

Copy 1  
Executed  
Contract

**TOWN OF ANDOVER  
CONSTRUCTION CONTRACT  
(PROJECTS \$100,000.00 AND OVER)**

**OWNER - CONTRACTOR AGREEMENT**

**PROJECT: MEMORIAL HALL LIBRARY MAKERS SPACE, IFB 185/026/22**

This agreement ("Contract") is made as of the 3rd day of June, 2022, by and between the Town of Andover ("Town" or "Owner") with a principal place of business at 36 Bartlet Street, Andover, MA 01810, and **Vanguard Construction Company, Inc.**, a corporation with a principal place of business at 63 Valley Street, Dunstable, MA 01827, hereinafter called the "Contractor."

Terms used in this Owner - Contractor Agreement which are defined in the General Conditions of the Contract shall have the meanings designated therein.

The Town and the Contractor agree as follows:

**Article 1. Scope of Work.** The Work under this Contract is defined as all work required by the Contract Documents for the construction of Memorial Hall Library Makers Space, Contract No.185/026/22, in accordance with and as described in the Plans and Specifications dated March 30, 2022, prepared by RMD Collaborative, LLC ("Designer"), as modified by Addenda Nos.1 dated April 8, 2022.

**Article 2. Time for Completion.** The Contractor shall commence the Work under this Contract on the date specified in the written "Notice to Proceed," and shall, by July 30, 2022, bring the Work to Final Acceptance. Time is of the essence of this Contract.

**Article 3. Contract Price.** The Town shall pay the Contractor, in current funds, for the performance of the Work, subject to additions and deductions by Approved Change Order(s), the Contract Price of One Hundred and Forty-Nine Thousand. (\$149,000.00). The Unit Prices, if any, approved by the Town are those included in the Contractor's General Bid. The following Alternates have been accepted and their costs are included in the Contract Price:


Alternate No(s):

**Article 4. Approved Subcontractors.** The filed Subcontractors listed in the Contractor's General Bid submitted by the Contractor have been approved for the performance of the specified portions of the Work subject to the Town's verification that they have complied with state corporation and partnership registration laws. No other filed Subcontractors and no non-filed Subcontractors shall be used for these or any other portions of the Work without the prior written approval of the Town.

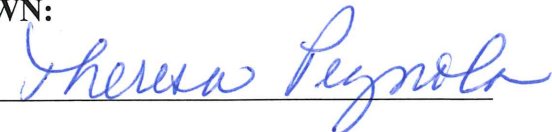
**Article 5. Certifications.** Pursuant to M.G.L. c. 62(c), s.49 (a), the individual signing this Contract on behalf of the Contractor hereby certifies, under the penalties of perjury, that to the

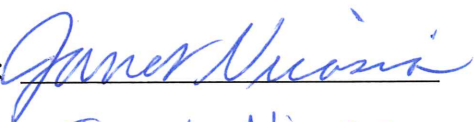
In witness whereof, the parties hereto have caused this instrument to be executed in triplicate under seal as of the date set forth above.

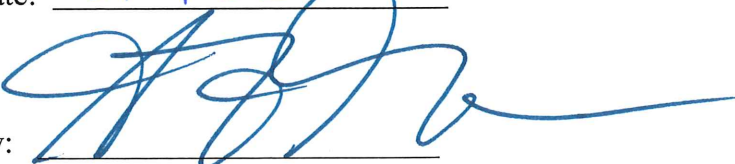
**CONTRACTOR:**

By:   
Name: Jon Mousseau  
Title: Vice President  
Date: 04/27/22

**TOWN:**

By:   
Name: Theresa Peznola  
Title: Purchasing Agent  
Date: \_\_\_\_\_

By:   
Name: Janet Nicosia  
Title: Division/Department Head  
Date: 5/17/22

By:   
Name : Andrew Flanagan  
Title: Town Manager  
Date: 6/3/22

## **Exhibit A to the Owner-Contractor Agreement**

### **Additional Insurance Provisions**

*(Insert any additions or modifications to the Insurance Requirements contained in Article XIII – Insurance Requirements)*

#### **Article XIII – Section 4**

**Contractors Pollution Liability – NOT REQUIRED ON THIS CONTRACT**

#### **Article XIII – Section 6**

**Builders Risk/Installation Floater/Stored Materials – NOT REQUIRED ON THIS CONTRACT**

1. **Materials Generally**
2. **Shop Drawings, Product Data, And Samples**
3. **Tests**
4. **"Or Equal" Submissions**
5. **Delivery and Storage of Materials; Inspection**
6. **Defective, Damaged, Deteriorated Materials and Rejection Thereof**

**ARTICLE VI: PROSECUTION AND PROGRESS**

1. **Beginning, Progress Schedule, And Completion of Work**
2. **Failure To Complete Work On Time - Liquidated Damages**
3. **Delays; Statutory Provisions**
4. **Use and Occupancy Prior To Final Acceptance**
5. **Certificate of Use and Occupancy**
6. **Final Acceptance of the Work**
7. **Warranty Repair List and Inspection**

**ARTICLE VII: CHANGES IN THE WORK**

1. **Change Orders Generally**
2. **Methods of Computing Equitable Adjustments**
3. **Work Performed Under Protest**
4. **False Claims, Statutory Provisions Regarding Changes**

**ARTICLE VIII: PAYMENT PROVISIONS**

1. **Schedule of Values**
2. **Payment Liabilities of the Contractor**
3. **Retention of Moneys by Town**
4. **Applications for Payment**
5. **Statutory Provisions Regarding Payment**
6. **Final Payment; Release of Claims by Contractor**

**ARTICLE IX: GUARANTEES AND WARRANTIES**

1. **General Warranty**
2. **Special Guarantees and Warrantees**

**ARTICLE X: MISCELLANEOUS LEGAL REQUIREMENTS**

1. **Contractor to Be Informed**
2. **Compliance with All Laws**

## ARTICLE I: DEFINITION OF TERMS

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

**Advertisement:** The Advertisement or Notice Inviting Bids or Proposals for the Work identified in Article 6 of the Owner - Contractor Agreement.

**Approval:** (or Approved): An approval in writing signed by the authorized signatory of the Town.

**Architect:** The architect identified as the Designer in Article 1 of the *Owner - Contractor Agreement*.

**As directed (As permitted, as required, as determined or words of like effect):** The direction, permission, requirement or determination of the Designer or the Town. Similarly, *approved, acceptable, satisfactory* or words of like import shall mean approved by or acceptable or satisfactory to the Designer, except as may be otherwise determined by the Town.

**Building Code:** All applicable rules and regulations to which the Town is subject and which are contained or referenced in the code authorized by M.G.L. c. 143, s. 93 et seq., including all amendments thereto.

**Certificate of Use and Occupancy:** A certificate signed by the Designer and the Town pursuant to the requirements of Article VI of these General Conditions of the Contract, indicating that the Town has determined that (1) the Work has been completed in accordance with the Contract Documents, except for Punch List items, (2) certificates of inspection, testing and/or approval (including a certificate of occupancy under the Building Code), operating permits for any mechanical apparatus which may be required to permit full use and occupancy of the Work by its intended users (which in a Subcontractor's case may include the Contractor) have been delivered to the Town, (3) any applicable written warranties, operating instructions and related materials have been delivered to the Town, and (4) the Work may be used for its intended purpose without substantial inconvenience or interference.

**Change Order:** A written document executed by the Town directing the Contractor to make changes in the Work and/or in the Contract Price or Contract Time.

**Contract:** The Contract formed by the Contract Documents as defined in Article 6 of the Owner - Contractor Agreement.

**Contract Documents:** The documents listed in Article 6 of the Owner-Contractor Agreement.

**Contract Modification:** Any alteration of the Contract Documents accomplished by a written agreement properly executed by the parties to this Contract.

**Contract Price:** The Contract Price stated in Article 3 of the Owner - Contractor Agreement which is the total sum owed to the Contractor for all of the Work.

**Contract Time:** The time beginning with the execution of the Contract and continuing through Final Acceptance.

**Designer:** The architect or engineer identified as the Designer in Article 1 of the Owner-Contractor Agreement, subject to the provisions of Article III, Section 1 of these General Conditions of the Contract.

**Engineer:** The Designer, except that the term "Resident Engineer" shall have the meaning otherwise specified herein.

**Drawings:** The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including Plans, elevations, sections, details, schedules, and diagrams.

**Final Acceptance:** The written determination by the Designer and by the Town that the Work has been 100% completed, except for the Contractor's indemnification obligations, warranty obligations, obligations to continue to maintain insurance coverage for the time periods provided in the Contract Documents, and any other obligations which are intended to survive Final Acceptance and/or the termination of the Contract.

**General Bid:** The completed bid form submitted by the Contractor.

**Laws:** All applicable statutes, regulations, ordinances, codes, laws, orders, decrees, approvals, certificates and requirements of governmental and quasi-governmental authorities.

**Neutral:** An impartial third party not having an interest in the Owner, the Designer, the Contractor or the Project.

**Notice to Proceed:** The written notice provided by the Town to the Contractor which authorizes the Contractor to commence the Work as of a date specified therein, from which date the time of

meanings are used in accordance with those meanings. For additional definitions of terms, abbreviations and references refer to the *Specifications*.

## **ARTICLE II: EXECUTION OF THE CONTRACT, SCOPE OF WORK, INTERPRETATION OF CONTRACT DOCUMENTS**

### **1. Execution.**

The execution of the Contract by the Contractor is a representation that the Contractor has visited the Site, has become familiar with local conditions under which the Work is to be performed and has correlated personal observations with requirements of the Contract Documents.

### **2. Scope of Work.**

The Work consists of the Work identified in the Contract Documents. The Work comprises the completed construction required by the Contract Documents and includes all labor, tools, materials, supplies, equipment, permits, approvals, paperwork, calculations, submittals, and certificates necessary to develop, construct and complete the Work in accordance with all Laws, and all construction and other services required to be supervised, overseen, performed or furnished by Contractor or that the Contract Documents require the Contractor to cause to be supervised, overseen, performed or furnished. The Contractor shall provide and perform for the Contract Price all of the duties and obligations set forth in the Contract Documents.

### **3. Interpretation.**

**A.** The Plans and Specifications and other Contract Documents are to be considered together and are intended to be mutually complementary, so that any work shown on the Plans though not specified in the Specifications, and any work specified in the Specifications though not shown on the Plans, is to be executed by the Contractor as a part of this Contract.

**B.** All things that in the opinion of the Designer may be reasonably inferred from the Plans, Specifications and other Contract Documents are to be executed by the Contractor. The Designer shall determine whether the detail Plans conform to the general Plans and Contract Documents, except as may be otherwise determined by the Town.

**C.** The tables of contents, titles, headings and marginal notes or sub-scripts contained herein are solely to facilitate references, are not intended to be construed as provisions of the Contract, and in no way affect the interpretation of the provisions to which they refer.

**D.** Where reference is made in the Contract Documents to publications, standards, or codes issued by associations or societies, such reference shall be interpreted to mean the current edition of such publications, standards, or codes, including revisions in effect on the date of the Advertisement, notwithstanding any reference to a particular date. The foregoing sentence shall not apply to the dates, if any, specified with respect to insurance policy endorsement forms.

**E.** In case of any conflict among the Contract Documents, unless the context clearly otherwise requires, the Contract Documents shall be construed according to the following priorities:

- First Priority: Contract Modifications
- Second Priority: Owner - Contractor Agreement
- Third Priority: General Conditions of the Contract
- Fourth Priority: Drawings -- Schedules take precedence over enlarged detail Drawings, and enlarged Detail Drawings take precedence over reduced scale Drawings; figured dimensions shall prevail over scale.
- Fifth Priority: Specifications

The Town's interpretation of specifications and other approvals shall be subject to M.G.L. c. 30 s. 39D.

### **4. Distribution of Work.**

The distribution of the Work is intended to be described under the appropriate trades and, except for filed sub-bid work, may be redistributed, except as directed herein, provided that such

and carefully compare all Specifications, Plans, Drawings, figures, dimensions, lines, marks, scales, directions of the Designer, and any other information provided by the Town and shall at once report to the Designer any questions, errors, inconsistencies, or omissions. The Town expressly disclaims any express or implied warranties regarding the sufficiency of the Specifications, Plans, Drawings, figures, dimension lines, marks, scales and directions of the Designer.

**B.** Before commencing the Work, the Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents and shall at once report to the Designer any questions, errors, inconsistencies, or omissions.

## **2. Supervision and Construction Procedures; Coordination; Cutting, and Patching.**

**A.** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and shall have control over, construction means, methods, techniques, sequences and procedures, and shall be responsible for coordinating all portions of the Work under the Contract.

**B.** The Contractor shall be responsible for the proper fitting of all Work and the coordination of the operations of all trades, Subcontractors, and materialmen engaged upon the Work. The Contractor shall guarantee to each of its Subcontractors all dimensions which they may require for the fitting of their work to all surrounding work.

**C.** All necessary cutting, coring, drilling, grouting, and patching required to fit together the several parts of the Work shall be done by the Contractor, except as may be specifically noted otherwise under any particular filed sub-bid section of the Specifications.

**D.** The Contractor shall be responsible to the Town for the acts and omissions of the Contractor's employees, agents and Subcontractors, and their agents and respective contractors, employees, and other persons performing portions of the Work or supplying materials therefor.

**E.** The Contractor shall be responsible for the inspection of portions of the Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

**F.** The Contractor shall employ a registered land surveyor to perform any engineering required for establishing grades, lines, levels, dimensions, layouts, and reference points for the trades. The Contractor shall be responsible for maintaining benchmarks and other survey marks and shall replace any benchmarks or survey marks that may have become disturbed or destroyed. The Contractor shall verify the materials shown on the Drawings before laying out the Work and shall be responsible for any error resulting from its failure to exercise this precaution.

**G.** Unless otherwise required by the Plans and Specifications, or directed in writing by the Designer, Work shall be performed during regular Working Hours. However, if the Contractor desires to carry on the Work outside of regular Working Hours or on Saturdays, Sundays, or Massachusetts or federal holidays then the Contractor shall allow ample time to allow satisfactory arrangements to be made for inspecting Work in progress and shall bear the costs of such inspection. The Town shall bill the Contractor directly for such costs.

**H.** Work performed outside of regular Working Hours without the consent or knowledge of the Designer and/or the Town shall be subject to additional inspection and testing as directed by the Designer. The cost of this inspection and testing shall be borne by the Contractor whether the Work is found to be acceptable or not. The Town at its election shall be entitled either to issue a credit Change Order to cover such cost or to withhold such cost from any further payments due the Contractor and/or to receive a payment from the Contractor of the amount of such cost.

## **3. Superintendent.**

**A.** The Contractor shall employ a Superintendent whose appointment shall be subject to the Approval of the Town. The Superintendent shall be in attendance at the Site full-time during the performance of the Work. The Superintendent shall represent the Contractor. Communications given to and from the Superintendent shall be deemed given to and from the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed upon written request in each case. The Superintendent shall attend each job meeting. The Superintendent shall be responsible for coordinating all of the Work of the Contractor and the Subcontractors.

**B.** The Superintendent shall be a competent employee regularly employed by the Contractor. The Superintendent shall be licensed in accordance with the Building Code and shall have satisfactorily

## **7. Excavation.**

The Contractor shall prevent by sheeting and shoring or bracing, if necessary, any caving or bulging of the sides of any excavation made by the Contractor, leaving sheeting and shoring in place, or if any is removed, filling solid the spaces left thereby.

## **8. Dewatering/Hoisting/Staging.**

The Contractor shall provide pumping, drainage, and disposal of all water and other flows so that no puddle, nuisance, or damage will be caused by water or flooding. The Contractor shall provide all hoisting equipment and machinery required for the proper execution of the Work. The Contractor shall provide all exterior and interior staging required, except as may be otherwise provided in the Contract Documents.

## **9. Corrections to the Work; Inspection No Bar to Subsequent Corrections.**

The Designer's inspection of the Work shall not relieve the Contractor of its responsibilities to fulfill the Contract obligations. Defective work may be rejected by the Designer whether or not such work and/or materials have been previously overlooked or misjudged by the Designer and accepted for payment. If the Work or any part thereof shall be found defective at any time before the Final Acceptance of the whole Work, the Contractor shall forthwith cease the performance of any defective work in progress and, whether or not such work is still in progress, shall forthwith correct such defect in a manner satisfactory to the Designer. If any material brought upon the Site for use in the Work, or selected for the same, shall be rejected by the Designer as unsuitable or not in conformity with the Contract Documents, or as damaged by casualty or deteriorated due to improper storage at the Site or to any other factor, the Contractor shall forthwith remove such materials from the Site. The Contractor shall pay for the cost of making good all work or property of other contractors or of the Town destroyed or damaged by such removal or replacement; repair any injury, defect, omission or mistake in the Work as soon as it is discovered; finish and immediately make good any defect, omission or mistake in the Work; and complete and leave the Work in perfect condition.

## **10. Sanitary Facilities.**

The Contractor shall provide and maintain sanitary facilities for all persons employed on the Work, beginning with the first worker at the Site. Said facilities shall meet the following requirements unless otherwise specified in the Specifications.

A. There shall be no fewer facilities than the number required by applicable Laws;

B. Facilities shall be kept in a clean sanitary condition at all times and shall be adequately screened to be inaccessible to flies.

(Note: If existing sanitary facilities at the Site are to be used by the Contractor, this requirement will be modified accordingly in the Specifications.)

## **11. Temporary Offices.**

A. Except as otherwise specified in the Specifications, the Contractor shall erect the following temporary offices near the Site as directed by the Designer and adequately furnish and maintain them in a clean, orderly condition:

(1) A Contractor's field office at which Contractor's authorized representative shall be present at all times while work is in progress. Instructions, notices, and other communications delivered there by the Designer or the Town shall be deemed delivered to the Contractor. The Contractor shall provide a separate conference room space with a conference table and chairs sufficient to accommodate 12 persons at one time.

(2) Office for the Resident Engineer, either a separate building or trailer. Such office shall be in close proximity to the Contractor's field office, shall be at least 475 square feet in area, and shall be equipped with partitions to separate it from public access, electric lights, heat, air conditioning, window screens, secure locking devices, and a toilet room with a working chemical toilet. Such office shall be equipped with the following furniture and equipment in good condition: 2 lockable steel desks, word processor, 2 swivel chairs, two stools, 2 metal plan racks, plan table at least 32 by 84 inches, 2 metal filing cabinets with locks, 12 feet of 10 inch deep shelving, one accurate Fahrenheit thermometer, one electric water cooler with disposable cups and water supply service, one hard hat for each project representative and 6 visitor hard hats, one dry plain paper copy machine with a legal and standard paper tray, and one calculator with paper print out, all of which shall become the

for controlling these hazards.

**G.** Without limiting the foregoing provisions of this Section 14, the Contractor shall comply with all health and safety Laws applicable to the Work. Without limitation,

(1) If the Contractor uses, stores or encounters toxic or hazardous substances it shall comply with M.G.L. c. 111F, s. 2, the "Right to Know" law and regulations promulgated by the Department of Public Health, 105 CMR 670, the Department of Environmental Protection, 310 CMR 33, and the Department of Labor and Workforce Development, 441 CMR 21; and shall post a Workplace Notice obtainable from the Department of Labor and Workforce Development.

(2) The Contractor shall comply with the Federal Resource Conservation and Recovery Act, the Federal Comprehensive Environmental Response, Compensation and Liability Act, M.G.L. c. 21C, M.G. L. c. 21E, and any other Laws affecting toxic or hazardous materials, solid, special or hazardous waste (collectively "Hazardous Materials Laws). Should the Contractor discover unforeseen materials subject to Hazardous Materials Laws at the Site, the Contractor shall immediately comply with any and all requirements for dealing with such materials and notify all required governmental authorities and the Town of such discovery.

(3) The Contractor shall be responsible for the location of all utilities in connection with the Work. Without limiting the foregoing, the Contractor shall comply with Dig-Safe Laws. Dig-Safe is the Utility Underground Plant Damage Prevention System, 331 Montvale Road, Woburn, MA, 01801, 1-888-344-7233. The Contractor shall notify Dig-Safe of contemplated excavation, demolition, or explosive work in public or private ways, and in any utility company right of way or easement, by certified mail, with a copy to Department of Environmental Protection (DEP). This notice shall be given at least 72 hours prior to the work, but not more than sixty days before the work is to be done. Such notice shall state the name of the street or the route number of the way and shall include an accurate description of the location and nature of the proposed work. Dig-Safe is required to respond to the notice within 72 hours of receipt by designating the location of pipes, mains, wires or conduits at the Site. The Contractor shall not commence work until Dig-Safe has responded. The work shall be performed in such manner and with reasonable precautions taken to avoid damage to utilities under the surface at the work location. The Contractor shall provide the Superintendent with current Dig-Safe regulations, and a copy of M.G.L. c. 82, s. 40. Any costs related to the services performed by Dig-Safe shall be borne by the Contractor.

(4) The Contractor shall comply with M.G.L. c. 149, s. 129A, relative to shoring and bracing of trenches.

**H.** Without limiting the Contractor's responsibilities described above, the Contractor shall take all reasonable precautions for the safety of, and the prevention of injury or damage to (1) all agents and employees and contractors on the Work and all other persons who may be affected thereby including the general public, (2) all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the Site, under the care custody or control of the Contractor or any of its Subcontractors or any contractors directly or indirectly contracting through any of them, and (3) other property at the Site or adjacent thereto, including but not limited to trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of the Work. The Contractor shall promptly remedy all damage or loss to any such property caused in whole or in part by the Contractor, any Subcontractor, or anyone directly or indirectly contracted or employed by any of them or by anyone for whose acts any of them may be liable. Without limiting the foregoing, the Contractor shall:

- (1) post and maintain adequate danger signs and other warnings against hazards;
- (2) promulgate safety regulations and give appropriate notices to the Town and users of adjacent utilities and property;
- (3) insure the adequate strength and safety of all scaffolding, staging and hoisting equipment, temporary shoring, bracing and tying;
- (4) protect adjoining private or public property;
- (5) provide barricades, temporary fences, and covered walkways required by prudent construction practices, Laws and/or the Contract Documents;
- (6) furnish approved hard hats and other personal protective equipment, furnish approved first aid supplies, furnish the name of the first aid attendant, and maintain a posted list of

methods of construction, curing of materials and the like. Such weather protection shall be consistent with the Progress Schedule, shall permit the continuous progress of the Work necessary to maintain an orderly and efficient sequence of construction operations, shall include one thermometer for every 2,000 square feet of floor space or fraction thereof, shall be subject to the Approval of the Town, and shall meet such additional requirements as may be specified by DCAMM and by the Specifications.

**17. Furnishings and Equipment.**

When, in the opinion of the Designer, any portion of the Work is in a reasonable condition to receive fittings, furniture, or other property of the Town not covered by this Contract, the Contractor shall allow the Town to bring such fittings, furniture, and/or other property into such portions of the Work and shall provide all reasonable facilities and protection thereof. No such occupancy shall be construed as interfering with the provisions relating to time of completion, or as constituting an acceptance of the whole or any part of the Work. Any furniture or fittings so installed shall be placed in the Work at the risk of the Town except that the Contractor shall be liable for damages or losses to such furniture or fittings to the extent such damages or losses arise in whole or in part from the negligence or intentional misconduct of Contractor, Subcontractors, their agents and/or employees, or anyone for whose acts Contractor is responsible.

**18. Form for Sub-contract.**

The Contractor when subcontracting with sub-bidders filed pursuant to M.G.L. c. 149, s.44F shall use the form for sub-Contract in M.G.L. c. 149, s. 44F(4) (c). The Contractor shall not interpret paragraph 3 of the statutory form of Subcontract to require such sub-bidders to provide insurance with limits higher than the limits that are required by Article XIII of these General Conditions of the Contract assuming that the term "Contractor" refers to the sub-bidder and that the term "Contract Price" refers to the sub-bidder's price stated in paragraph 1 of the statutory form of Subcontract.

**19. Sales Tax Exemption and Other Taxes.**

All building materials and supplies as well as the rental charges for construction vehicles, equipment and machinery rented exclusively for use on the Site, or while being used exclusively for the transportation of materials for the Work are entitled to an exemption from sales taxes under M.G.L. c. 64H, s. 6(f). The Contractor shall take all action required to obtain the benefit of such sales tax exemption. The Contractor shall bear the cost of any sales taxes that Contractor incurs in connection with the Work and the Town shall not reimburse the Contractor for any such taxes. The exemption number assigned to the Contractor as an exempt purchaser shall be provided to the Contractor by the Town upon the written request of the Contractor.

**20. Final Cleaning.**

At the completion of the Work, the Contractor shall remove all waste materials, rubbish, tools, equipment, machinery and surplus materials, and professionally clean all sight-exposed surfaces so that the Work is clean and ready for occupancy. Subsequent to installation of Town furniture, telephones, and equipment, the Contractor shall provide such additional cleaning as may be necessary to remove any soil resulting from installation of such furniture, telephones and equipment.

**21. Maintenance Data.**

Subject to such additional requirements as may be provided in the Specifications, the Contractor shall compile 3 complete and identical binders of operating and maintenance data for the entire Work. The Contractor shall submit record maintenance data to the Designer for approval, shall submit approved maintenance data to the Town, and shall instruct and train the Town's personnel in proper inspection and maintenance procedures.

**22. Closeout Procedures.**

The Contractor shall take all actions and submit all items required for the issuance of the Certificate of Final Acceptance as specified in the Contract Documents.

**23. Risk of Loss.**

The Contractor shall bear all risk of loss to the Work during the term of the Contract until Final

Contract Documents.

**G.** The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Designer's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Designer in writing of such deviation at the time of submittal and the Town has given explicit written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Designer's or the Town's actions.

**H.** 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 Designer on previous submittals.

**I.** Informational submittals upon which the Designer is not expected to take responsive action may be so identified in the Contract Documents.

**J.** When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, such certification must be stamped by a registered Massachusetts professional in the discipline required. The Designer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

**K.** Materials furnished or used or employed under the Contract must be equal in quality to the samples furnished and be satisfactory to the Designer.

### **3. Tests.**

**A.** Any material to be used in the Work may be tested or inspected at any time by the Designer with the prior Approval of the Town and may be rejected if it fails to comply with specified tests. Unless otherwise provided in the Specifications, the Town shall pay for all testing of specified material. If the Contractor requests permission to use a material that was not specified, then the Contractor shall pay for such testing. The cost of testing of materials that fail the testing criteria shall be borne by the Contractor

**B.** The Contractor shall notify the Designer and the Town of the proposed sources of materials in time to permit all required testing and inspection before the material is needed for incorporation into the Work. The Contractor shall have no claim arising from Contractor's failure to designate the proposed source or to order the material in time for adequate testing and inspection. Necessary arrangements shall be made to permit the Designer to make factory, shop or other inspection of materials or equipment ordered for the Work in process of manufacture or fabrication, or in storage elsewhere than the Site.

### **4. "Or Equal" Submissions.**

**A.** Where products or materials are prescribed by manufacturer name, trade name, or catalog reference, the words "or Approved equal" shall be understood to follow. An item shall be considered equal to the item so named or described if in the opinion of the Town (a) it is at least equal in quality, durability, appearance, strength and design, (b) it performs at least equally the function imposed in the general design for the Work, and (c) it conforms substantially, even with deviations, to the detailed requirements for the items as indicated by the Specifications. Any structural or mechanical changes made necessary to accommodate products or materials substituted as an "or equal" shall be at the expense of the Contractor. "Approved equal" shall mean an item with respect to which the Town shall have issued a written statement to the Contractor to the effect that the item is, in the Town's opinion, equal within the meaning of this paragraph to that prescribed in the Contract Documents.

**B.** The Contractor shall be responsible for providing the Designer with any information and test results that the Designer reasonably requires to determine whether or not a material is equal to a material named or described in the Contract Documents.

**C.** Whenever the Contractor submits a material for approval as a substitute for a material named or described in the Contract Documents, such submission shall be made at least one hundred twenty (120) days prior to the date the materials will be used in the Work. In no event shall the Contractor maintain a claim for delays based upon the Designer's review of such substituted materials if the Contractor has failed to comply with the one hundred twenty (120) day submission requirement.

**D.** The Contractor shall save the written calculations, pricing information, and other data that the Contractor used to calculate the General Bid (the "Bid Pricing Materials") for at least six years after the Town makes Final Payment under this Contract. No increase in the

the Work. No rejected material, the defects of which have been subsequently corrected, shall be used except with the written permission of the Designer. Should the Contractor fail to remove rejected material within a reasonable time, the Designer and/or Town may, in addition to any other available remedies, remove and/or replace the rejected material, and to deduct the cost of such removal and/or replacement from any moneys due or to become due the Contractor. No extra time shall be allowed for completion of Work by reason of such rejection. The inspection of the Work shall not relieve the Contractor of any of its obligations herein prescribed, and any defective Work shall be corrected. Work not conforming to the Contract Documents may be rejected notwithstanding that such Work and materials have been previously overlooked or misjudged by the Designer and accepted for payment. If the Work or any part thereof shall be found defective at any time before Final Acceptance of the whole Work, the Contractor shall forthwith make good such defect in a manner satisfactory to the Designer. Nothing in the Contract shall be construed as vesting in the Contractor any property rights in the materials used after they have been attached or affixed to the Work or the Site; but all such materials shall upon being so attached or affixed become a property of the Town.

## **ARTICLE VI: PROSECUTION AND PROGRESS**

### **1. Beginning, Progress Schedule, and Completion of Work.**

**A.** The Contract time shall commence upon the date specified in the Notice to Proceed. The Contractor shall begin Work at the Site within ten days of said date unless otherwise ordered in writing by the Town.

**B.** Within ten days after the Work has commenced, the Contractor shall submit to the Designer and to the Town, a progress schedule for the term of the Contract as required by the Contract Documents, showing in detail its proposed progress for the construction of the various parts of the Work and the proposed times for receiving required materials. Upon Approval by the Town, said schedule shall constitute the Progress Schedule. The Contractor shall at the end of each month, or more often if required, furnish to the Designer and to the Town a schedule meeting the requirements of the Specifications showing the actual progress of the parts of the Work in comparison with the Progress Schedule.

**C.** Time is of the essence of this Contract. The Work shall be completed within the time specified in Article 2 of the Owner - Contractor Agreement. Should the Contractor require additional time to complete the Work, the Contractor shall document the reasons therefor and submit a written request for an extension of time within 20 days of the occurrence of the event alleged to be the cause of the delay, as provided in this Article and in Article VII of these General Conditions of the Contract. Failure to submit said written request within the time required by the preceding sentence shall preclude the Contractor from subsequently claiming any time extension due to said delay.

**D.** If, in the opinion of the Designer or the Town, the Contractor fails to comply with the Progress Schedule, the Town may give the Contractor a notice specifying the time limits and performance standards that the Contractor is failing to meet whereupon (1) the Contractor shall, if the notice requires, discontinue all or any portion of the Work (which discontinuance shall neither terminate the Contract nor give the Contractor any claim for an increase in the Contract Price, damages, or an extension of any completion deadlines); or (2) at Contractor's sole cost increase the work force, equipment and plant, or any of them, employed on the whole or any part of the Work, to the extent required by such notice, and employ the same from day to day until the completion of the Work or such part thereof, or until the failure regarding the rate of progress, in the opinion of the Designer or the Town, shall have been sufficiently corrected.

**E.** If, in the opinion of the Town, the Contractor fails to comply with the Progress Schedule, and whether or not the Town shall have given the Contractor a notice described in D above, the Town may (but shall not be required to) give the Contractor notice of such failure and five days to cure the same. Unless the Contractor shall within that five days take all necessary steps to do so (including, if the Town requires, increasing its forces, equipment and plant) and continue to do so until in the opinion of the Town the failure is corrected, the Town may at the Contractor's expense and without terminating this Contract take exclusive or joint possession of all or a portion of the Site and employ and direct the labors of existing or such additional forces, equipment and plant as may in the Designer's or Town's opinion be necessary to insure the completion of the Work or such part thereof within the time specified in the Contract Documents

unavoidable; but if any delay is caused in the opinion of the Designer by the Town, the Contractor shall be entitled to an extension of time. The length of the extension shall be sufficient in the opinion of the Designer for the Contractor to complete the Work. Although no delay shall increase the Contract Price, the Town may require that any change in the date by which the Contractor must complete all or any part of the Work be processed on a standard Change Order form.

**B.** If a suspension, delay, interruption or failure to act of the Town increases the cost of performance to any Subcontractor, that Subcontractor shall have the same rights against the Contractor with respect to such increase as the Contractor shall have against the Town by virtue of M.G.L. c. 30, s. 39O which is printed below, but nothing in said section shall alter any other rights which the Contractor or the subcontractor may have against each other.  
M.G.L. c. 30, s. 39O:

*Section 39O. Every contract subject to the provisions of section thirty nine M of this chapter or subject to section forty four A of chapter one hundred forty nine shall contain the following provisions (a) and (b) in their entirety and, in the event a suspension, delay, interruption or failure to act of the awarding authority increases the cost of performance to any subcontractor, that subcontractor shall have the same rights against the general contractor for payment for an increase in the cost of his performance as provisions (a) and (b) give the general contractor against the awarding authority, but nothing in provisions (a) and (b) shall in any way change, modify or alter any other rights which the general contractor or the subcontractor may have against each other.*

*(a) The awarding authority may order the general contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the awarding authority; provided however, that if there is a suspension, delay or interruption for fifteen days or more or due to a failure of the awarding authority to act within the time specified in this contract, the awarding authority shall make an adjustment in the contract price for any increase in the cost of performance of this contract but shall not include any profit to the general contractor on such increase; and provided further, that the awarding authority shall not make any adjustment in the contract price under this provision for any suspension, delay, interruption or failure to act to the extent that such is due to any cause for which this contract provides for an equitable adjustment of the contract price under any other contract provisions.*

*(b) The general contractor must submit the amount of a claim under provision (a) to the awarding authority in writing as soon as practicable after the end of the suspension, delay, interruption or failure to act and, in any event, not later than the date of final payment under this contract and, except for costs due to a suspension order, the awarding authority shall not approve any costs in the claim incurred more than twenty days before the general contractor notified the awarding authority in writing of the act or failure to act involved in the claim.*

#### **4. Use and Occupancy Prior to Final Acceptance.**

**A.** The Contractor agrees to the use and occupancy of the Project or any portion thereof before Final Acceptance of the Work by the Town.

**B.** The Town will cooperate with the Contractor with respect to the completion of the Work by taking such reasonable steps as may be possible to avoid interference with the Contractor's Work provided that they do not interfere with the proper functioning of the facility.

**C.** The Contractor shall not be responsible for wear and tear or damage resulting solely from temporary occupancy.

**D.** Use and occupancy of any part of the Work prior to Final Acceptance by the Town shall not relieve the Contractor from maintaining the required payment and performance bonds and insurance (to the extent that insurance is required to be maintained after Substantial Completion) required by this Contract.

#### **5. Certificate of Use and Occupancy.**

**A.** When the Work, or portion thereof which the Town agrees to accept separately has reached the state of Substantial Completion as shown on an approved payment request, the Contractor shall develop, with the participation of the Designer and the Town, the Punch List identifying those items of unfinished or unacceptable Work that remain to be performed or corrected under the Contract.

been paid.

(3) Consent of the Surety to Final Payment executed by applicable bonding companies.

(4) Certified copy of the Punch List stating that the Contractor has completed or corrected every item listed.

(5) Evidence of Contractor's continuing Completed Operations Insurance coverage to the extent required by the Contract Documents.

(6) All final record Drawings and documents in the forms specified by the Contract Documents.

(7) A notarized certification that all purchases made under the tax exemption certificate were legitimate and entitled to exemption.

(8) Written certifications from the building department and the Designer to the effect that:  
a) the Work has been inspected for compliance with the Contract Documents and has satisfied the building department; b) all equipment and systems included in the Work have been tested in the presence of the Designer and are operational and satisfactory; c) the Work is completed and ready for final inspection.

(9) Such other items as may be required by the Contract Documents.

**B. Reinspection; Final Acceptance.** After notification from the Contractor that all remaining contract exceptions, omissions and incompletions have been completed (with the exception of Contractor's continuing warranty, insurance, indemnification, and such other obligations as are intended by the terms of the Contract Documents to extend beyond the date of Final Acceptance), the Town and the Designer shall inspect the Work to verify the completion of the same. If the Work is satisfactory, the Town shall prepare a Certificate of Final Acceptance or shall notify Contractor of items which remain to be completed prior to Final Acceptance.

## **7. Warranty Repair List and Inspection.**

Approximately 30 days prior to the expiration of the comprehensive one-year warranty period, the Contractor shall schedule an appointment with the Town for a re-inspection of the Work with the Town, and shall thereafter inspect the work at the time scheduled. Based on this inspection and on prior inspections, the Town shall issue a "Warranty Repair List" of items to be corrected by the Contractor. The Contractor shall make the repairs and/or replacements listed within 30 days of the issuance of the Warranty Repair List unless otherwise agreed by the Town in writing.

## **ARTICLE VII: CHANGES IN THE WORK**

### **1. Change Orders Generally.**

**A.** No changes in the Work shall be made in absence of a Change Order defined in Article I of these General Conditions of the Contract, directing the Contractor to perform such changes. A request for a change in the provisions of this Contract may be submitted to the Town by the Contractor, Designer, Project Manager, or Resident Engineer. The request must be made in writing and in accordance with the provisions of this Contract, Laws, and the procedures of the Town. The Contractor shall comply with the provisions of Massachusetts General Laws Chapter 30, Section 39I and the Town shall not be obligated to pay for any changes in the work not approved in writing in accordance with said Section.

**B.** A Change Order may be issued by the Town for changes in the Work within the scope of the Contract, including but not limited to, changes in: (1) the Plans and Specifications; (2) the method or manner of performance of the Work; (3) the Owner-furnished facilities, equipment, materials, services or Site; (4) the schedule for performance of the Work.

**C.** The Contractor shall immediately perform any Change Order work that is ordered by the Town.

**D.** Whenever a Change Order is issued and said Change Order will cause a change in the Contractor's cost, the Contractor or the Town may request an equitable adjustment in the Contract Price. A request for such an adjustment shall be in writing and shall be submitted by the party making such claim to the other party before commencement of the pertinent work or as soon thereafter as possible.

**E.** The Town and the Contractor shall negotiate in good faith an agreement on an equitable adjustment in the Contract Price, and/or time if appropriate, before commencement of the pertinent work or as soon thereafter as is possible. In the absence of an agreement for an equitable adjustment, the Town shall unilaterally determine the costs attributable to the change

the Project Manager to be a change or to warrant additional compensation as claimed by the Contractor, the Contractor shall on or before the first working day following the commencement of any such work or the sustaining of any such damage submit to the Designer, Resident Engineer and the Town a written statement of the nature of such work or claim. The Contractor shall not be entitled to additional compensation for any work performed or damage sustained for which written notice is not given within the time limit specified in the preceding sentence, even though similar in character to work or damage with respect to which notice is timely given.

(2) On or before the second working day after the commencement of such work or the sustaining of such damage, and daily thereafter, the Contractor shall file to the extent possible with the Resident Engineer, the Designer, and the Town, itemized statements of the details and costs of such work performed or damage sustained. If the Contractor shall fail to make such statements to the extent possible, then the Contractor shall not be entitled to additional compensation for any such work or damages.

#### **4. False Claims, Statutory Provisions Regarding Changes.**

**A.** Criminal Penalties: The Contractor's attention is directed to M.G.L. c. 30, s. 39I which provides criminal penalties for unauthorized deviations from the Plans and Specifications, and to M.G.L. c. 30, s. 39J and M.G.L. c. 7, s. 42E-42I. The Contractor's attention is also directed to M.G.L. 266, s. 67B which provides criminal penalties for false claims by Contractor under this Contract:

*"Whoever makes or presents to any employee, department, agency or public instrumentality of the commonwealth, or of any political subdivision thereof, any claim upon or against any department, agency, or public instrumentality of the commonwealth, or any political subdivision thereof, knowing such claim to be false, fictitious, or fraudulent, shall be punished by a fine of not more than ten thousand dollars or by imprisonment in the state prison for not more than five years, or in the house of correction for not more than two and one-half years, or both."*

**B.** The Contractor's attention is directed to M.G.L. ch. 30, s.39N, which provides for differing site conditions, which provides as follows:  
Section 39N. Construction contracts; equitable adjustment in contract price for differing subsurface or latent physical conditions.

[Text of section applicable as provided by 2009, 30, Secs. 15 and 46.]

*Section 39N. Every contract subject to section forty four A of chapter one hundred and forty nine or subject to section thirty nine M of chapter thirty shall contain the following paragraph in its entirety and an awarding authority may adopt reasonable rules or regulations in conformity with that paragraph concerning the filing, investigation and settlement of such claims:*

*If, during the progress of the work, the contractor or the awarding authority discovers that the actual subsurface or latent physical conditions encountered at the site differ substantially or materially from those shown on the plans or indicated in the contract documents either the contractor or the contracting authority may request an equitable adjustment in the contract price of the contract applying to work affected by the differing site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible after such conditions are discovered. Upon receipt of such a claim from a contractor, or upon its own initiative, the contracting authority shall make an investigation of such physical conditions, and, if they differ substantially or materially from those shown on the plans or indicated in the contract documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and contract documents and are of such nature as to cause an increase or decrease in the cost of performance of the work or a change in the construction methods required for the performance of the work which results in an increase or decrease in the cost of the work, the contracting authority shall make an equitable adjustment in the contract price and the contract shall be modified in writing accordingly.*

**C.** The Contractor's attention is directed to M.G.L. ch. 30, s.390 with regard to timely decisions by the Town, which provides as follows:  
Section 39O. Contracts for construction and materials; suspension, delay or interruption due to order of awarding authority; adjustment in contract price; written claim.

*Every contract subject to the provisions of section thirty nine M of this chapter or subject to section forty four A of chapter one hundred forty nine shall contain the following provisions*

appliances and equipment employed and for the employment of substitute contractors and labor in connection with the Work filed in accordance with M.G.L. c. 30, s. 39A and s. 39F. The Town may make such settlements and apply thereto any moneys retained under this Contract.

**B.** The Contractor shall each week examine all claims so filed, and if the same are in any respect incorrect or do not correctly show the amount due from the Contractor to the claimant for such labor and materials, the Contractor shall forthwith file with the Town a separate written statement of all inaccuracies in each claim and of the correct amount due from the Contractor to each claimant therefor, and shall immediately file a statement of all payments thereafter made to such claimants. Each such statement shall be sworn to and contain a detailed breakdown required by M.G.L. c. 30 s. 39F (d) and (e). Unless such statements are so filed by the Contractor the amount shown by the claims filed shall at the option of the Town be conclusively deemed to be the accurate amount due from the Contractor therefor in all accounting with the Town. If the moneys retained under this Contract are insufficient to pay the sums found by the Town to be due under the claims for labor and materials filed as aforesaid, the Town may, at its discretion, pay the same, and the Contractor shall repay to the Town all sums paid out. The Town may also at its discretion use any moneys retained, due or to become due under this Contract, for the purpose of paying for both labor and materials used or employed in the Work for which claims have not been filed with the Town.

**C.** No moneys retained under the provisions of this Article shall be held to be statutory security for the payment of claims filed in accordance with the provisions of M.G.L. c. 149, s. 29, as amended, for which security is provided by bond.

#### **4. Applications for Payment.**

**A.** The Contractor shall, once in each month on the day of the month corresponding to the day of the month specified in the Notice to Proceed referenced in Article 2 of the Owner - Contractor Agreement, on forms provided and in the manner prescribed by the Town, submit to the Town a statement showing the total amount of Work done to the time of such estimate and the value thereof as approved by the Resident Engineer and the Designer. It shall be the sole responsibility of the Contractor to deliver or cause to be delivered to the Resident Engineer (the "designee" as provided by M.G.L. c. 30, s. 39K), said periodic estimate in proper form, approved as provided above and arithmetically correct. All periodic estimates shall contain such certifications and other evidence supporting the Contractor's right to payment as the Town may require, including without limitation, lien waivers and other evidence, on such forms as the Town may require, establishing that title to the equipment or materials is unencumbered and has been transferred to the Town. If there is no Resident Engineer assigned to the Contract, the Designer shall be the designee. If there is neither a Resident Engineer nor a Designer the designee shall be a person designated by the Town at the project field office or alternatively the home office of the Town. The Contractor shall include in such periodic estimate only such materials as are incorporated in the Work, except as provided in paragraph C below. The Town shall retain five percent of such estimated value as part security for the completion of the Work and shall pay to the Contractor while carrying on the Work the balance not retained as aforesaid, subject to the Approval of the Town after deducting therefrom all previous payments and all sums to be kept under the provisions of this Contract.

**B.** Each periodic estimate shall constitute the Contractor's representation that (1) the payment then requested to be disbursed has been incurred by the Contractor on account of the Work and is justly due to Subcontractors or, to the Contractor in the case of other Work performed by the Contractor on account thereof, (2) the materials, supplies and equipment for which Application for Payment is being submitted have been installed or incorporated into the Work or have been stored at the Site or at such off Site storage locations as the Town shall have Approved, (3) the materials, supplies and equipment are insured in accordance with the provisions of this Contract, (4) the materials, supplies and equipment are owned by the Town and are not subject to any liens or encumbrances, (5) the Work which is the subject of such periodic estimate has been performed in accordance with the Contract Documents and (6) that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of such periodic estimate.

**C.** The Contractor may include in a periodic estimate the value of materials or equipment delivered at the Site (or at some location agreed to in writing) only upon delivery to the Town of: (1) an acceptable transfer of title on the form provided by the Town; (2) written certification by the Contractor (or applicable subcontractor) on the form provided by the Town that the Contractor (or the Subcontractor which executed the transfer of title) is the lawful owner and that the materials or

terms of this Contract, the Contractor shall be entitled to compensation for special insurance, as required. This one-year guarantee shall not limit any express guaranty or warranty provided elsewhere in the Contract.

## **2. Special Guarantees and Warrantees.**

**A.** The Contractor's obligation to correct Work as set forth in paragraph 1 above is in addition to, and not in substitution of, such guarantees or warranties as may be required in the various sections of the Specifications.

**B.** Guarantees and warranties required in the various sections of the Specifications must be delivered to the Designer before final payment to the Contractor may be made, or in the case of guarantees and warranties which originate with a subcontractor's section of the Work, before final payment for the amount of that subtrade or for the phase of Work to which the guarantee or warranty relates.

**C.** The failure to deliver a required guarantee or warranty shall constitute a failure to fully complete the Work in accordance with the Contract Documents.

## **ARTICLE X: MISCELLANEOUS LEGAL REQUIREMENTS.**

### **1. Contractor to be Informed.**

The Contractor shall inform itself of all existing and future Laws in any manner affecting those engaged or employed in the Work, or the materials used or employed in the Work, or in any way affecting the conduct of the Work, and of all orders and decrees of bodies or tribunals having any applicable jurisdiction or authority over the Work.

### **2. Compliance with all Laws.**

The Contractor shall cause all persons employed in the performance of the Work to comply with, all existing and future Laws, including but not limited to those set forth below:

**A. Corporate Disclosures.** The Contractor, if a foreign corporation, shall comply with M.G.L. c. 30, s.39L.

**A ½. Workforce Certification: Certification of Compliance with Workforce Related Legal Requirements.** The Contractor shall comply with the following legal requirements for any and all employees to be employed in the Project who are required to be listed in the certified payroll reports for the Project: 1) Federal Department of Homeland Security Requirements in hiring such employees including, but not limited to, the faithful completion of the Federal Department of Homeland Security Form I-9 process by CM; 2) proper classification of individuals employed on the project; 3) all laws concerning workers' compensation insurance coverage, unemployment insurance, social security taxes, and income taxes; and 4) all laws concerning hospitalization and medical benefits that meet the minimum requirements of the Connector Board established in Chapter 176Q of the General Laws. The Contractor shall execute a Workforce Certification form with the execution of its contract. The Contractor shall require each Subcontractor and sub subcontractor working on the Project to execute and provide to Contractor such Workforce Certification form with the execution of each subcontract, and Contractor shall immediately provide a copy to the Town. Contractor acknowledges that with the weekly workforce reports that must be submitted on a weekly basis, in the form and format required by the Town, including but not limited to, by electronic reporting, Contractor and all subcontractors on the project are required to certify that the Form I-9 process was faithfully completed and that all other legal requirements related to its workforce referenced above were followed for all employees listed on each certified payroll report when submitted. The Contractor and all subcontractors must: comply with the legal requirements of this section; must not knowingly use undocumented workers in connection with the performance of this contract; pursuant to federal requirements must verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination; and must not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker. Breach of any of the terms of the Workforce Certification legal requirements during the period of the Contract may be regarded as a material breach, subjecting the Contractor and subcontractors to sanctions,

under certain circumstances as set forth therein.

**H. Lodging, etc.** The Contractor shall comply with, and shall cause its Subcontractors to comply with, M.G.L. c. 149, s. 25 which provides that every employee under this Contract shall lodge, board and trade where and with whom he elects, and neither the Contractor nor his agents or employees shall, either directly or indirectly, require as a condition of the employment of any person that the employee shall lodge, board or trade at a particular place or with a particular person.

**I. Truck Rates.** The use by the Contractor of trucks or other motor vehicles hired from either common or contract motor carriers in the course of performance of this Contract is subject to such minimum rates and charges, and rules and regulations as may from time to time be promulgated by the Department of Public Utilities of the Commonwealth of Massachusetts or other agency of the State or Federal government which may be authorized by law to set rates or otherwise regulate the use of such vehicles. The Contractor expressly assumes the risk of any additional expense that may arise by reason of any change in such minimum rates and charges, and rules and regulations, and shall be entitled to no additional compensation or reimbursement by reason thereof.

**J. Access to Contractor's Records.** The Town shall have the right at reasonable times and upon reasonable notice to examine the books, records and other compilations of data of the Contractor which pertain to the performance and requirements of this Contract.

## **ARTICLE XI: CONTRACTOR'S ACCOUNTING METHOD REQUIREMENTS (M.G.L. c. 30, s. 39R)**

### **1. Definitions.**

The words defined herein shall have the meaning stated below whenever they appear in this Article XI:

--"Contractor" means any person, corporation, partnership, joint venture, sole proprietorship, or other entity awarded a Contract pursuant to M.G.L. c. 30, s. 39M, M.G.L. c. 149, s. 44A-J, and M.G.L. c. 7, s. 30B-P.

--"Contract" means any Contract awarded or executed pursuant to M.G.L. c. 30, s. 39M, M.G.L. c. 149, s. 44A-J, and M.G.L. c. 7, s. 30B-P.

-- "Independent Certified Public Accountant" means a person duly registered in good standing and entitled to practice as a certified public accountant under the laws of the place of his/her residence or principal office and who is in fact independent. In determining whether an accountant is independent with respect to a particular person, appropriate consideration should be given to all relationships between the accountant and that person or any affiliate thereof. Determination of an accountant's independence shall not be confined to the relationships existing in connection with the filing of reports with the Town.

-- "Records" means books of original entry, accounts, checks, bank statements and all other banking documents, correspondence, memoranda, invoices, computer printouts, tapes, discs, papers and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

-- "Audit", when used in regard to financial statements, means an examination of records by an independent certified public accountant in accordance with generally accepted accounting principles and auditing standards for the purpose of expressing a certified opinion thereon, or, in the alternative, a qualified opinion or a declination to express an opinion for stated reasons. --"Accountant's Report", when used in regard to financial statements, means a document in which an independent certified public accountant indicates the scope of the audit which has been made and sets forth his opinion regarding the financial statements taken as a whole with a listing of noted exceptions and qualifications, or an assertion to the effect that an overall opinion cannot be expressed. When an overall opinion cannot be expressed the reason therefor shall be stated. An accountant's report shall include as part thereof a signed statement by the responsible corporate officer attesting that management has fully disclosed all material facts to the independent certified public accountant, and that the audited financial statement is a true and complete statement of the financial condition of the contractor.

"Management," when used herein, means the chief executive officers, partners, principals or other person or persons primarily responsible for the financial and operational policies and

Pricing Materials") for at least six years after the Town makes final payment under this Contract.

## **ARTICLE XII: GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES AND WOMEN BUSINESS ENTERPRISES**

The Specifications include the provisions of the Town's program relating to Goals for Participation by Minority Business Enterprises and Women Business Enterprises if any are applicable to this Contract and are incorporated herein by reference.

## **ARTICLE XIII: INSURANCE REQUIREMENTS**

### **1. Insurance Generally.**

**A.** The Contractor shall purchase and maintain insurance of the type and limits listed in this Article with respect to the operations as well as the completed operations of this Contract. This insurance shall be provided at the Contractor's expense and shall be in full force and effect for the full term of the Contract or for such longer period as this Article requires.

**B.** All policies shall be written on an occurrence basis and be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts and the Commissioner of Insurance of the Commonwealth of Massachusetts with a financial strength rating of A- or better as assigned by AM Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the Town, or otherwise acceptable to the Town.

**C.** The Contractor shall submit the original of each certificate of insurance, acceptable to the Town prior to the execution of this Contract by the Town. Certificates shall show each type of insurance, insurance company, policy number, amount of insurance, deductibles and/or self-insured retentions, and policy effective and expiration dates. Certificates and endorsements shall show the Town and its employees and officials and anyone else the Town requests as an additional insured as to all policies of liability insurance. Certificates shall specifically note the following:

- that the general liability, automobile liability, umbrella liability and pollution liability policies include the Town as an additional insured;
- that all policies include the coverage and endorsements in accordance with the terms and conditions as required by this construction contract;
- that the Builders' Risk or Installation Floater is on an all risk basis including earthquake and flood, and includes the Town as a named insured or loss payee as their interests may appear; and
- that none of the coverages shall be cancelled, terminated, or materially modified unless and until 30 days prior notice is given in writing to the Town.

Certificates of insurance and endorsements acceptable to the Town signifying adequate coverage in accordance with the requirements of this Contract in effect for the duration of the Contract must be submitted to the Town at least seven days prior to the execution of this Contract by the Town with renewal certificates and endorsements issued not less than 30 days prior to the expiration of a policy period.

The Contractor shall submit updated certificates not less than 30 days prior to the expiration of any of the policies referenced in the certificates so that the Town shall at all times possess certificates indicating current coverage.

**D.** The Contractor shall file one complete copy of all endorsements of the Builders Risk or Installation Floater policy, the General Liability policy, if required, Automobile Liability policy, Umbrella Liability policy and the Pollution Liability policy with the Town at least 7 days prior to the execution of the Contract by the Town, and shall submit certified copies of all policies to the Town upon request. If the Town is damaged by the Contractor's failure to maintain such insurance and to comply with the terms of this Article, then the Contractor shall be responsible for all costs and damages to the Town attributable thereto.

**E.** Termination, cancellation, or material modification of any insurance required by this Contract, whether by the insurer or the insured, shall not be valid unless written notice thereof is given to the Town at least thirty days prior to the effective date thereof, which shall be expressed in said notice.

**F.** The Contractor is responsible for the payment of any and all deductibles under all of the insurance required. The Town shall not in any instance be responsible for the payment of deductibles, self-insured retentions, or any portion thereof.

**4. Contractor's Pollution Liability.**

If required, the Contractor shall purchase and maintain coverage for bodily injury and property damage resulting from liability arising out of pollution related exposures such as asbestos abatement, lead paint abatement, tank removal, removal of contaminated soil, etc. The insurance policy shall cover the liability of the Contractor during the process of removal, storage, transport and disposal of hazardous waste and contaminated soil and/or asbestos abatement. The policy shall include coverage for on-Site and off-Site bodily injury and loss of, damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water, whether it be gradual or sudden and accidental. The policy shall also include defense and clean-up costs. The Town and its employees and officials shall be named as an additional insured and coverage must be on an occurrence basis. The policy shall contain a waiver of subrogation in favor of the Town. The policy shall be primary and non-contributory with respect to any other insurance available to the additional insured. The amount of coverage shall be as follows unless a higher amount is specified

in Exhibit A to the Owner - Contractor Agreement, in which case the Contractor shall provide the additional coverage:

Limit of liability	\$1,000,000 per occurrence
	\$3,000,000 aggregate

**5. Worker's Compensation.**

A. The Contractor shall provide the following coverage in accordance with M.G.L. c.149 §34A and c.152 as amended, unless a higher coverage is specified in Exhibit A to the Owner - Contractor Agreement, in which case the Contractor shall provide the higher coverage:

Worker's Compensation	Statutory limits
Employer's Liability	\$ 500,000 each accident
	\$ 500,000 disease per employee
	\$ 500,000 disease policy aggregate

B. The policy shall contain a Waiver of Subrogation in favor of the Town.

**6. Builder's Risk/ Installation Floater/Stored Materials.**

A. The Contractor shall purchase and maintain coverage against loss or damage on all Work included in this Contract in an amount equal to the Contract Price. Such coverage shall be written on an all risks basis or equivalent form and shall include, without limitation, insurance against perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, terrorism ("certified" and "non-certified"), collapse, earthquake, flood (if the project is not in an "A" or a "V" flood Zone), windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. Unless otherwise specified in this Contract, the limits for earthquake and flood shall be the lesser of the Contract Price or \$10,000,000. This policy and/or installation floater shall include transportation and Stored Materials coverage in an amount equal to the value of the stored materials as required in C. below.

B. When Work will be completed on existing buildings owned by the Town, the Contractor shall provide an installation floater, in the full amount of the Contract Price. Such coverage shall be written on an all risks basis or equivalent form and shall include, without limitation, insurance against perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood (if the project is not in an "A" or a "V" flood Zone), windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. Unless otherwise specified in this

or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective or unsuitable material or equipment regardless of whether or not it is caused in part by any party indemnified hereunder. The existence of insurance shall in no way limit the scope of the Contractor's indemnification under this Contract.

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

The duty to defend, indemnify and hold harmless shall immediately accrue and be owing upon the utterance of such a claim by any person or entity regardless of merit and shall not be dependent upon a finding of negligence or any other finding of fact at trial. The duty to defend shall be absolute and shall not be defeated or in any way undermined by the utterance of claims not covered by this Contract.

The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the Work.

## **2. Survival.**

The provisions of this Article XIV are intended to survive Final Acceptance and/or any termination of this Contract.

## **ARTICLE XV: PERFORMANCE AND PAYMENT BONDS**

### **1. Contractor Bonds.**

**A.** The Contractor shall provide performance and payment (labor and materials) bonds in the form provided by the Town, executed by a surety licensed by the Commonwealth of Massachusetts Division of Insurance. Each such bond shall be in the amount of the Contract Price.

**B.** If at any time prior to final payment to the Contractor, the Surety:

- is adjudged bankrupt or has made a general assignment for the benefit of its creditors;
- has liquidated all assets and/or has made a general assignment for the benefit of its creditors;
- is placed in receivership;
- otherwise petitions a state or federal court for protection from its creditors; or
- allows its license to do business in Massachusetts to lapse or be revoked;

then the Contractor shall, within 21 days of any such action listed above, provide the Town with new performance and payment bonds as described in Paragraph A above. Such bonds shall be provided solely at the Contractor's expense.

### **2. Subcontractor Bonds.**

**A.** If the Contractor provided in its General Bid that any or all filed subcontractors shall provide the Contractor with payment and performance bonds for the full amount of their respective Subcontracts, then the costs for said bonds shall be the responsibility of the Contractor.

**B.** If the Contractor provided in its General Bid that filed Subcontractors shall provide bonds, and subsequently waives the requirement, the Contractor shall give the Town a written certification that the Contractor understands that if the filed Subcontractor defaults or is terminated, the Contractor shall have full responsibility for all costs and expenses related to said default or termination and shall not be entitled to a credit adjustment to the Contract Price in an amount equal to the bond premium Contractor would have paid had Contractor required the filed Subcontractor to provide such bonds.

after the Town has no further use for them. Unless so removed within fifteen days after notice to the Contractor to do so, they may be sold at public auction, after publication of notice thereof at least twice in any newspaper published in the county where the Work is being performed, and the proceeds credited to the Contractor's account; or they may, at the option of the Town, be stored at the Contractor's expense subject to a lien for the storage charges.

C. Damages and expenses incurred under paragraph B above shall include, but not be limited to, costs for the Designer's extra services and Project Representative services required, in the opinion of the Town, to successfully inspect and administer the construction contract through final completion of the Work.

D. Expenses charged under paragraph B above may be deducted and paid by the Town out of any moneys then due or to become due the Contractor under this Contract.

E. All sums damages, and expenses incurred by the Town to complete the Work shall be charged to the Contractor. In case the damages and expenses charged are less than the sum that would have been payable under this Contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference. In case such expenses shall exceed the said sum, the Contractor shall pay the amount of the excess to the Town.

## **2. Termination For Convenience.**

A. The Town may terminate this Contract for convenience even though the Contractor is not in default by giving notice to the Contractor specifying in said notice the date of termination.

B. In case of such termination without cause, the Contractor shall be paid:

(1) all sums due and owing under this Contract for work satisfactorily completed through the date of termination, less any amount which the Town determines is necessary to correct or complete the Work performed to the date of termination.

C. The payment provided in paragraph B above shall be considered to fully compensate the Contractor for all claims and expenses and those of any consultants, Subcontractors, and suppliers, directly or indirectly attributable to the termination, including any claims for lost profits.

## **3. Contractor's Duties Upon Termination For Convenience.**

Upon receipt of notice of termination of this Contract for convenience as provided in Section 2 of this Article, the Contractor shall: (1) stop the Work; (2) stop placing orders and Subcontracts in connection with this Contract; (3) cancel all existing orders and Subcontracts; (4) surrender the Site to the Town in a safe condition; (5) transfer to the Town all materials, supplies, work in process, appliances, facilities, equipment and machinery of this Contract, and all plans, Drawings, specifications and other information and documents used in connection with this Contract.

# **ARTICLE XVII: MISCELLANEOUS PROVISIONS**

## **1. No Assignment by Contractor.**

The Contractor shall not assign by power of attorney or otherwise, or sublet or subcontract, the Work or any part thereof, without the previous written consent of the Town and shall not, either legally or equitably, assign any of the moneys payable under this Contract, or Contractor's claims hereunder, unless with the like consent of the Town, whether said assignment is made before, at the time of, or after the execution of the Contract. The Contractor shall remain responsible for satisfactory performance of all Work sublet or assigned. Consent of the Town shall not be deemed to constitute a representation or waiver of any right hereunder by the Town as to the qualifications or the responsibility of the Contractor or Subcontractor(s).

## **2. Non-Appropriation.**

Notwithstanding anything in the Contract Documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. The Town may immediately terminate or suspend this Contract without liability on the part of the Town for damages, penalties or other charges in the event the appropriation(s) funding this Agreement is terminated or reduced to an amount which will be insufficient to support anticipated future obligations under this Agreement.

applicable law or regulation, the Contractor shall bear all costs arising therefrom.

**D.** The Contractor shall keep itself fully informed of all existing and future State and National Laws and Municipal By-laws and Regulations and of all orders and decrees of any bodies or tribunals having jurisdiction in any manner affecting those engaged or employed in the work, of the materials used in the work or in any way affecting the conduct of the work. If any discrepancy or inconsistency is discovered in the Drawings, Specifications, Scope of Business or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town of Andover, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

All periodic estimates shall be submitted to the awarding authority, or to its designee as set forth in writing to the contractor, and the date of receipt by the awarding authority or its designee shall be marked on the estimate. All periodic estimates shall contain a separate item for each filed subtrade and each sub-subtrade listed in sub bid form as required by specifications and a column listing the amount paid to each subcontractor and sub subcontractor as of the date the periodic estimate is filed. The person making payment for the awarding authority shall add the daily interest provided for herein to each payment for each day beyond the due date based on the date of receipt marked on the estimate.

A certificate of the architect to the effect that the contractor has fully or substantially completed the work shall, subject to the provisions of section thirty nine J, be conclusive for the purposes of this section.

Notwithstanding the provisions of this section, at any time after the value of the work remaining to be done is, in the estimation of the awarding authority, less than 1 per cent of the adjusted contract price, or the awarding authority has determined that the contractor has substantially completed the work and the awarding authority has taken possession for occupancy, the awarding authority may send to the general contractor by certified mail, return receipt requested, a complete and final list of all incomplete and unsatisfactory work items, including, for each item on the list, a good faith estimate of the fair and reasonable cost of completing such item. The general contractor shall then complete all such work items within 30 days of receipt of such list or before the contract completion date, whichever is later. If the general contractor fails to complete all incomplete and unsatisfactory work items within 45 days after receipt of such items furnished by the awarding authority or before the contract completion date, whichever is later, subsequent to an additional 14 days' written notice to the general contractor by certified mail, return receipt requested, the awarding authority may terminate the contract and complete the incomplete and unsatisfactory work items and charge the cost of same to the general contractor and such termination shall be without prejudice to any other rights or remedies the awarding authority may have under the contract. The awarding authority shall note any such termination in the evaluation form to be filed by the awarding authority pursuant to the provisions of section 44D of chapter 149.

Section 39F. (1) Every contract awarded pursuant to sections forty four A to L, inclusive, of chapter one hundred and forty nine shall contain the following subparagraphs (a) through (i) and every contract awarded pursuant to section thirty nine M of chapter thirty shall contain the following subparagraphs (a) through (h) and in each case those subparagraphs shall be binding between the general contractor and each subcontractor.

(a) Forthwith after the general contractor receives payment on account of a periodic estimate, the general contractor shall pay to each subcontractor the amount paid for the labor performed and the materials furnished by that subcontractor, less any amount specified in any court proceedings barring such; payment and also less any amount claimed due from the subcontractor by the general contractor.

(b) Not later than the sixty fifth day after each subcontractor substantially completes his work in accordance with the plans and specifications, the entire balance due under the subcontract less amounts retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work, shall be due the subcontractor; and the awarding authority shall pay that amount to the general contractor. The general contractor shall forthwith pay to the subcontractor the full amount received from the awarding authority less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general contractor.

(c) Each payment made by the awarding authority to the general contractor pursuant to subparagraphs (a) and (b) of this paragraph for the labor performed and the materials furnished by a subcontractor shall be made to the general contractor for the account of that subcontractor; and the awarding authority shall take reasonable steps to compel the general contractor to make each such payment to each such subcontractor. If the awarding authority has received a demand for direct payment from a subcontractor for any amount which has already been included in a payment to the general contractor or which is to be included in a payment to the general contractor for payment to the subcontractor as provided in subparagraphs

the first day of the month following that for which the subcontractor performed or furnished labor and materials for which the subcontractor seeks payment shall be valid even if delivered or mailed prior to the time payment was due on a periodic estimate from the general contractor. Thereafter the awarding authority shall proceed as provided in subparagraph (e), (f), (g) and (h).

Section 39G. Upon substantial completion of the work required by a contract with the commonwealth, or any agency or political subdivision thereof, for the construction, reconstruction, alteration, remodeling, repair or improvement of public ways, including bridges and other highway structures, sewers and, water mains, airports and other public works, the contractor shall present in writing to the awarding authority its certification that the work has been substantially completed. Within twenty-one days thereafter, the awarding authority shall present to the contractor either a written declaration that the work has been substantially completed or an itemized list of incomplete or unsatisfactory work items required by the contract sufficient to demonstrate that the work has not been substantially completed. The awarding authority may include with such list a notice setting forth a reasonable time, which shall not in any event be prior to the contract completion date, within which the contractor must achieve substantial completion of the work. In the event that the awarding authority fails to respond, by presentation of a written declaration or itemized list as aforesaid, to the contractor's certification within the twenty-one day period, the contractor's certification shall take effect as the awarding authority's declaration that the work has been substantially completed.

Within sixty-five days after the effective date of a declaration of a substantial completion, the awarding authority shall prepare and forthwith send to the contractor for acceptance a substantial completion estimate for the quantity and price of the work done and all but one percent retainage, if held by the awarding authority, on that work, including the quantity, price and all but one per cent retainage, if held by the awarding authority, for the undisputed part of each work item and extra work item in dispute but excluding the disputed part thereof, less the estimated cost of completing all incomplete and unsatisfactory work items and less the total periodic payments made to date for the work. The awarding authority also shall deduct from the substantial completion estimate an amount equal to the sum of all demands for direct payment filed by subcontractors and not yet paid to subcontractors or deposited in joint accounts pursuant to section thirty-nine F, but no contract subject to said section thirty-nine F shall contain any other provision authorizing the awarding authority to deduct any amount by virtue of claims asserted against the contract by subcontractors, material suppliers or others.

If the awarding authority fails to prepare and send to the contractor any substantial completion estimate required by this section on or before the date herein above set forth, the awarding authority shall pay to the contractor interest on the amount which would have been due to the contractor pursuant to such substantial completion estimate at the rate of three percentage points above the rediscount rate then charged by the Federal Reserve Bank of Boston from such date to the date on which the awarding authority sends that substantial completion estimate to the contractor for acceptance or to the date of payment therefor, whichever occurs first. The awarding authority shall include the amount of such interest in the substantial completion estimate.

Within fifteen days after the effective date of the declaration of substantial completion, the awarding authority shall send to the contractor by certified mail, return receipt requested, a complete list of all incomplete or unsatisfactory work items, and, unless delayed by causes beyond his control the contractor shall complete all such work items within forty-five days after the receipt of such list or before the then contract completion date, whichever is later. If the contractor fails to complete such work within such time the awarding authority may, subsequent to seven days' written notice to the contractor by certified mail return receipt requested, terminate the contract and complete the incomplete or unsatisfactory work items and charge the cost of same to the contractor.

Within thirty days after receipt by the awarding authority of a notice from the contractor stating that all of the work required by the contract has been completed, the awarding authority shall prepare and forthwith send to the contractor for acceptance a final estimate for the quantity

**CORPORATE VOTE**

At a duly authorized meeting of the Board of Directors of Vanguard Construction Co., Inc. held on April 26, 2022 at which all the Directors were present or waived notice, it was voted that Jonathan Mousseau, Vice President of this company, be and he/she hereby is authorized to execute contracts and bonds in the name and behalf of said company, and affix its Corporate Seal thereto, and such execution of any contract or obligation in this company's name on its behalf by Jonathan Mousseau, shall be binding upon this company.

A TRUE COPY ATTEST:

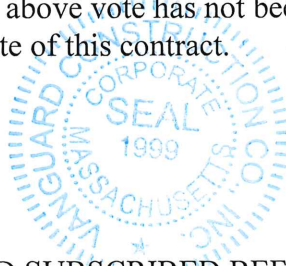


Ronald Olsen  
Clerk,

Date of this Contract

04/26/22

I hereby certify that I am the Clerk of Vanguard Construction Co., Inc., that Ronald Olsen is duly elected clerk of said company, and the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.



Ronald Olsen  
Clerk Corporate Seal

SWORN TO AND SUBSCRIBED BEFORE ME THIS 26<sup>th</sup> DAY OF April, 2022



**DAWNA E. KEIL**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 21, 2025

Dawna E Keil  
Notary Public

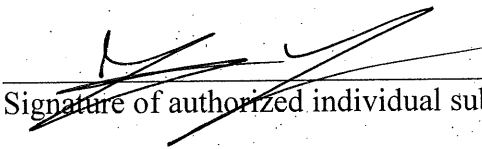
If a corporation, complete above or attach to each signed copy of the bid/written request/quotation, a notarized copy of vote of corporation authorizing the signatory to sign this bid/written request/quotation form. If attesting clerk is the same person as the individual executing this contract, have signature notarized above.

**CERTIFICATION OF GOOD FAITH & NON-COLLUSION**

The undersigned certifies under pains and penalties of perjury that this bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

**CERTIFICATE OF STATE TAX COMPLIANCE**

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

  
\_\_\_\_\_  
Signature of authorized individual submitting bid/proposal

Jon Mousseau  
\_\_\_\_\_  
Printed Name

Vanguard Construction Co Inc  
\_\_\_\_\_  
Name of Business (if applicable)

04-3449995  
\_\_\_\_\_  
Social Security or Federal Tax Identification Number

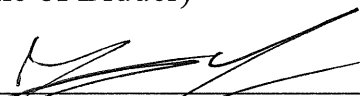
## AFFIDAVIT OF OSHA COMPLIANCE

The undersigned agrees that if he is selected as the contractor, he will comply with the provisions of M.G.L. Chapter 30, Section 39S.

The undersigned certifies, under penalties of perjury, that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will 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 and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that all employees to be employed in the work subject to this bid 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.

Date 04/27/22

Jon Mousseau  
(Name of Bidder)

By   
(Name of person Signing Bid and Title)  
Signature is required

63 Valley St.  
(Business Address)

Dunstable, MA 01827  
(City and State)

978-935-6023  
(Telephone Number)