.

§ 8.3.5 The Contractor shall not be entitled to an adjustment of the Contract Time on account of inexcusable delays; inexcusable delays include delays: (i) that Contractor could have avoided or mitigated using its best professional efforts; (ii) that do not impact the critical path; (iii) for which there is available float in the chain of activities affected by the delay; (iv) that were caused by or could have been reasonably anticipated by the Contractor or those for whom it is responsible; or (v) that could have been mitigated or avoided by the Contractor's timely notice to the Owner as required hereunder.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

The Contractor shall submit to the Architect or Owner, before the first Application for Payment, a schedule of values allocating the entire Contract Sum (GMP) to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect and Owner may require. This schedule, unless objected to by the Architect or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment. **The description of the Work shall be sufficiently broken down to indicate labor and material costs associated with each area of Work. Any breakdown that fails to include sufficient detail, is unbalanced, or exhibits "front-loading" of the value of the Work, will be rejected. The Schedule of Values shall be revised if later determined by the Owner or Architect to be inaccurate.**

§ 9.3 Applications for Payment

§ 9.3.1 In order to expedite monthly payments during the course of the Project, the Contractor shall prepare for the Architect's and Owner's review a preliminary draft of the Application for Payment (pencil copy), approximately ten

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(10) days before the end of each month. The payment period shall conclude on the last day of that month. Then, five (5) days before the end of each month, the Contractor shall have made mutually agreed modifications of the pencil copy and the Contractor shall submit to the Architect and Owner for approval an itemized Proposed Final Application for Payment prepared in accordance with the schedule of values for completed portions of the Work. Such Application shall be notarized. The Contractor shall utilize and submit AIA G702 and G703, supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage. Mechanic's lien waivers (in a form approved by Owner) from Contractor and all subcontractors shall be provided with each Application for Payment.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be

made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to comply with or adhere to the express requirements of the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, filing of a final grant application with the State of Connecticut, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Work will not be considered suitable for Substantial Completion review, and the Contractor shall not be deemed to have achieved Substantial Completion until: (i) all Project systems included in the Work have been started up, tested, commissioned, and are operational as designed and scheduled; (ii) to the extent reasonably required, the Contractor has instructed Owner's personnel in the operation of all systems and equipment; and (iii) the Contractor has arranged for and obtained all designated or required governmental inspections and certifications necessary for legal use and occupancy of the completed Project, including without limitation, a permanent or temporary certificate of occupancy for the Project.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof designated in the Contract Documents for separate completion, which the Owner agrees to accept separately, is substantially complete, as defined in Section 9.8.1 above, the Contractor shall notify the Architect and Owner in writing and shall prepare and submit to the Architect (1) a comprehensive list of items to be completed or corrected prior to final payment, and (2) all Certificates of Occupancy and applicable permits required by the Contract Documents, endorsed by the Contractor and in a form reasonably acceptable to the Architect and Owner. Promptly after receiving such notice, the Architect will conduct a preliminary review to determine whether or not the Documents are generally complete and correct. If the Architect finds on the basis of this review that the Contractor's notice and supporting documents are not generally complete or correct, the Architect will return them to the Contractor for revision and resubmittal, describing in general the additions or corrections required. If the Architect finds on one preliminary review of the Contractor's resubmittal that the resubmitted notice and supporting documents are still not generally complete and correct, the Contractor shall again correct and resubmit them, and shall, in addition, reimburse the Owner for the cost of any change in the Architect's services resulting from such a second and any subsequent preliminary reviews. When the Architect finds on the basis of a preliminary review that the Contractor's notice and supporting documents are substantially complete, the Architect will proceed as stated in Section 9.8.3 below. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 The Owner will continue to hold retainage in an amount of one hundred fifty percent (150%) of the estimated cost of incomplete or unsatisfactory work. Further, the Owner will consider a reduction of retainage on a trade-by-trade (subcontractor-by-subcontractor) basis based upon satisfactory progress and/or substantial completion of the Work prior to project Substantial Completion.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) as-built drawings, (6) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the

Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.2.1 As a condition precedent to receiving Final Payment, the Contractor shall deliver to the Owner a complete set of "as-built" Drawings, consisting of marked-up field plans showing final as-built field conditions, dimensions and conditions including, without limitation, those relating to the heating, air-conditioning and ventilation systems and the electrical, plumbing and life safety systems, recording the Work as actually performed to the extent that the information differs from or supplements original Contract Documents.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.3.1 If after sixty (60) calendar days after Substantial Completion of the Work, or as otherwise stated in the Owner-Contractor Agreement, Final Completion thereof is not achieved due to actions or inaction of the Contractor, the Contractor shall reimburse the Owner for any and all costs incurred by the Owner for professional fees, including those of the Architect and Owner's Representative.

§ 9.10.4 The making of final payment shall
(Paragraphs deleted)
not constitute a waiver, release or discharge of Claims by the Owner..

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those expressly and previously made in writing and expressly identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.1.2 Each subcontractor shall certify that it has or submit a copy of a written safety program and a hazard communication program in compliance with OSHA standards. Each subcontractor shall submit materials safety data sheets for all chemicals and materials to be stored and/or used on the job site for which material safety data sheets are published. Commencing with the safety meeting prior to arrival on the project for the performance of work and continuing through to the completion of the Work, each subcontractor shall attend and participate in regularly scheduled Project safety meetings. Each subcontractor shall conduct toolbox safety meetings as a part of employee training discussing specific project related topics with regard to project safety and good work habits. A copy of the minutes of each meeting shall be submitted to the Construction Manager's field office for record. Each subcontractor shall submit to, and review with, the Construction Manager a complete list of all materials and chemicals to be used and/or stored on the project indicating any health or other hazardous conditions related to these materials and chemicals. Locations for stored materials should be reviewed with, and approved by, the Construction Manager. The following should constitute the safety policy for the Project; a Project worker will receive a warning for a minor safety violation; the repeat of a minor safety violation or the occurrence of a major safety violation will be grounds for fines to the subcontractor and/or possible dismissal of the violating worker(s) from the Project. Construction Manager and subcontractors agree to indemnify and hold harmless the Owner from all OSHA fines assessed to Owner due to Construction Manager's or subcontractor's non-compliance with OSHA regulations. Construction Manager further

acknowledges that if Owner is fined due to Construction Manager's or subcontractor's violation of OSHA regulations, Construction Manager and the violating subcontractor will be backcharged for all costs associated with Owner's fine.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 The Contractor shall, within five (5) business days of an occurrence, report in writing to the Owner and the Architect all accidents out of or in connection with the Work that caused death, personal injury or property damage, giving names of those involved and any witnesses.

§ 10.2.10 The Contractor shall be responsible for the adequate strength and safety of all scaffolding, staging and hoisting equipment and for temporary shoring, bracing and tying.

§ 10.2.11 The Contractor shall, at all times, be responsible for maintaining fire safety on the site, including prompt removal of all combustible rubbish, provision of fire extinguishing apparatus, and other measures, and/or services specified herein or required by the State Fire Marshal or other authority having jurisdiction. If such authority determines that the Contractor has failed to provide or maintain adequate fire safety, the Contractor shall, at its own expense, provide any compensatory services, equipment or devices required by the authority having jurisdiction, including but not limited to maintaining a continuous fire watch.

§ 10.2.12 No visitors shall be allowed on the work site without permission from the Owner.

§ 10.2.13 Cutting and welding to be performed in or immediately adjacent to existing spaces shall not be performed without written approval of the Owner for each instance.

§ 10.2.14 All employees at the worksite shall have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work. The Contractor and all Subcontractors shall furnish documentation of successful completion of said course with the first certified payroll report for each employee. The Contractor shall indemnify and hold harmless the Owner from any and all fines, costs and expenses, including but not limited to reasonable attorney's fees, incurred by Owner due to the Contractor's violation of such Acts, standards and/or regulations. Such indemnity shall not be construed to limit the indemnity required under Subparagraph 3.18.1.

§ 10.2.15 The Contractor shall comply with the requirements of the Occupational Safety and Health Act and the Construction Safety Act of 1969, including all standards and regulations which have been promulgated by the governmental authorities which administer such Acts and said requirements, standards and regulations are incorporated herein by reference. The Contractor shall be directly responsible for compliance therewith on the part of its agents, employees, subcontractors, and material suppliers and shall directly receive and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of its agents, employees, material suppliers or subcontractors, to so comply.

§ 10.2.16 The Contractor shall at all times protect excavations, trenches, buildings, and materials from rainwater, ground water, ice, snow, back-up or leakage of sewers, drains, or other piping, and from water of any other origin and shall remove promptly any accumulation of water. The Contractor shall provide and operate all pumps, piping and other equipment necessary to this end.

§ 10.2.17 The Contractor shall promptly remove snow or ice within the limits of the Work indicated in the Contract Documents which might result in damage or delay.

§ 10.2.18 MOLD GROWTH. The Contractor shall establish and maintain a program and safeguards to prevent growth of mold.

§ 10.2.19 During the progress of the Work and at all times prior to the Date of Substantial Completion or occupancy of the Work by the Owner, whichever is earlier, the Contractor shall provide temporary heat, ventilation, and enclosure adequate to permit the Work to proceed in a timely fashion, and to prevent damage to completed Work or work in progress, or to materials stored on the premises. The permanent heating and ventilation systems may be used for these purposes when available unless otherwise provided in the Contract Documents. The use of the permanent heating system for temporary heat shall be subject to the prior written approval of the Owner and Architect.

§ 10.2.20 The Contractor shall be responsible for protecting the Work, materials and equipment at all times from commencement of Work until completion of its Work. It may, if it wishes, employ watermen to ensure such protection.

§ 10.2.21 In case of an emergency involving danger to life or property, the Contractor may act at its discretion to prevent injury or damage to the threatened life or property.

§ 10.2.22 The Contractor shall maintain its hand tools, machinery, personnel protective equipment, etc. in safe operating condition and shall require its subcontractors and individual mechanics to maintain their equipment in the same condition.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 All insurance shall be provided in strict compliance with the terms and for the amounts required by the Insurance Requirements set forth within the Contract Documents and herein. The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue

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insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in Connecticut such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefits and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees or persons or entities excluded by law from the requirements of Article 11.1.1.1, but required by the Contract Documents to be insured;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

Such coverage shall be maintained for no less than four (4) years following final payment.

§ 11.1.2 The Contractor, simultaneous with the execution hereof, shall provide payment and performance bonds in the full penal sum of the Agreement, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in Connecticut. The performance bond surety shall be obligated by the terms of the bond to commence performance of its obligations pursuant to the performance bond within five (5) business days of receipt of notice of Contractor's default from Owner.

(Paragraphs deleted)

§11.1.3 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in Part A of the General Specifications included as part of the RFP. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

1. Premises Operations (including X-C/U as applicable),
2. Independent Contractor's Protective,
3. Products and Completed Operations,
4. Personal Injury Liability with Employment Exclusion deleted,
5. Contractual – including specified provision for Contractor's obligation under Section 3.18,
6. Owned, non-owned and hired motor vehicles,
7. Broad Form Property Damage including Completed Operations,
8. Umbrella Excess Liability,
9. If the General Liability coverages are provided by a Commercial General Liability Policy on a claims – made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after final payment, certified in accordance with Section 9.10.2.

The commercial general liability and automobile liability insurance policies required hereunder shall designate the Owner, and their employees, agents, and officers as named additional insureds.

Any insurance required hereunder, which is underwritten on a claims made, as opposed to on an occurrence basis, shall contain a retroactive date of the date the contract is executed or the date the Contractor commences services or work, whichever is earlier, and an extended reporting date the later of the date the work or services required hereunder are completed or the termination date of the Contract.

The Contractor agrees to waive any right of any claim, loss or damage against the Owner and its employees, agents and officers for any work or services to be provided by the Contractor hereunder. All insurance required hereunder shall be endorsed to contain waivers of subrogation against the Owner, and their employees, agents and officers.

All such insurance required hereunder shall contain provisions requiring the insurance company(s) to provide thirty (30) days prior written notice to the Town Attorney for the Owner in the event of cancellation, termination or material change to any policy terms and conditions.

The Contractor agrees to provide the Owner with authentic copies of all insurance policies of insurance required hereunder or certificates of insurance, whichever the Owner deems appropriate, prior to commencement of services under this Agreement hereunder and throughout the full term of this contract upon expiration or termination or change in any insurance coverage required hereunder.

The Contractor shall require its contractors/subcontractors to maintain insurance coverage, which is commensurate with the type and amount of work and/or services being provided.

§ 11.1.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.6 The insurance required hereunder shall not serve to limit the liability of the Contractor with respect to any obligations or liabilities it assumes under the Contract.

§ 11.1.7 CERTIFICATES OF INSURANCE ACCEPTABLE TO THE OWNER CONFIRMING THE INSURANCE COVERAGE REQUIRED BY SECTION 11.1 SHALL BE FILED WITH THE OWNER PRIOR TO THE EXECUTION OF THE CONTRACT, AND THEREAFTER UPON RENEWAL OR REPLACEMENT OF EACH REQUIRED POLICY OF INSURANCE. THE OWNER SHALL HAVE NO OBLIGATION TO EXECUTE THE CONTRACT IF SUCH INSURANCE CERTIFICATES HAVE NOT BEEN PROVIDED TO THE OWNER WITHIN FIVE (5) BUSINESS DAYS AFTER PRESENTATION OF THE CONTRACT TO CONTRACTOR FOR EXECUTION. THE CERTIFICATES AND THE INSURANCE POLICIES REQUIRED BY THIS SECTION 11.1 SHALL CONTAIN A PROVISION THAT COVERAGES AFFORDED UNDER THE POLICIES WILL NOT BE CANCELED OR ALLOWED TO EXPIRE UNTIL AT LEAST 30 DAYS PRIOR WRITTEN NOTICE HAS BEEN GIVEN TO THE OWNER. THE CERTIFICATES SHALL SET FORTH THE EVIDENCE OF ALL COVERAGE REQUIRED BY SECTIONS 11.1.1 AND 11.1.2. THE FORM OF CERTIFICATE SHALL BE THE ACCORD FORM, SUPPLEMENTED AS NECESSARY BY AIA DOCUMENTS G715. THE CONTRACTOR SHALL FURNISH TO THE OWNER COPIES OF ANY ENDORSEMENT THAT ARE SUBSEQUENTLY ISSUED AMENDING LIMITS OF COVERAGE. AN ADDITIONAL CERTIFICATE EVIDENCING CONTINUATION OF LIABILITY COVERAGE, INCLUDING COVERAGE FOR COMPLETED OPERATIONS, SHALL BE SUBMITTED WITH THE FINAL APPLICATION FOR PAYMENT AS REQUIRED BY SECTION 9.10.2 AND THEREAFTER UPON RENEWAL OR REPLACEMENT OF SUCH COVERAGE UNTIL THE EXPIRATION OF THE TIME REQUIRED BY SECTION 11.1.1. INFORMATION CONCERNING REDUCTION OF COVERAGE ON ACCOUNT OF REVISED LIMITS OR CLAIMS PAID UNDER THE GENERAL AGGREGATE, OR BOTH, SHALL BE FURNISHED BY THE CONTRACTOR WITH REASONABLE PROMPTNESS.

§ 11.1.8 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by

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the Contract Documents; the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.1.9 The limits specified in the contract documents are minimum requirements and shall not be construed in any way as limits of liability or as constituting acceptance by the Owner of responsibility for losses in excess of such limits. The Contractor shall be responsible for all deductibles applicable to any insurance. No acceptance and/or approval of any insurance by Owner shall be construed as relieving or excusing Contractor from any liability or obligation imposed by the provisions of the Contract Documents.

§11.1.10 The Contractor shall not commence the Work under the Contract nor permit any Subcontractor to commence work on a subcontract until all the insurance required is obtained. The Contractor may carry, at its own expense, such additional coverage as it may deem necessary. The Contractor shall not be deemed to be relieved of any responsibility by the fact it carries insurance. Should the Contractor at any time neglect or refuse to provide the insurance required herein or should such insurance be cancelled, or should the full annual aggregate or any policy not be available to satisfy the requirements of the Contract, the Owner shall have the right to procure such insurance and the cost thereof shall be deducted from monies then due or thereafter to become due the Contractor.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Contractor waives all rights against (1) the Owner any of their subcontractors, sub-subcontractors, agents, and employees; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance

applicable to the Project, except such rights as they have to proceeds of such insurance. The Contractor shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss, and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 Upon completion of any work under or pursuant to this Section 12.2, the one year correction period in connection with the Work requiring correction shall be renewed and recommence.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable, even if such Work was installed as submitted and approved in shop drawings, such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the state of Connecticut.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other.

If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

(Paragraphs deleted)

§ 13.4.7 If any of the work is required to be inspected or approved by any public authority, the Contractor shall cause such inspection or approval to be performed. No inspection performed or failed to be performed by the Owner hereunder shall be a waiver of any of the Contractor's obligations hereunder or be construed as approval or acceptance of the work or any parts thereof.

§ 13.5 Contractor and its Subcontractors shall not make news releases or publicize or issue advertising pertaining to the Work of this Agreement without first obtaining the written approval of the Owner.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment only for Work executed.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise commits a substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not

expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the direct cost and time caused by suspension, delay, or interruption under Section 14.3.1. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 . Upon such termination, the Contractor shall recover as its sole remedy payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, overhead, anticipated and/or unearned profits, consequential or indirect damages.

In no event shall Contractor be entitled to lost anticipated revenue, income or profit on or for work not completed or performed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence or the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Failure by the Contractor to give such notice within the time specified will greatly prejudice the Owner, and the failure to submit proper and timely notice shall constitute a waiver and abandonment of such Claim.

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§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Owner shall have no obligation to make payments to the Contractor on or against such claims, disputes, or other matters in question during the pendency of any mediation, arbitration, or other proceedings to resolve such matters. Owner shall continue to make payments of undisputed amounts.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5.1 Any change request by Contractor seeking an extension of time shall contain:

- .1 a detailed description of the nature of each cause of delay, the date or dates upon which each cause of delay began and ended (as known or as projected), the number of days of delay attributable to each such cause, and the impact of such delay upon the construction schedule;
- .2 the construction schedule in effect at the start of the delay, showing that the portion of the Work that was, or will be, delayed is on the critical path and that no float remains or will be available for the delayed activities at the start of the delay;
- .3 a schedule analysis of the impact of the delay on the critical path in the construction schedule at the time of the delay, including any proposed adjustment to the Contract Time; and
- .4 such other supporting data that the Owner may reasonably request.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may file for mediation of any Claim.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 The property upon which the Project is located is not subject to a mechanic's lien because it is a government owned property used for public purposes.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties

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or court order. If arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

(Paragraphs deleted)

§ 15.4 Arbitration

§ 15.4.1 If the Owner agrees that arbitration is the method to be utilized for binding dispute resolution, any Claim subject to but not resolved by mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. The Owner, in its sole discretion, may opt to litigate any dispute in lieu of arbitration. Litigation shall be in Connecticut Superior Court.

§ 15.5 The Owner and Contractor both waive their rights to a trial by jury of any or all issues arising in any action or proceeding between the parties thereto or their successors, under or connected with the Contract Documents, or any of their provisions. **THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE FOREGOING, HAVE HAD THE OPPORTUNITY TO HAVE THIS AGREEMENT REVIEWED BY THEIR LEGAL COUNSEL, AND KNOWINGLY AGREE THAT THEY ARE WAIVING THEIR RIGHT TO A JURY TRIAL.**

Additions and Deletions Report for AIA® Document A201® – 2017

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RFP#26-02 Newhallville Foundations ProjectHamden, CT 06518

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Town of Hamden
2750 Dixwell AvenueHamden, CT 06518

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~~THE ARCHITECT:ARCHITECT/Engineer:~~

...

Haley & Aldrich
PAGE 9

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, Owner's RFP #26-02, Contractor's Proposal dated August 14, 2025, and other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. ~~Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.~~ Architect..

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The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties. Subcontractors are not intended thirty-party beneficiaries to the Contract and shall have no direct cause of action against the Owner.

...

~~The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~ Intentionally Deleted.

...

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. During the bidding phase, questions, RFIs or discrepancies shall be called to the Owner's attention in writing and will be answered by the Owner by means of an addendum. All addenda shall become part of the Contract Documents. If any item of work is shown on the Drawings and not specified or mentioned in the Specifications and not shown on the Drawings, the matter shall be brought to the attention of the Owner during the bidding period so an addendum can be issued correcting the omission. If such correction as is identified in an addendum is not made, the Work in question shall be considered to be required as if it has been specified and shown on the Drawings.

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§ 1.2.4 Dimensions given on the Drawings govern scale measurements and large-scale drawings govern small scale drawings. All documents are complementary and specific items of work are shown only where most appropriate for clarity. The Drawings are generally made to scale, but all working dimensions shall be taken from the figured dimensions, or by actual measurements taken at the job, and in no case by scaling. Whether or not an error is believed to exist, deviation from the Drawings and the dimensions given thereon shall be made only after approval in writing from the Architect.

§1.2.5 All indications or notations which apply to one or a number of similar situations, materials or processes shall be deemed to apply to all such situations, materials or processes wherever they appear in the Work, except where a contrary result is clearly indicated by the Contract Documents.

§ 1.2.6 It shall be understood that the drawings are diagrammatic, and the Contractor and subcontractors shall work in cooperation with each other in determining the running of pipe lines and locating equipment. Any necessary variation shall be made to conform to the intent of the diagrammatic drawings without additional costs. Where there are intersections involving various piping and equipment, etc., particular consideration shall be given to clearance.

§ 1.2.7 All manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturers' written instruments unless specifically indicated otherwise in the Contract Documents.

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

...

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

...

~~§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~

§ 2.2 Evidence of the Owner's Financial Arrangements

~~§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.~~

~~§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.~~

~~§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.~~

~~§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.~~

...

~~§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number. Intentionally omitted.~~

~~§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect. Intentionally omitted.~~

~~§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall conduct its own due diligence, familiarize itself with the site where the Work will be performed and exercise proper precautions relating to the safe performance of the Work.~~

PAGE 12

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. ~~Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the neglect and backcharge the Contractor for the cost of such corrective work. The~~

Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

§ 2.5.1 The Owner shall, at all times, have full access to and the right to inspect all portions of the Work for quality, progress and conformance to the Contract Documents.

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§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, conducted its own due diligence and correlated personal observations with requirements of the Contract Documents.

...

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect in writing any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities. If the Contractor or a Subcontractor fails to submit a Claim in accordance with the requirements of Article 15, the Contractor or Subcontractor knowingly, voluntarily and irrevocably waives any Claim for additional compensation or time.

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§3.4.4 The Contractor (and its Subcontractors) shall pay prevailing wages in accordance with Connecticut law. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

...

§ 3.5.2.1 The Contractor agrees to assign to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

§3.5.2.2 The Contractor expressly warrants its Work for one year after the date of Substantial Completion, or for such longer period as provided in the Contract Documents. Contractor, at no cost to Owner, shall make any repair or replacement to the Work resulting from defective materials and/or workmanship. Contractor shall commence making

the repairs or replacements required pursuant to this Warranty within ten days after the Owner gives written notice to the Contractor. In the event of Contractor's failure to make timely corrections, Owner shall have the right to make corrections, and Contractor shall be responsible for immediate payment thereof. Any other specific or extended warranties are as identified in the Project Manual.

§3.5.2.3 The warranty required by this Paragraph 3.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

§ 3.5.2.4 The Contractor shall procure and deliver to the Architect, no later than thirty (30) calendar days after the Date of Substantial Completion, all warranties required by the Contract Documents.

§3.5.2.5 The Warranty shall include the repair and/or replacement of all damaged materials resulting from the defective materials and/or workmanship. This shall include but not be limited to furniture, fixtures, equipment, finishes or any other affected materials or property.

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Town is exempt from the payment of Connecticut Sales Tax.

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If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide written notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information and approval a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The schedule shall set forth milestone dates agreed to by the parties. The failure of the Contractor to achieve a milestone shall constitute a material default hereunder. Failure to meet a milestone date shall entitle but not require the Owner to supplement the Contractor's forces, at the sole cost and expense of the Contractor, and the Contractor shall be solely responsible for coordinating its efforts with and supervising the work of any supplemental labor.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal ~~schedule~~, ~~schedule~~ or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

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§ 3.10.4 The construction schedule shall be in a detailed critical path method (CPM) type format satisfactory to the Owner and Architect and shall also (1) provide a graphic representation of all activities and events that will occur during performance of the Work, including but not limited to hazardous material remediation, demolition, furniture and equipment deliveries, Substantial Completion, move-in activities, commissioning, training, punch list, and final cleaning; (2) identify each phase of construction and occupancy; (3) identify float time associated with non-critical path activities, and (4) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as Milestone Dates). Upon review and acceptance by the Architect and Owner, the construction schedule shall be deemed the Baseline Construction Schedule for the project and will be used to determine the validity of Claims for Additional Time as identified in Article 15. This Baseline Construction Schedule can only be modified with approved changes in Contract Time through the execution of a Change Order. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner and Architect of any delays or potential delays. The construction schedule shall be updated regularly to reflect actual conditions or if requested by the Owner or at least monthly. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to a Change Order.

§ 3.10.5 At weekly or biweekly construction progress meetings, the Contractor shall submit detailed two (2) week look ahead schedules which depict specific activities to occur during that period.

§ 3.10.6 The Contractor shall schedule and conduct construction and progress meetings, on a frequency required to effect coordination, to discuss such matters as procedures, progress, problems and scheduling. The Contractor shall prepare and distribute minutes within three working days of such meetings.

§ 3.10.7 The Contractor shall record the progress of the Project and submit written progress reports not less frequently than monthly to the Owner and the Architect, including information on each Subcontractor and each Subcontractor's Work, as well as the entire Project, showing percentages of completion and the number and amounts of Change Orders. The Contractor will keep a daily log containing a record of weather, Subcontractors' Work on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the Owner may require. Upon request, Contractor shall make a log available to the Owner and the Architect.

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§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action. The Contractor's approval shall be noted on the submitted item or in its transmittal letter, together with written notice of any deviation in the submitted item from the requirements of the Work and of the Contract Documents. In collaboration with the Architect, Contractor shall establish and implement procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors. Each Shop Drawing, Product Data, Sample and similar submittals shall have a cover sheet on them identifying the project name and address, contractor information, drawing and/or specification reference, submission date and contents of the submittal. Ample space shall be provided on this cover sheet to allow for the Contractor's and Architect's review stamps. The Contractor's approval shall be noted on the submitted items or in its transmittal letter, together with written notice of any deviation in the submitted item from the requirements of the Work and of the Contract Documents.

§ 3.12.6 By submitting and approving Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, ~~and~~ (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents and (4) coordinated with information on Shop Drawings, Product Data, Samples, or similar submittals previously approved by the Architect or submitted by the Contractor for approval but not yet acted upon by the Architect, and verification of compliance with all the requirements of the Contract Documents. The accuracy of all such information is the responsibility of the Contractor. In approving Shop Drawings, Product Data, Samples, and similar submittals, the Architect shall be entitled to rely upon the Contractor's representation that such information is accurate and in compliance with the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. If the Contractor procures, performs or installs portions of the Work without required approval, the Contractor does so at its own risk and such Work may be removed or replaced with approved Work at no cost to the Owner.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. Any submittals forwarded to the Architect for review that include a deviation from the requirements of the Contract Documents or are not the specific make, model or manufacturer that was listed in the Contract Documents shall have a completed Substitution Request Form attached to the submittal. This Substitution Request Form shall be provided by the Owner. Unless such deviation is identified by utilizing the Substitution Request Form, the Contractor shall not be relieved of the responsibility for the specific requirements of the Contract Documents even though the subject submittal was approved by the Architect. The Contractor shall not be relieved of responsibility for the contractor's, subcontractor's or vendor's errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. ~~The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, a properly licensed design professional who shall have and maintain reasonable limits of insurance, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, Drawings and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy~~ adequacy, accuracy and completeness of the services, certifications, and approvals performed or provided by such design professionals, ~~provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy professionals.~~ Pursuant to this Section 3.12.10, the Architect will ~~review and review~~ approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

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§ 3.12.11 Services provided by the Architect to evaluate Contractor product substitution requests or to review shop drawings or other project submittals which are required to be submitted more than three (3) times shall be paid for by the Contractor to the Owner.

...

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably ~~withhold~~, withhold from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

...

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, actions, causes of action, proceedings, fines, penalties, injuries, costs, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent to the extent caused by the failure of the Contractor to comply with the Contract Documents or the negligent or willful acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

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§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge ~~of~~, of and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

...

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due to the Contractor and will issue Certificates for Payment in such amounts.

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§ 4.2.8 The Architect will prepare Change Orders and Construction Change ~~Directives~~, Directives and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

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§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect and/or Owner may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. A good faith, objective determination that a proposed subcontractor is not qualified shall be deemed a reasonable objection. If a proposed subcontractor is not in compliance with all applicable regulations and laws, such non-compliance shall be deemed a good faith basis for finding the proposed subcontractor subcontractor not responsible.

...

- .1 assignment is effective only after termination of the Contract by the Owner ~~for cause~~ pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

...

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the ~~subcontract~~ subcontract but does not accept and shall not be liable for Contractor's obligations prior to the effective date of the assignment.

~~§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.~~

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§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, to supplement to the Contractor's forces at Contractor's cost and to staff the job with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

...

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their ~~activities~~, activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

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§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. The decision as to whether the Change Work is executed via a Change Order, Construction Change Directive, or a minor change in the Work is the decision of the Owner.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement signature by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone. Except as permitted in Section 7.3, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order or by Construction Change Directive. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alteration or addition to the Work, whether or not there is, in fact, any unjust enrichment, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. ~~The Contractor shall proceed promptly with changes in the Work, Documents and the Contractor shall proceed promptly,~~ unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§7.1.4 The Contractor's itemized accounts for all expenditures or savings for additions to, or deductions from, the Work in the Contract Documents shall at all times be open to inspection by the Owner and Architect.

§7.1.5 Proposed changes in the Work requested during the construction phase shall be priced by the Contractor and submitted to the Architect and Owner for review, in such form as the Architect and Owner may require, within seven (7) calendar days following the Contractor's receipt of the request. The Contractor shall promptly revise and resubmit such proposal if the Architect and Owner determine that it is not in compliance with the requirements of this Article, or that it contains errors of fact or mathematical errors. If required by the Architect or Owner, in order to establish the exact cost of new Work added or previously required Work omitted, the Contractor shall obtain and furnish to the Architect and Owner bona fide proposals from recognized suppliers for furnishing and material included in such Work. Such proposals shall be furnished at the Contractor's expense.

§ 7.1.6 The Contractor's proposal for a change in the Work (Change Order Proposal) shall be itemized completely and shall include: Specific number of calendar days for additional time (if applicable); an explanation of the overall schedule impact (if any); an explanation of why the proposed work is not included in the Contract Documents or otherwise constitutes a change; all material costs and quantities accompanied by the original manufacturer invoices; labor wages; unit prices; subcontractor costs; mark ups; equipment costs, profit, overhead, general conditions, fees, bond costs and approved daily time sheet tickets for work performed under the utilization of labor rates. The Architect's and Owner's refusal to approve a Change Order or Change Order Proposal due to the Contractor's lack of itemized backup information shall not be used to substantiate a claim for additional time.

§ 7.1.7 The methods used in determining the adjustment of the Contract Sum due to the Change in the Work may include those listed in Section 7.3.3 and are at the discretion of the Owner.

§ 7.1.8 If the method utilized to execute the Change in the Work is based on labor rates, unit prices and material costs, then actual daily time sheets / tickets, approved by the Superintendent and the Owner, must accompany the Change Order, Construction Change Directive, or minor change in the Work. Not including these actual daily time sheets / tickets, approved by the Superintendent and the Owner, with the Change Order, Construction Change Directive, or minor change in the Work may be cause for their rejection.

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§7.2.2 Agreement on any Change Order shall constitute a final settlement on all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.

§ 7.2.2.1 Change Order Proposals shall be complete and all inclusive. The amount of the adjustment in the Contract Sum and Contract Time, if any, shall be stated in the proposal for all Work affected by the proposed change. Once a Change Order is executed, the Contractor shall be required to perform all of the Work required therein (including incidental work and changes to related Work which may be required to complete the Change Order) in accordance with the Contract Documents, for the amount stated in the Change Order.

§ 7.2.3 The amount of the credit to be issued by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both addition and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. The Owner may also by Construction Change Directive order work to be performed that has been interpreted by the Owner and Architect to be part of the Work but is disputed by the Contractor through submission of a Claim.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order. Order or work interpreted by the Owner or Architect to be part of the Contract.

...

.2 Unit prices and rates stated in the Contract Documents or subsequently agreed upon;

...

.4 As provided in Section ~~7.3.4~~ Section 7.3.7.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the Work involved and advise the Owner and Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining same. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect and Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect and Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security and unemployment insurance, fringe benefits required by agreement or custom, workers' compensation insurance;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect and Owner will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect and Owner determines in the Architect's and Owner's professional judgment, to be reasonably justified. The Architect's and Owner's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.9 When the Contractor agrees with a determination made by the Owner and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Contractor will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

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~~The Architect may Architect, with prior approval from the Owner, has authority to order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an not involving adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.~~ extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

...

§ 8.2.4 The Contractor shall proceed expeditiously in accordance with the construction schedule with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor shall at all times ensure that each Subcontractor is providing and maintaining sufficient skilled workers, materials and equipment to achieve Substantial Completion within the Contract Time. Absent Change Orders signed by the Owner or a delay for which the Contractor is entitled to an extension of time by § 8.3.1, the Contractor shall not make any claims for additional payment of straight time, overtime or premium time in undertaking to achieve Substantial Completion of the Work in accordance with the construction schedule. The burden of lost time and costs related to any Subcontractor's nonperformance shall not be charged to Owner.

§ 8.2.5 If the Architect determines that there have been delays to critical path activities and that in the Owner's sole discretion, there is reasonable concern that the Project will not be Substantially Completed by the date described in the Agreement (GMP Amendment), the Owner may, in addition to any other remedy it may have, direct the Contractor to submit a written description of the steps the Contractor intends to take (i.e., recovery plan) to get the Project back on schedule. At the Owner's sole discretion, the Owner may also, in addition to any other remedy it may, have direct the Contractor to take some or all of the following actions: (a) increase the number of workers in such quantities and trades as the Owner directs; (b) increase the number of working hours per shift, shifts per day, working days per week, amount of construction equipment, or any combination of the foregoing; and/or (c) reschedule activities at the Owner's discretion.

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. Under no circumstances shall Owner be responsible or liable for any delay damages, including any *Eichleav* or other type of extended overhead, or lost profit claims or damages, idle equipment costs, lost productivity or labor inefficiency costs, acceleration damages, suspension damages, consequential damages, incidental damages, or lost opportunity costs. Contractor acknowledges that it is aware of and considered this provision when submitting and pricing its Proposal and Contractor accepts the risk of delays.

§ 8.3.2 Claims relating to for extension of time shall be made in accordance with applicable provisions of Article 15. Extensions of time for excusable delay shall be Contractor's sole remedy in the event of delays.

~~§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.~~

§ 8.3.3 Notwithstanding anything to the contrary in the Contract Documents, the Contractor's remedy for any (i) delay in the commencement, prosecution or completion of the Work, (ii) hindrance or obstruction in the performance of the Work, (iii) loss of productivity, or (iv) other similar claims (collectively referred to as "Delays") whether or not such Delays are foreseeable, shall be an extension of time in which to complete the Work if permitted under Section 8.3.1. In no event shall the Contractor be entitled to any other remedy, compensation, recovery, or any damages in connection with any Delay.

§ 8.3.4 No extension of time, or increase in the Contract Sum, shall be granted because of seasonal variations in temperature, humidity or precipitation, which conditions, excepting force majeure, shall be wholly at the risk of the Contractor.

§ 8.3.5 The Contractor shall not be entitled to an adjustment of the Contract Time on account of inexcusable delays; inexcusable delays include delays: (i) that Contractor could have avoided or mitigated using its best professional efforts; (ii) that do not impact the critical path; (iii) for which there is available float in the chain of activities affected by the delay; (iv) that were caused by or could have been reasonably anticipated by the Contractor or those for whom it is responsible; or (v) that could have been mitigated or avoided by the Contractor's timely notice to the Owner as required hereunder.

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~~Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect. The Contractor shall submit to the Architect or Owner, before the first Application for Payment, a schedule of values allocating the entire Contract Sum (GMP) to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect and Owner may require. This schedule, unless objected to by the Architect, Architect or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The description of the Work shall be sufficiently broken down to indicate labor and material costs associated with each area of Work. Any breakdown that fails to include sufficient detail, is unbalanced, or exhibits "front-loading" of the value of the Work, will be rejected. The Schedule of Values shall be revised if later determined by the Owner or Architect to be inaccurate.~~

...

§ 9.3.1 At least ten days before the date established for each progress payment, In order to expedite monthly payments during the course of the Project, the Contractor shall prepare for the Architect's and Owner's review a preliminary draft of the Application for Payment (pencil copy), approximately ten (10) days before the end of each month. The payment period shall conclude on the last day of that month. Then, five (5) days before the end of each month, the Contractor shall have made mutually agreed modifications of the pencil copy and the Contractor shall submit to the Architect and Owner for approval an itemized Proposed Final Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, values for completed portions of the Work. The application shall be notarized, if required, and supported by all Such Application shall be notarized. The Contractor shall utilize and submit AIA G702 and G703, supported by such data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage. Mechanic's lien waivers (in a form approved by Owner) from Contractor and all subcontractors shall be provided with each Application for Payment.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, supplier unless such Work has been performed by others whom the Contractor intends to pay.

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- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 ~~repeated-failure to carry out the Work in accordance with the Contract Documents; or~~
- .8 failure to comply with or adhere to the express requirements of the Contract Documents.

...

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, ~~Documents~~ and shall so notify the Architect.

...

§ 9.6.6 A Certificate for Payment, a progress payment, filing of a final grant application with the State of Connecticut, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended ~~appropriately~~ appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Work will not be considered suitable for Substantial Completion review, and the Contractor shall not be deemed to have achieved Substantial Completion until: (i) all Project systems included in the Work have been started up, tested, commissioned, and are operational as designed and scheduled; (ii) to the extent reasonably required, the Contractor has instructed Owner's personnel in the operation of all systems and equipment; and (iii) the Contractor has arranged for and obtained all designated or required governmental inspections and certifications necessary for legal use and occupancy of the completed Project, including without limitation, a permanent or temporary certificate of occupancy for the Project.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof designated in the Contract Documents for separate completion, which the Owner agrees to accept separately, is substantially complete, as defined in Section 9.8.1 above, the Contractor shall notify the Architect and Owner in writing and shall prepare and submit to the Architect (1) a comprehensive list of items to be completed or corrected prior to final payment, payment, and (2) all Certificates of Occupancy and applicable permits required by the Contract Documents, endorsed by the Contractor and in a form reasonably acceptable to the Architect and Owner. Promptly after receiving such notice, the Architect will conduct a preliminary review to determine whether or not the Documents are generally complete and correct. If the Architect finds on the basis of this review that the Contractor's notice and supporting documents are not generally complete or correct, the Architect will return them to the Contractor for revision and resubmittal, describing in general the additions or corrections required. If the Architect finds on one preliminary review of the Contractor's resubmittal that the resubmitted notice and supporting documents are still not generally complete and correct, the Contractor shall again correct and resubmit them, and shall, in addition, reimburse the Owner for the cost of any change in the Architect's services resulting from such a second and any subsequent preliminary reviews. When the Architect finds on the basis of a preliminary review that the Contractor's notice and supporting documents are substantially complete, the Architect will proceed as stated in Section 9.8.3 below. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

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§ 9.8.6 The Owner will continue to hold retainage in an amount of one hundred fifty percent (150%) of the estimated cost of incomplete or unsatisfactory work. Further, the Owner will consider a reduction of retainage on a

trade-by-trade (subcontractor-by-subcontractor) basis based upon satisfactory progress and/or substantial completion of the Work prior to project Substantial Completion.

...

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) as-built drawings, (6) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and ~~(6)-(7)~~ if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.2.1 As a condition precedent to receiving Final Payment, the Contractor shall deliver to the Owner a complete set of "as-built" Drawings, consisting of marked-up field plans showing final as-built field conditions, dimensions and conditions including, without limitation, those relating to the heating, air-conditioning and ventilation systems and the electrical, plumbing and life safety systems, recording the Work as actually performed to the extent that the information differs from or supplements original Contract Documents.

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§ 9.10.3.1 If after sixty (60) calendar days after Substantial Completion of the Work, or as otherwise stated in the Owner-Contractor Agreement, Final Completion thereof is not achieved due to actions or inaction of the Contractor, the Contractor shall reimburse the Owner for any and all costs incurred by the Owner for professional fees, including those of the Architect and Owner's Representative.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- ~~.1~~ liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- ~~.2~~ failure of the Work to comply with the requirements of the Contract Documents;
- ~~.3~~ terms of special warranties required by the Contract Documents; or
- ~~.4~~ audits performed by the Owner, if permitted by the Contract Documents, after final payment not constitute a waiver, release or discharge of Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those expressly and previously made in writing and expressly identified by that payee as unsettled at the time of final Application for Payment.

...

§ 10.1.2 Each subcontractor shall certify that it has or submit a copy of a written safety program and a hazard communication program in compliance with OSHA standards. Each subcontractor shall submit materials safety data sheets for all chemicals and materials to be stored and/or used on the job site for which material safety data sheets are published. Commencing with the safety meeting prior to arrival on the project for the performance of work and continuing through to the completion of the Work, each subcontractor shall attend and participate in regularly scheduled Project safety meetings. Each subcontractor shall conduct toolbox safety meetings as a part of employee training discussing specific project related topics with regard to project safety and good work habits. A copy of the minutes of each meeting shall be submitted to the Construction Manager's field office for record. Each subcontractor shall submit to, and review with, the Construction Manager a complete list of all materials and chemicals to be used and/or stored on the project indicating any health or other hazardous conditions related to these materials and

chemicals. Locations for stored materials should be reviewed with, and approved by, the Construction Manager. The following should constitute the safety policy for the Project; a Project worker will receive a warning for a minor safety violation; the repeat of a minor safety violation or the occurrence of a major safety violation will be grounds for fines to the subcontractor and/or possible dismissal of the violating worker(s) from the Project. Construction Manager and subcontractors agree to indemnify and hold harmless the Owner from all OSHA fines assessed to Owner due to Construction Manager's or subcontractor's non-compliance with OSHA regulations. Construction Manager further acknowledges that if Owner is fined due to Construction Manager's or subcontractor's violation of OSHA regulations, Construction Manager and the violating subcontractor will be backcharged for all costs associated with Owner's fine.

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§ 10.2.9 The Contractor shall, within five (5) business days of an occurrence, report in writing to the Owner and the Architect all accidents out of or in connection with the Work that caused death, personal injury or property damage, giving names of those involved and any witnesses.

§ 10.2.10 The Contractor shall be responsible for the adequate strength and safety of all scaffolding, staging and hoisting equipment and for temporary shoring, bracing and tying.

§ 10.2.11 The Contractor shall, at all times, be responsible for maintaining fire safety on the site, including prompt removal of all combustible rubbish, provision of fire extinguishing apparatus, and other measures, and/or services specified herein or required by the State Fire Marshal or other authority having jurisdiction. If such authority determines that the Contractor has failed to provide or maintain adequate fire safety, the Contractor shall, at its own expense, provide any compensatory services, equipment or devices required by the authority having jurisdiction, including but not limited to maintaining a continuous fire watch.

§ 10.2.12 No visitors shall be allowed on the work site without permission from the Owner.

§ 10.2.13 Cutting and welding to be performed in or immediately adjacent to existing spaces shall not be performed without written approval of the Owner for each instance.

§ 10.2.14 All employees at the worksite shall have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work. The Contractor and all Subcontractors shall furnish documentation of successful completion of said course with the first certified payroll report for each employee. The Contractor shall indemnify and hold harmless the Owner from any and all fines, costs and expenses, including but not limited to reasonable attorney's fees, incurred by Owner due to the Contractor's violation of such Acts, standards and/or regulations. Such indemnity shall not be construed to limit the indemnity required under Subparagraph 3.18.1.

§ 10.2.15 The Contractor shall comply with the requirements of the Occupational Safety and Health Act and the Construction Safety Act of 1969, including all standards and regulations which have been promulgated by the governmental authorities which administer such Acts and said requirements, standards and regulations are incorporated herein by reference. The Contractor shall be directly responsible for compliance therewith on the part of its agents, employees, subcontractors, and material suppliers and shall directly receive and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of its agents, employees, material suppliers or subcontractors, to so comply.

§ 10.2.16 The Contractor shall at all times protect excavations, trenches, buildings, and materials from rainwater, ground water, ice, snow, back-up or leakage of sewers, drains, or other piping, and from water of any other origin and shall remove promptly any accumulation of water. The Contractor shall provide and operate all pumps, piping and other equipment necessary to this end.

§ 10.2.17 The Contractor shall promptly remove snow or ice within the limits of the Work indicated in the Contract Documents which might result in damage or delay.

§ 10.2.18 MOLD GROWTH. The Contractor shall establish and maintain a program and safeguards to prevent growth of mold.

§ 10.2.19 During the progress of the Work and at all times prior to the Date of Substantial Completion or occupancy of the Work by the Owner, whichever is earlier, the Contractor shall provide temporary heat, ventilation, and enclosure adequate to permit the Work to proceed in a timely fashion, and to prevent damage to completed Work or work in progress, or to materials stored on the premises. The permanent heating and ventilation systems may be used for these purposes when available unless otherwise provided in the Contract Documents. The use of the permanent heating system for temporary heat shall be subject to the prior written approval of the Owner and Architect.

§ 10.2.20 The Contractor shall be responsible for protecting the Work, materials and equipment at all times from commencement of Work until completion of its Work. It may, if it wishes, employ watermen to ensure such protection.

§ 10.2.21 In case of an emergency involving danger to life or property, the Contractor may act at its discretion to prevent injury or damage to the threatened life or property.

§ 10.2.22 The Contractor shall maintain its hand tools, machinery, personnel protective equipment, etc. in safe operating condition and shall require its subcontractors and individual mechanics to maintain their equipment in the same condition.

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§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

...

§ 11.1.1 All insurance shall be provided in strict compliance with the terms and for the amounts required by the Insurance Requirements set forth within the Contract Documents and herein. The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in Connecticut such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefits and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees or persons or entities excluded by law from the requirements of Article 11.1.1.1, but required by the Contract Documents to be insured;

- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

Such coverage shall be maintained for no less than four (4) years following final payment.

~~§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, Contractor, simultaneous with the execution hereof, shall provide payment and performance bonds in the full penal sum of the Agreement, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, Connecticut. The performance bond surety shall be obligated by the terms of the bond to commence performance of its obligations pursuant to the performance bond within five (5) business days of receipt of notice of Contractor's default from Owner.~~

~~§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.~~

~~§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.~~

§11.1.3 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in Part A of the General Specifications included as part of the RFP. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

1. Premises Operations (including X-C/U as applicable),
2. Independent Contractor's Protective,
3. Products and Completed Operations,
4. Personal Injury Liability with Employment Exclusion deleted,
5. Contractual – including specified provision for Contractor's obligation under Section 3.18,
6. Owned, non-owned and hired motor vehicles,
7. Broad Form Property Damage including Completed Operations,
8. Umbrella Excess Liability,
9. If the General Liability coverages are provided by a Commercial General Liability Policy on a claims – made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after final payment, certified in accordance with Section 9.10.2.

The commercial general liability and automobile liability insurance policies required hereunder shall designate the Owner, and their employees, agents, and officers as named additional insureds.

Any insurance required hereunder, which is underwritten on a claims made, as opposed to on an occurrence basis, shall contain a retroactive date of the date the contract is executed or the date the Contractor commences services or work, whichever is earlier, and an extended reporting date the later of the date the work or services required hereunder are completed or the termination date of the Contract.

The Contractor agrees to waive any right of any claim, loss or damage against the Owner and its employees, agents and officers for any work or services to be provided by the Contractor hereunder. All insurance required hereunder shall be endorsed to contain waivers of subrogation against the Owner, and their employees, agents and officers.

All such insurance required hereunder shall contain provisions requiring the insurance company(s) to provide thirty (30) days prior written notice to the Town Attorney for the Owner in the event of cancellation, termination or material change to any policy terms and conditions.

The Contractor agrees to provide the Owner with authentic copies of all insurance policies of insurance required hereunder or certificates of insurance, whichever the Owner deems appropriate, prior to commencement of services under this Agreement hereunder and throughout the full term of this contract upon expiration or termination or change in any insurance coverage required hereunder.

The Contractor shall require its contractors/subcontractors to maintain insurance coverage, which is commensurate with the type and amount of work and/or services being provided.

§ 11.1.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.6 The insurance required hereunder shall not serve to limit the liability of the Contractor with respect to any obligations or liabilities it assumes under the Contract.

§ 11.1.7 CERTIFICATES OF INSURANCE ACCEPTABLE TO THE OWNER CONFIRMING THE INSURANCE COVERAGE REQUIRED BY SECTION 11.1 SHALL BE FILED WITH THE OWNER PRIOR TO THE EXECUTION OF THE CONTRACT, AND THEREAFTER UPON RENEWAL OR REPLACEMENT OF EACH REQUIRED POLICY OF INSURANCE. THE OWNER SHALL HAVE NO OBLIGATION TO EXECUTE THE CONTRACT IF SUCH INSURANCE CERTIFICATES HAVE NOT BEEN PROVIDED TO THE OWNER WITHIN FIVE (5) BUSINESS DAYS AFTER PRESENTATION OF THE CONTRACT TO CONTRACTOR FOR EXECUTION. THE CERTIFICATES AND THE INSURANCE POLICIES REQUIRED BY THIS SECTION 11.1 SHALL CONTAIN A PROVISION THAT COVERAGES AFFORDED UNDER THE POLICIES WILL NOT BE CANCELED OR ALLOWED TO EXPIRE UNTIL AT LEAST 30 DAYS PRIOR WRITTEN NOTICE HAS BEEN GIVEN TO THE OWNER. THE CERTIFICATES SHALL SET FORTH EVIDENCE OF ALL COVERAGE REQUIRED BY SECTIONS 11.1.1 AND 11.1.2. THE FORM OF CERTIFICATE SHALL BE THE ACCORD FORM, SUPPLEMENTED AS NECESSARY BY AIA DOCUMENTS G715. THE CONTRACTOR SHALL FURNISH TO THE OWNER COPIES OF ANY ENDORSEMENT THAT ARE SUBSEQUENTLY ISSUED AMENDING LIMITS OF COVERAGE. AN ADDITIONAL CERTIFICATE EVIDENCING CONTINUATION OF LIABILITY COVERAGE, INCLUDING COVERAGE FOR COMPLETED OPERATIONS, SHALL BE SUBMITTED WITH THE FINAL APPLICATION FOR PAYMENT AS REQUIRED BY SECTION 9.10.2 AND THEREAFTER UPON RENEWAL OR REPLACEMENT OF SUCH COVERAGE UNTIL THE EXPIRATION OF THE TIME REQUIRED BY SECTION 11.1.1. INFORMATION CONCERNING REDUCTION OF COVERAGE ON ACCOUNT OF REVISED LIMITS OR CLAIMS PAID UNDER THE GENERAL AGGREGATE, OR BOTH, SHALL BE FURNISHED BY THE CONTRACTOR WITH REASONABLE PROMPTNESS.

§ 11.1.8 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents; the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.1.9 The limits specified in the contract documents are minimum requirements and shall not be construed in any way as limits of liability or as constituting acceptance by the Owner of responsibility for losses in excess of such limits. The Contractor shall be responsible for all deductibles applicable to any insurance. No acceptance and/or approval of any insurance by Owner shall be construed as relieving or excusing Contractor from any liability or obligation imposed by the provisions of the Contract Documents.

§11.1.10 The Contractor shall not commence the Work under the Contract nor permit any Subcontractor to commence work on a subcontract until all the insurance required is obtained. The Contractor may carry, at its own expense, such additional coverage as it may deem necessary. The Contractor shall not be deemed to be relieved of any responsibility by the fact it carries insurance. Should the Contractor at any time neglect or refuse to provide the insurance required herein or should such insurance be cancelled, or should the full annual aggregate or any policy not be available to satisfy the requirements of the Contract, the Owner shall have the right to procure such insurance and the cost thereof shall be deducted from monies then due or thereafter to become due the Contractor.

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§ 11.3.1 The Owner and Contractor waive Contractor waives all rights against (1) each other and the Owner any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; employees; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, Contractor shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

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§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss-loss, and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

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§ 12.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2. Upon completion of any work under or pursuant to this Section 12.2, the one year correction period in connection with the Work requiring correction shall be renewed and recommence.

...

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such equitable, even if such Work was installed as submitted and approved in shop drawings, such adjustment shall be effected whether or not final payment has been made.

...

The Contract shall be governed by the law of the ~~place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4, state of Connecticut.~~

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§ 13.5 Interest

~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~

§ 13.4.7 If any of the work is required to be inspected or approved by any public authority, the Contractor shall cause such inspection or approval to be performed. No inspection performed or failed to be performed by the Owner hereunder shall be a waiver of any of the Contractor's obligations hereunder or be construed as approval or acceptance of the work or any parts thereof.

§ 13.5 Contractor and its Subcontractors shall not make news releases or publicize or issue advertising pertaining to the Work of this Agreement without first obtaining the written approval of the Owner.

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§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination, only for Work executed.

...

- .1** ~~repeatedly~~ refuses or fails to supply enough properly skilled workers or proper materials;

...

- .3** ~~repeatedly~~ disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4** otherwise ~~is guilty of~~ commits a substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

...

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. ~~The amount to be paid to the Contractor or Owner, as the case~~

~~may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.~~

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§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the direct cost and time caused by suspension, delay, or interruption under Section 14.3.1. ~~Adjustment of the Contract Sum shall include profit.~~ No adjustment shall be made to the extent

...

~~§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement. Upon such termination, the Contractor shall recover as its sole remedy payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, overhead, anticipated and/or unearned profits, consequential or indirect damages.~~

In no event shall Contractor be entitled to lost anticipated revenue, income or profit on or for work not completed or performed.

...

~~Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall must be initiated within 21 days after occurrence of or the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Failure by the Contractor to give such notice within the time specified will greatly prejudice the Owner, and the failure to submit proper and timely notice shall constitute a waiver and abandonment of such Claim.~~

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~~Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Owner shall have no obligation to make payments to the Contractor on or against such claims, disputes, or other matters in question during the pendency of any mediation, arbitration, or other proceedings to resolve such matters. Owner shall continue to make payments of undisputed amounts.~~

...

§ 15.1.5.1 Any change request by Contractor seeking an extension of time shall contain:

- .1 a detailed description of the nature of each cause of delay, the date or dates upon which each cause of delay began and ended (as known or as projected), the number of days of delay attributable to each such cause, and the impact of such delay upon the construction schedule;
- .2 the construction schedule in effect at the start of the delay, showing that the portion of the Work that was, or will be, delayed is on the critical path and that no float remains or will be available for the delayed activities at the start of the delay;
- .3 a schedule analysis of the impact of the delay on the critical path in the construction schedule at the time of the delay, including any proposed adjustment to the Contract Time; and
- .4 such other supporting data that the Owner may reasonably request.

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§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. ~~Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered.~~ Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

...

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the ~~Claim~~, Claim or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

...

§ 15.2.6.1 Either party may, ~~within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~ may file for mediation of any Claim.

...

§ 15.2.8 ~~If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines. The property upon which the Project is located is not subject to a mechanic's lien because it is a government owned property used for public purposes.~~

...

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

~~§ 15.4 Arbitration~~

~~§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party~~

~~filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~§ 15.4.4 Consolidation or Joinder~~

~~§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

§ 15.4 Arbitration

§ 15.4.1 If the Owner agrees that arbitration is the method to be utilized for binding dispute resolution, any Claim subject to but not resolved by mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. The Owner, in its sole discretion, may opt to litigate any dispute in lieu of arbitration. Litigation shall be in Connecticut Superior Court.

§ 15.5 The Owner and Contractor both waive their rights to a trial by jury of any or all issues arising in any action or proceeding between the parties thereto or their successors, under or connected with the Contract Documents, or any of their provisions. THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE FOREGOING, HAVE HAD THE OPPORTUNITY TO HAVE THIS AGREEMENT REVIEWED BY THEIR LEGAL COUNSEL, AND KNOWINGLY AGREE THAT THEY ARE WAIVING THEIR RIGHT TO A JURY TRIAL.~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.~~

Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, Jeffrey M. Donofrio, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:57:46 ET on 10/23/2025 under Order No. 3104238686 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Attorney for Owner

(Title)

11/20/25

(Dated)