

CONTRACT DOCUMENTS
FOR
NATURAL TURF FIELD
RENOVATION PROJECT
HANSON, MASSACHUSETTS 02341

TABLE OF CONTENTS

<u>Bidding and Contract Requirements</u>	<u>Section Number</u>
Invitation To Bid.....	00020
Instructions To Bidders	00100
General Bid Form.....	00300
Bid Bond	00310
Contractor Guarantee	None
Agreement.....	00500
Certificate of Vote	None
Construction Performance Bond	00610
Construction Payment Bond	00620
General Conditions	00700
Supplemental General Conditions	00800
Prevailing Wage Rate Information	WR-1 – WR-8
 <u>Division 1 – General Requirements</u>	
Summary of Work.....	01010
Alternates	01030
Existing Conditions.....	01040
Conduct of the Work.....	01050
Submittals - Shop Drawings, Product Data, and Samples	01300
Temporary Facilities	01500
Protection	01510
Cleaning Up	01520
Project Closeout	01700
Surveys and Record Drawings	01720

Division 2 - Earthwork

Erosion and Sediment Control	02020
Site Clearing	02060
Selective Demolition	02070
Earthwork	02300
Drainage System	02620
Design Build Irrigation System.....	02810
Chain Link Fence & Gates	02831
Athletic Field Construction.....	02920
Loam and Seed	02930

Division 3-16

Not Applicable

INVITATION TO BID
SECTION 00020

In accordance with M.G.L. c. 30, § 39M, The Town of Hanson (The Owner) will receive sealed bids for the NATURAL TURF FIELD RENOVATION PROJECT until 11:00 a.m. on Thursday, September 7, 2023 at the Office of the Town Administrator, Hanson Town Hall, 542 Liberty Street, Hanson, MA 002341, Attn: Mrs. Lisa Green. The HANSON MIDDLE SCHOOL NATURAL TURF FIELD RENOVATION PROJECT consists of the renovation of an existing natural turf multipurpose field to include a new sand-based root-zone, new drainage improvements, new site fencing and new irrigation. In addition, there are alternate bid items for sod and a gravel walking path. The project is located at project site located on the side of the Hanson Middle School property at 111 Liberty Street, Hanson MA.

Copies of the Contract Documents prepared by CLC Design may be obtained by electronic download at www.westongraphics.com after 1:00 p.m. on Thursday, August 24, 2023. A non-mandatory, pre-bid meeting will be held on Monday, August 28 at 11:00 am at the project site located on the side of the Hanson Middle School property at 111 Liberty Street, Hanson MA.

Each bid shall be accompanied by a bid guaranty in the form of a bid bond, issued by a responsible surety company licensed to do business in Massachusetts, or a certified check, or a treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Owner in the amount of 5% of the total bid price.

Each bid shall be accompanied by:

- (1) General Bid Form
- (2) References from a minimum of five (5) projects of similar scope and project value
- (3) Copy of employed Certified Field Manager resume(s)
- (4) Bid Bond

Prospective bidders are invited to view the site by attending the pre-bid meeting. Failure to attend or visit the premises shall be no defense in failure to perform contract terms.

No bidder may withdraw its bid for at least 90 days after the time and date set for the receipt of General Bids without the consent of the Town of Hanson.

The Owner reserves the right to reject any or all Bids, if it deems it is in its interest to do so.

INSTRUCTIONS TO BIDDERS

SECTION 00100

1. Preparation of Bids

General Bids must be submitted on the prescribed forms. All blank spaces must be filled in, either in ink or typewritten, both in words and figures. Each General Bid shall include all documents required in the "Instructions to Bidders".

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, its address, the name of the project for which the bid is submitted, and the date and time of scheduled opening.

If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified above.

See the Invitation to Bid for the dates, times and places for the General Bid opening.

Any bid may be withdrawn prior to the scheduled time for the opening of bids or authorized postponement by written request. Any bid received after the time and date specified for opening of bids shall not be considered.

2. Bid Opening Procedure

The following list of requirements shall apply to each filed bid. Bids not meeting all the requirements for timeliness and security will be rejected without opening; as well as, bids not meeting signature and addenda requirements will be rejected.

Bids shall be filed at the place and before the time specified in the Invitation to Bid.

Properly executed bid security shall be placed in the sealed bid submittal envelope.

All Bid Signatures will be checked.

The total dollar amount of each bid will be read, and the three apparent low bids will be selected for further consideration. These three apparent low bids will be read aloud for the benefit of the

other bidders and the bid opening procedure will be closed. All those present at the bid opening may examine all bids after the bid opening and after the reading of the three apparent low bids.

3. Construction Documents

Construction Documents for the project may be obtained by electronic download from www.westongraphics.com. Plans will be available after 1:00 pm on Thursday, August 24, 2023

4. Award

The Owner reserves the right to reject any or all Bids, if it deems it is in its interest to do so, and to act upon the bids and make its award in any lawful manner. Award of the Contract will be made within thirty (30) days. The award will be based upon bidder qualifications, including evidence of past performance in similar projects and bid price.

The award will be made by delivery of a Notice of Award to the successful bidder. The bid deposits shall be held by the Owner until a Contract has been issued and executed.

Funding for the project has been appropriated.

5. Ability and Experience of the Bidder

No award will be made to any bidder who cannot satisfy to the Owner that they have sufficient ability and experience in this class of work and sufficient capital, plant and installation resources to enable him to prosecute and complete the work successfully within the time named. The Owner's decision or judgment on these matters will be final, conclusive, and binding.

The Owner and/or Engineer may make such investigations as they deem necessary, and the bidder shall furnish to the Owner and/or Engineer, under oath if so required all such information and data for this purpose as the Owner or Engineer may request.

6. Bid Deposit

Each General Bid must be accompanied by a Bid Deposit in the form of a Bid Bond issued by a surety company qualified to do business in the Commonwealth of Massachusetts, in the amount

of at least five percent (5%) of the total Bid price. The Bid deposit will be retained from the apparent lowest qualified bidders until a Contract is executed. Bidders other than the apparent lowest qualified bidder will have bid deposits returned within five (5) days, Saturdays, Sundays and legal holidays excluded, after the opening of the general bids.

7. Liquidated Damages

In the event that a successful bidder should fail or refuse to execute and deliver the Contract and Bonds required within ten (10) days after issuance of a Notice of Award by the Owner, the Contractor shall forfeit to the Owner as liquidated damages its bid deposit.

8. Laws and Regulations

The bidder's attention is directed to the fact that all applicable federal laws, state laws, municipal by-laws, and the rules and regulations of all authorities having jurisdiction over the construction of the work shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though written out in the Contract Documents in full.

9. Conditions of the Contract Areas

Each bidder must inform itself fully of the conditions relating to the construction of the Contract area and employment of labor thereon. Failure to do so shall not relieve the successful bidder of its obligation to furnish all labor, materials and equipment necessary to carry out the provisions of the work in the Contract area. Insofar as possible, the Contractor in carrying out its work shall not interfere with the normal operations of the School facilities.

10. Obligation of Bidder

At the time of opening of the bids, each Bidder shall be presumed to have inspected the Contract Areas and to have read and to be familiar with the Plans and other Contract Documents (including all addenda), as well as all statutes, by-laws and regulations affecting its bid and relevant to the Project. Failure or omission of any bidder to inspect the Contract Areas and/or to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect to its bid.

11. Bonds

The successful General Bidder shall be required to furnish a Performance Bond and Payment Bond from a surety company acceptable to the Owner. The Contractor shall pay the premium and include the fee in its bid. Each bond shall be in the amount of 100% of the Contract Price. It is also required within this Contract that the Contractor obtain and continue the insurance as specified in the Supplemental General Conditions for two years after final payment.

12. Time of Completion and Liquidated Damages

The successful bidder shall be required to hold its/his/her bid until award, which will be made no later than thirty (30) days from opening of bids. Time is of the essence for this contract. All physical construction related to Base Bid work shall commence as early as weather permits but no earlier than **September 11, 2023**, and the construction of all work related to the athletic fields shall be substantially complete by **October 30, 2023, including seeding and/or sodding**. If the Contractor shall neglect, fail or refuse to complete the work within the time specified, or within the proper time extension granted by the Owner, then the Contractor agrees, as a condition for the awarding of the Contract, to pay the Owner the amount specified below not as a penalty but as liquidated damages to pay the Owner for its administrative costs resulting from the delay. The amount of liquidated damages is fixed and agreed upon by and between the Contractor and the Owner because of the extreme difficulty and impracticability of fixing and ascertaining the actual damages the Owner would sustain. If the Contractor fails to achieve Substantial Completion by the specified date, the sum of Five Hundred Dollars (\$500.00) per calendar day shall be deducted from the Contract Amount as liquidated damages. Such liquidated damages shall not limit in any way the liability of the Contractor for additional damages per day for other, non-administrative damages, including but not limited to, damages related to breach of contract.

13. Required Submissions with General Bids

The following documents are to be submitted with each General Bid. Failure of a bidder to make all required submissions may cause the Owner to consider the bid unacceptable.

General Bids

- a. General Bid Form

- b. References from a minimum of five (5) projects of similar scope and project value
- c. Resume of Certified Sports Field Manager
- d. Bid Bond

14. Permits

All permits and approvals for installation of the work (if any) shall be obtained and paid for by the Contractor. Permits required by state agencies or other public agencies will require payment by the Contractor.

Contractor is responsible for applying for and obtaining the NPDES permit required for the project, as well as preparation of a Stormwater Pollutions Prevention Plan (SWPP) as required.

15. Owner's Use of Premises/Project Phasing

The Contractor shall coordinate the work so as to allow the Owner use of the parking areas and entrances to the Middle School buildings adjacent to the project site or work by other Contractors.

16. Equal Products

At the time of the bid, and in any event prior to execution of this Contract, the successful bidder shall submit to the Owner's representative, in writing, a list of proposed desired substitutions with sufficient product information as is necessary for the Owner's representative to determine if the proposed substitutions are acceptable. The successful bidder shall abide by the Owner's representatives review and determination. The successful bidder shall have no right to a change in the bid amount resulting from the Owner's representative's acceptance or rejection of a proposed substitution.

17. Examination of Existing Conditions

Conditions indicated are based on field observations and existing conditions surveys completed by others. Each bidder shall examine the existing facilities, site, and grade conditions prior to submitting a bid. No claims for extras shall be allowed because of the Contractor's failure to be aware of existing conditions, which are exposed to view. Discrepancies between the existing

conditions and conditions indicated in the Contract Documents shall be reported to the Owner's representative immediately. Arrangements to examine the existing facilities may be made by contacting the Owner's representative – Mr. Nathan A. Collins, PE 774-269-1861. Bidders are encouraged to attend the pre-bid meeting on Monday, August 28, 2023 at 11:00 a.m. The meeting will be held at the project site.

Each bidder shall become fully informed of the conditions relating to the project and employment of labor. Failure to do so shall not relieve a successful bidder of the obligation to furnish material, labor, and equipment necessary to carry out the provisions of this Contract. Insofar as possible, the successful bidder, in carrying out the work, shall employ methods or means to avoid any interruption of or interference with the work of any other contractor and the Owner's normal use of the surrounding properties.

Conditions which change between the date on which bids are due and the date of the execution of the Contract, shall be brought to the attention of the Owner's representative prior to the execution of the Contract. The conditions which exist on the date of the Contract shall be the conditions for which the Contractor shall be responsible. Commencement of the Work, without notification to the Owner of unsatisfactory conditions, shall be deemed as acceptance of existing conditions by the Contractor.

Dimensions, measurements, levels and other data concerning the existing structure shall be verified by the Contractor before manufacture, fabrications, or construction of any part of the Work.

18. Request for Interpretation

Bidders shall promptly notify the Engineer of any ambiguity, inconsistency or error discovered upon examination of the Contract Documents, the site and/or conditions.

Bidders requiring the clarification or interpretation of the Contract Documents shall make a request to the Engineer. The Engineer will respond to such requests, in writing via addendum, if received not later than seven calendar days before the date for receipt of the bids. Not later than two calendar days, or 48 hours, prior to the receipt of bids, Addenda will be faxed or mailed (regular mail) to every prospective bidder on record as having obtained Contract Documents. Failure of the Owner or Engineer to provide such Addenda shall not relieve the Bidder from its obligation under a bid as submitted.

Throughout the bidding and construction process, interpretations which affect the cost of the Work shall be made in writing. Neither the Owner nor the Engineer shall be responsible for oral instructions or interpretations. Verbal instructions or interpretations shall not be cause to increase the contract price or bid.

19. Massachusetts Sales and Use Tax

Materials and equipment purchased for permanent installation in this project are exempt from the Massachusetts Sales and Use tax. Each bidder shall take this exemption into account in calculating its bid for the work. The Owner will provide the tax-exempt number to the successful Contractor.

20. Wage Rates

Prevailing wage rates as determined by the Massachusetts Commissioner of Department of Labor and Workforce Development under the provision of the Massachusetts General Laws, Chapter 149, Sections 26 through 27H, as amended, apply to this project. It is the responsibility of the Contractor, before bid opening, to request if necessary, and additional information on Prevailing Wage Rates for those trades people who may be employed for the proposed work under this contract. The Owner shall require copies of certified payroll to be submitted prior to the request for the monthly Application for Payment. Said certified payrolls must be submitted to Town of Hanson Town Hall, Office of the Town Administrator, 542 Liberty St, Hanson, MA 02341, on a weekly basis.

State schedules of Prevailing Wage Rates are included in the Supplemental General Conditions section of the contract specification documents.

21. Health and Safety

Chapter 306 of the Acts of 2004 – an Act Relative to the Health and Safety of Public Construction Projects. The below statement has been added to the general contract bid forms.

The undersigned hereby certifies 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 (effective July 1, 2006); and that he will comply fully with all laws and regulations applicable to awards made subject to section 44A.

The Owner will require evidence of OSHA Training Card for each individual including the Project Manager or Supervisor, labor crews, suppliers including delivery and installation from subs, i.e., synthetic turf, synthetic track, pavers, etc.

22. Summary of Excavation and Trench Safety Regulation (520 CMR 14.00 et seq.)

This summary was prepared by the Massachusetts Department of Public Safety pursuant to G.L.c.82A and does not include all requirements of the 520 CMR 14.00. To view the full regulation and G.L.c.82A, go to www/mass.gov/dps.

Pursuant to M.G.L. c. 82, § 1, the Department of Public Safety, jointly with the Division of Occupational Safety, drafted regulations relative to trench safety. The regulation is codified in section 14.00 of title 520 of the Code of Massachusetts Regulations. The regulation requires all excavators to obtain a permit prior to the excavation of a trench made for a construction-related purpose on public or private land or rights-of-way. All municipalities must establish a local permitting authority for the purpose of issuing permits for trenches within their municipality. Trenches on land owned or controlled by a public (state) agency requires a permit to be issued by that public agency unless otherwise designated.

In addition to the permitting requirements mandated by statute, the trench safety regulations require that all excavators, whether public or private, take specific precautions to protect the general public and prevent unauthorized access to unattended trenches. Accordingly, unattended trenches must be covered, barricaded or backfilled. Covers must be road plates at least ¾" thick or equivalent; barricades must be fences at least 6' high with no openings greater than 4" between vertical supports; backfilling must be sufficient to eliminate the trench. Alternatively, excavators may choose to attend trenches at all times, for instance by hiring a police detail, security guard or other attendant who will be present during times when the trench will be unattended by the excavator.

The regulations further provide that local permitting authorities, the Department of Public Safety, or the Division of Occupational Safety may order an immediate shutdown of a trench in the event of a death or serious injury; the failure to obtain a permit; or the failure to implement or effectively use adequate protections for the general public. The trench shall remain shutdown until re-inspected and authorized to re-open provided, however, that excavators shall have the right to appeal an immediate shutdown. Permitting authorities are further authorized to suspend or revoke a permit following a hearing. Excavators may also be subject to administrative fines issued by the Department of Public Safety for identified violations.

23. National Pollutant Discharge Elimination System (NPDES)

Because the proposed project will disturb more than one (1) acre of land, the General Contractor will be required to obtain a NPDES General Construction Permit for all construction activities.

GENERAL BID FORM

SECTION 00300

Date: _____

To: Owner

A. The undersigned (hereinafter called the Contractor) proposes to furnish all labor, equipment and materials required for the **Natural Turf Field Renovation Project** in accordance with the accompanying Plans and Specifications prepared by CLC Design, of Forestdale, MA, for the amounts listed in Item C, subject to additions and deductions in accordance with the terms of the Specifications. It being understood that the Town of Hanson, (hereinafter called the Owner) will be the sole judge as to acceptance of Bids and award of the Contract.

B. This Contractor acknowledges receipt of the following addenda:

<u>Number</u>	<u>Date</u>
_____	_____

C. **Base Bid:** The proposed Contract Amount to furnish all Base Bid labor, equipment and materials associated with the **Natural Turf Field Renovation Project**, Hanson, Massachusetts in accordance with the Contract Documents is:

_____ Dollars (\$) _____

(Amount shall be shown in both words and figures.)

D. **Alternate No. 1** – Provide an additional lump sum amount to furnish and install sod within the limits shown on the bid documents. The proposed Alternate No. 1 lump sum amount is:

_____ Dollars (\$) _____

(Amount shall be shown in both words and figures.)

- E. **Alternate No. 2** - Provide an additional lump sum amount to furnish and install a proposed gravel walking path as shown on the contract documents. The proposed Alternate No. 2 lump sum amount is:

_____ Dollars (\$) _____

(Amount shall be shown in both words and figures.)

- F. The undersigned agrees that if selected as the Contractor, within ten (10) days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the Owner, the Contractor will execute a Contract in accordance with the terms of this General Bid and furnish a Performance Bond and Payment Bond, each of a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the Owner , and each in the sum of 100% of the Contract amount, the premiums of which are to be paid by the Contractor and included in the Contract amount.

- G. Bidder proposes to provide all labor and materials necessary to complete the work, as specified in the Contract Documents, and as is reasonably expected due to existing conditions and required construction, within the completion time specified in this General Bid Form.

- H. The undersigned hereby certifies that she/he/it is able to furnish labor that can work in harmony with all other elements of the labor employed, or to be employed on the work, and that he will comply fully with all laws and regulations applicable to this award. The undersigned further certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the work "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

- I. The Contractor offers the following information as evidence of his or her qualifications to perform work as bid upon according to all the requirements of the Contract Documents including drawings and specifications:

1. Have been in business under present name for _____ years

2. Ever failed to complete any work awarded? If yes, explain below or on a separate sheet.

3. List five projects with names of Owner and Engineer on which you served as a General Contractor for work of similar scope and value **that included a natural turf baseball field renovation.** (Provide separate sheets if necessary)

	<u>Project</u>	<u>Owner</u>	<u>Engineer</u>	<u>Amount of Contract</u>
a.	_____	_____	_____	_____
b.	_____	_____	_____	_____
c.	_____	_____	_____	_____
d.	_____	_____	_____	_____
e.	_____	_____	_____	_____

J. Contractor understands that the Owner reserves the right to reject any or all bids or waive informalities in the bidding.

K. The bid security attached in the sum of _____ Dollars (\$ _____) is to become the property of the Owner if the Contract and Bonds are not executed within the time set forth as liquidated damages for the delay and additional expense to the Owner caused thereby.

L. If the Contractor is a corporation, submit a certified copy of the vote in the form set forth in the Contract Documents and affix corporate seal. If a partnership, give full names and residential address if different from business address.

M. Signatures

Company Name

Address

By: _____
(Name of Authorized Signature)

Title: _____

Signature: _____

Date: _____

_____ Affix of impress corporate seal here

BID BOND
SECTION 00310

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

_____ as Principal, and
_____ as Surety, are hereby held and firmly
bound unto _____ as Owner in
the penal sum of _____ for the
payment of which, well and truly to made, we hereby jointly and severally bind ourselves, our heirs,
executors, administrators, successors and assigns.

Signed, this _____ day of _____, 2023.

The condition of the above obligation is such that whereas the Principal has submitted to _____
_____ a certain Bid, attached
hereto and hereby made a part hereof to enter into a contract in writing for the

NOW THEREFORE.

- (a) If said Bid shall be rejected, or in the alternate
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said

Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

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

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

Principal (L.S.)

Surety

By: _____

**NATURAL TURF FIELD
RENOVATION PROJECT
HANSON, MASSACHUSETTS**

CONTRACTOR GUARANTEE

WHEREAS _____
(Contractor)

of _____
(Address)

herein called "the Contractor" has completed construction of the following project:

Owner: _____

Address of Owner: _____

Title of Project: _____

Location: _____

Date of Completion: _____

Date Guarantee Expires: _____

Whereas, at the inception of such work the Contractor agreed to guarantee the construction against faulty materials or workmanship for a limited period and subject to the conditions set forth:

Now, therefore, the Contractor hereby guarantees, subject to the conditions herein set forth, that during a period of one (1) year from the date of completion of said construction, it will, at its own cost and expense, following receipt of written notice, make or cause to be made such repairs to said construction resulting solely from faults or defects in materials or workmanship applied by or through the Contractor as may be necessary to maintain the construction in defect-free condition.

CONTRACTOR GUARANTEE

This guarantee is made subject to the following conditions:

Specifically excluded from this guarantee is any and all damage caused by the following lightning, hailstorm or other unusual phenomena of the elements; foundation settlement or cracking; defects or failure of materials not installed by the Contractor; faulty construction other than that installed by or for the Contractor; or fire. If the construction is damaged by reason of any of the foregoing, this guarantee shall thereupon become null and void for the balance of the guarantee period unless such damage is repaired by the Contractor at the expense of the party requesting such repairs.

1. No work shall be done on said construction, including, but without limits to equipment fastened to or set on the construction unless the contractor shall be first notified and shall make, at the expense of the Owner, the necessary related construction application thereto. Failure to observe this condition shall render this guarantee null and void.
2. This guarantee shall not be or become effective unless and until the Contractor has been paid in full for all his work.
3. The undersigned agrees to bear the expense of examination and repair of any construction defects due to improper application as specified above, and the Owner is to bear expense if resulting from other cause or causes. In such latter event, the Owner agrees to make payment of appropriate charge within thirty (30) days after billing, failing which, this guarantee shall be null and void.
4. This guarantee runs in favor of Owner only and is not transferable.

Additional conditions: This Contractor Warranty is in Addition to all other legal and specified Warranties and Guarantees required in the project's Contract Documents for materials, systems and performance of the manufacturer or supplier.

In Witness Whereof, this instrument has been duly executed this _____ day of _____, 2023.

Name of Contractor

CONTRACTOR GUARANTEE

By: _____
Authorized Signature

(Seal)

Title: _____

NOTE: Form shall be sealed if Contractor is a Corporation.

AGREEMENT
SECTION 00500

THIS AGREEMENT, made this _____ day of _____, 20___, by and between the party of the first part Town of Hanson, hereinafter called "OWNER," acting herein through its _____, and the party of the second part, _____ doing business as *(an individual) (a partnership) (a joint venture) (a corporation) located in the *(Owner) (Owner) of _____, County of _____, and State of _____, hereinafter called "CONTRACTOR."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the project described as follows:

hereinafter called the project, for the sum of;

_____ Dollars
(\$_____) and all extra work in connection therewith, under the terms as stated in the Contract Documents; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in Section 00300 FORM OF GENERAL BID, Section 00700 GENERAL CONDITIONS, and Section 00800 SUPPLEMENTAL GENERAL CONDITIONS.

The Contract: The following together with this Agreement, form the Contract:
The Contract Documents as listed in the Table of Contents of the Project Manual. The Specifications as listed in the Table of Contents in the Project Manual. The Contract Drawings, as prepared by CLC Design and any modifications issued after the execution of the Contract.

*Strike out inapplicable term.

The CONTRACTOR hereby agrees to commence work under this Contract on or before a date to be specified in written "Notice to Proceed" of the OWNER.

The CONTRACTOR further agrees to achieve substantial completion of the project to include beneficial use of the natural turf field (excluding the grow-in period) by **October 15, 2023**.

The CONTRACTOR further agrees to pay as liquidated damages the sum of \$1,000.00 for each consecutive calendar day thereafter as provided in the Liquidated Damages Paragraph of Section 00700 GENERAL CONDITIONS.

The CONTRACTOR agrees not to discriminate against or exclude any person from participation herein on grounds of race, religion, color, sex, age or national origin; and that it shall insure that applicants are employed, and that employees are treated during their employment, without regard to race, religion, color, sex, age, handicapped status, or national origin.

The CONTRACTOR agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Section 2 of Chapter 151E of the Massachusetts General Laws.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in Section 00700 GENERAL CONDITIONS, and to make payments on account thereof as provided in the Estimates and Payments Paragraph of Section 00700 GENERAL CONDITIONS.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in four (4) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

AGREED:

Town of Hanson, 542 Liberty St, Hanson, MA 02341

(Owner)

By _____

(Contractor)

By _____

AGREEMENT

00500-2

(Name) (Title)

(Address)

(Owner and State)

CERTIFICATE OF VOTE

(to be filed if Contractor is a Corporation)

I, _____, hereby certify that I am
(Secretary of the Corporation)

the duly qualified and acting Secretary of _____
(Name of Corporation)

and I further certify that a meeting of the Directors of said Company, duly called and held on
_____, at which
(Date of Meeting)

all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: _____

CERTIFICATE OF VOTE

(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)

CONSTRUCTION PERFORMANCE BOND

SECTION 00610

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ a _____
(Name of Contractor) (Corporation, Partnership, Joint Venture or Individual)

hereinafter called "Principal" and _____
(Surety)

of _____, State of _____ hereinafter
(Owner and State)

called the "Surety" and licensed by the State Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to Owner, hereinafter called "Owner", in the _____ penal _____ sum _____ of

_____ Dollars

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

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction described as follows:

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and

shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

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

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

IN WITNESS WHEREOF, this instrument is executed in six (6) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20__.

ATTEST:

_____	_____
(Principal Secretary)	Principal
	By _____

	(Address-Zip Code)

_____ (SEAL)
Witness as to Principal

(Address-Zip Code)

ATTEST:

_____ By _____
Surety

(Attorney-in-Fact)

(Address-Zip Code)

_____ (SEAL)
Witness as to Surety

(Address-Zip Code)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

CONSTRUCTION PAYMENT BOND

SECTION 00620

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ a _____
(Name of Contractor) (Corporation, Partnership, Joint Venture or Individual)

hereinafter called "Principal" and _____
(Surety)

of _____, State of _____ hereinafter
(Owner and State)

called the "Surety" and licensed by the State Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the Owner, hereinafter called "Owner", in the penal sum of

_____ Dollars

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

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction described as follows:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

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

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

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20__.

ATTEST:

Principal

_____ By
(Principal Secretary)

(Address-Zip Code)

_____ (SEAL)
Witness as to Principal

(Address-Zip Code)

ATTEST:

Surety

By _____

(Attorney-in-Fact)

(Address-Zip Code)

_____ (SEAL)

Witness as to Surety

(Address-Zip Code)

GENERAL CONDITIONS

SECTION 00700

Table of Contents

<u>Article</u>	<u>Title</u>	<u>Page</u>
1	<u>CONTRACT DOCUMENTS</u>	1
1.1	Definitions	1
1.1.1	The Contract Documents	1
1.1.2	The Contract	1
1.1.3	The Work	1
1.1.4	The Project	1
1.1.5	"Or Equal"	1
1.2	Execution, Correlation and Intent	1
1.3	Ownership and Use of Documents	2
2	<u>ADMINISTRATION OF THE CONTRACT</u>	2
2.1	Definition	
2.2	Claims and Disputes	
2.3	Resolution of Claims and Disputes	
2.4	Mediation	
2.5	Arbitration	
3	<u>OWNER</u>	3
3.1	Definition	3
3.2	Information and Services Required of the Owner	3
3.3	Owner's Right to Stop the Work	3
3.4	Owner's Right to Carry Out the Work	3

4	<u>CONTRACTOR</u>	4
4.1	Definition	4
4.2	Review of Contract Documents	4
4.3	Supervision and Construction Procedures	4
4.4	Labor and Materials	4
4.5	Warranty	4
4.6	Taxes	5
4.7	Permits, Fees and Notices	5
4.8	Superintendent	5
4.9	Progress Schedule	5
4.10	Documents and Samples at the Site	5
4.11	Shop Drawings, Product Data and Samples	5
4.12	Use of Site/Weather Protection	6
4.13	Cutting and Patching of Work	6
4.14	Debris/Site Protection	6
4.15	Communications	7
4.16	Royalties and Patents	7
4.17	Indemnification	7
5	<u>SUBCONTRACTORS</u>	7
5.1	Definition	7
5.2	Award of Subcontracts and Other Contracts	8
5.3	Subcontractual Relations	8
6	<u>WORK BY OWNER OR BY SEPARATE CONTRACTORS</u>	8
6.1	Owner's Right to Perform Work And To Award Separate Contracts	8
6.2	Mutual Responsibility	9
6.3	Owner's Right to Clean Up	9

7	<u>MISCELLANEOUS PROVISIONS</u>	9
7.1	Governing Law	9
7.2	Successors and Assigns	9
7.3	Written Notice	9
7.4	Performance Bond and Labor and Material Payment Bond	10
7.5	Rights and Remedies	10
7.6	Tests	10
8	<u>TIME</u>	10
8.1	Definitions	10
8.2	Progress and Completion	11
8.3	Delays and Extensions Of Time	11
8.4	Liquidated Damages	11
9	<u>PAYMENTS AND COMPLETION</u>	12
9.1	Contract Sum	12
9.2	Schedule of Values	12
9.3	Applications for Payment	12
9.4	Certificates of Payment	13
9.5	Progress Payments	13
9.6	Payments Withheld	13
9.7	Failure of Payment	14
9.8	Substantial Completion	14
9.9	Final Completion and Final Payment	14
10	<u>PROTECTION OF PERSONS AND PROPERTY</u>	15
10.1	Safety Precautions and Programs	15
10.2	Safety of Persons and Property	15
10.3	Emergencies	16

11	<u>INSURANCE</u>	16
11.1	Contractor's Liability Insurance	16
11.2	Owner's Liability Insurance	17
11.3	Property Insurance	17
11.4	Loss of Use Insurance	17
12	<u>CHANGES IN THE WORK</u>	17
12.1	Change Order	17
12.2	Concealed Conditions	18
12.3	Claims for Additional Cost	18
12.4	Minor Changes in the Work	19
13	<u>UNCOVERING AND CORRECTION OF WORK</u>	19
13.1	Uncovering of Work	19
13.2	Correction of Work	19
13.3	Acceptance of Defective OR Non-Conforming Work	20
14	<u>TERMINATION OF THE CONTRACT</u>	20
14.1	Termination by the Contractor	20
14.2	Termination by the Owner	20

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

ARTICLE 1

CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplemental and other Conditions), the Drawings, the Specifications, all Addenda issued prior to and all Modifications issued after execution of the Contract, and all applicable laws, ordinances and regulations. A Modification is (1) a written amendment to the contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the Owner or (4) a written order for a minor change in the Work issued by the Owner pursuant to Paragraph 12.3. The Contract Documents include Bidding Documents such as the Advertisement or Invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid or portions of Addenda relating to any of these, or any other documents, specifically enumerated in the Owner-Contractor Agreement.

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1.

1.1.3 THE WORK

The Work comprises the completed construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 THE PROJECT

The project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.1.5 "OR EQUAL" CLAUSE

When submitting shop drawing information on articles or materials which are being proposed as substitutes for specified items, the Contractor shall clearly identify them as such.

If the articles or materials are accepted as equal to those on which dimensions on the drawings are based, any dimensional variance from those shown and/or specified shall be shown on the shop drawings prepared by the Contractor, illustrating the manner in which conformity to dimensions and design is to be obtained. All such drawings shall be subject to the approval of the Owner and the installation of the article shall not proceed without first obtaining said approval.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed in not less than quadruplicate by the Owner and Contractor. By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

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

1.3 OWNERSHIP AND USE OF DOCUMENTS

All Drawings, Specifications and copies thereof furnished by the Owner are and shall remain the Owner's property. They are to be used only with respect to this Project and are not to be used on any other project without the prior written consent of the Owner. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Owner at the completion of the Work. Submission or distribution to meet

official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights.

ARTICLE 2

2.1 ADMINISTRATION OF THE CONTRACT

2.1.1 The designated representative of the Owner or its Engineer will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Owner's Representative or Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

2.1.2 The Engineer shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the Owner may perform its functions under the Contract Documents.

2.1.3 Based on the Engineer's observations and an evaluation of the Contractor's Applications for Payment, the Engineer will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts, as provided in Paragraph 9.4.

2.1.4 The Engineer will render information necessary for the proper execution or progress of the Work within twenty (20) days of any request by the contractor or in accordance with any time limit agreed upon.

2.1.5 The Engineer will have authority to reject Work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Subparagraph 7.7.2 whether or not such Work be then fabricated, installed or completed. Any such rejection of work shall not relieve the Contractor of the responsibility for maintaining protection of the Work and the Owner's property.

2.1.6 The Engineer will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.1.7 The Engineer will prepare Change Orders in accordance with Article 12, and will have authority to order minor changes in the Work as provided in Subparagraph 12.4.1.

2.1.8 The Engineer will conduct inspections to determine the date of Substantial Completion and Final Completion, will review written warranties and related documents required by the

Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of Paragraph 9.9.

2.2 CLAIMS AND DISPUTES

2.2.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

2.2.2 Time Limits on Claims. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect and the other party.

2.2.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Section 9.7.1 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

2.2.4 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and

Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Section 4.4.

2.2.5 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.6.

2.2.6 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Section 4.3.

2.2.7 Claims for Additional Time

2.2.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

2.2.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

2.2.8 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

2.2.9 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work

proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

2.2.10 Claims for Consequential Damages. The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 4.3.10 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

2.3 RESOLUTION OF CLAIMS AND DISPUTES

2.3.1 Decision of Architect. Claims, including those alleging an error omission by the Architect but excluding those arising under Sections 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to mediation, arbitration or litigation, of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

2.3.2 The Architect will review Claims and within ten days of the receipt of the Claim take one or more of the following actions (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Architect is unable to resolve the Claim if the Architect lacks sufficient information to evaluate the merits of the Claim or if the Architect concludes that, in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the Claim.

2.3.3 In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense.

2.3.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

2.3.5 The Architect will approve or reject Claims by written decision, which shall, state the reasons therefor and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect shall be final and binding on the parties but subject to mediation and arbitration.

2.3.6 When a written decision of the Architect states that (1) the decision is final but subject to mediation and arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives, the final written decision, then failure to demand arbitration, within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

2.3.7 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

2.3.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, by mediation or by arbitration.

2.4 MEDIATION

2.4.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the Architect or 30 days after submission of the Claim to the

Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

2.4.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall, be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

2.4.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

2.5 ARBITRATION

2.5.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the provisions of Section 4.5.

2.5.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association, and a copy shall be filed with the Architect.

2.5.3 A demand for arbitration shall be made within the time limits specified in Sections 4.4.6 and 4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable; statute of limitations as determined pursuant to Section 13.7.

2.5.4 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or

entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of Claim not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

2.5.5 Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

2.5.6 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 3

OWNER

3.1 DEFINITION

3.1.1 The Owner is the Owner and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner or his authorized representative.

3.1.2 The Engineer for the Project shall be CLC Design

3.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

3.2.1 The Owner shall, at the time of execution of the Agreement and any subsequent Change Orders, certify for the Contractor that financial arrangements have been made to fulfill the Owner's obligations under the Contract.

3.2.2 The Owner shall furnish all surveys describing the physical characteristics, legal limitations and approximate utility locations for the site of the Project, and a legal description of the site. Contractor shall verify utility locations.

3.2.3 Except as provided in Subparagraph 4.7.. Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.4 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.

3.2.5 The Owner will furnish the Contractor with (3) copies of all Drawings and Specifications and revisions issued during the progress of the Work; all additional copies will be furnished upon request at the cost of reproduction.

3.2.6 The Owner, through its designated agent or Engineer, shall forward all instructions directly to the Contractor.

3.2.7 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Work by Owner or by Separate Contractors, Payments and Completion, and Insurance in Articles 6, 9 and 11 respectively.

3.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct defective Work as required by Paragraph 13.2 or fails to carry out the Work in accordance with the Contract Documents or if the Owner shall for any other reason so require, the Owner, by a written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated or until further written notice from the Owner; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3. The Contractor shall resume the Work after such stoppage promptly upon written notice to do so from the Owner. If such stoppage is required through no fault of the Contractor, the Contract Time (and the dates for achieving Substantial Completion and Final Completion) shall be extended by a period equal to the period of the stoppage.

3.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy he may have, perform such work or cause such work to be performed and/or make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover the amount, the Contractor shall pay the difference to the Owner.

ARTICLE 4
CONTRACTOR

4.1 DEFINITION

The Contractor is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

4.2 REVIEW OF CONTRACT DOCUMENTS

4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner any error, inconsistency or omission he may discover. The Contractor shall not be liable to the Owner for any damage resulting from errors, inconsistencies or omissions in the Contract Documents which he discovers but shall be liable for damage to the extent he reasonably should have but failed to discover such errors, inconsistencies or omissions. The Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

The Contractor shall supervise and direct the Work, using his best skill and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the Premises during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.

The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Contract, or by inspection, tests or approvals required or performed under Paragraph 7.7 by persons other than the Contractor.

4.4 LABOR AND MATERIALS

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

The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him including all persons on the Site controlled directly or indirectly by the Contractor.

4.5 WARRANTY

The Contractor warrants to the Owner that all materials and equipment furnished under this Contract will be new and of recent manufacture unless otherwise permitted in writing by the Owner and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and, promptly after written notification of non-conformance, shall be repaired or replaced by the Contractor with Work conforming to such requirements. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Paragraph 13.2.

4.6 TAXES

The Contractor shall pay all applicable sales, consumer, use and other similar taxes for the Work or portion thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective.

4.7 PERMITS, FEES AND NOTICES

Except for the order of conditions issued pursuant to M.G.L. c. 131, § 40 and the permit required under the Owner's Wetlands and Water Resources Protection By-Law, which have been obtained by the Owner, , the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.

The Contractor shall give all notices and comply with all federal, state and local laws, by-laws, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Contract. If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, by-laws, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate Modification.

If the Contractor performs any Work which he knows or should know is contrary to such laws, by-laws, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

4.8 SUPERINTENDENT

The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

4.9 PROGRESS SCHEDULE

The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

4.10 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As-Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available to the Owner upon completion of the Work.

4.11 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

4.11.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.11.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.

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

4.11.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

4.11.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.11.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples or the Engineer's approval of the same unless the Contractor has specifically informed the Owner or Engineer in writing of such deviation at the time of submission and the Owner or Engineer has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility from errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.

4.11.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner or its Engineer on previous submittals.

4.11.8 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner or Engineer. All such portions of the Work shall be in accordance with approved submittals.

4.12 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinance, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

4.13 CUTTING AND PATCHING OF WORK

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

The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner and of such separate contractor. The Contractor shall not unreasonably withhold from the Owner or any separate contractor his consent to cutting or otherwise altering the Work.

4.14 DEBRIS

(a) Debris, both exterior and interior shall not be permitted to accumulate and the work shall at all times be kept satisfactorily clean.

(b) The Contractor shall remove debris from the site of the work and dispose it at any private or public dump that the General Contractor may choose. The General Contractor shall make all arrangements and obtain any approvals necessary from the Owner's or officials of such dumps and shall bear all cost, including fees resulting from such disposal. Garbage shall be removed daily. No open fire on site permitted

SITE PROTECTION

(a) The Contractor shall take precaution in execution of work for demolition existing structures and materials not to disturb any existing structures, landscaping, walks, roads, or other items, scheduled to remain. The Contractor shall restore any damaged items to original condition and as directed by the Designer/Engineer.

(b) The Contractor shall provide and erect acceptable barricades, fences, signs and other traffic devices to protect the work from traffic and the public,

4.15 COMMUNICATIONS

4.15.1 The Contractor shall forward all communications to the Owner through the Engineer.

4.16 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account

thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.

4.17 INDEMNIFICATION

4.17.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, the Engineer and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission 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, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 4.17.

4.17.2 In any and all claims against the Owner, the Engineer 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 4.17 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 workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 5 SUBCONTRACTORS

5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representatives. The term Subcontractor does not include any separate contractor or his subcontractors.

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

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Unless otherwise required by the Contract Documents or the Bidding Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Engineer in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Engineer will reply to the Contractor in writing within twenty (20) days stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner has made reasonable objection under the provisions of Subparagraph 5.2.1. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.

5.2.3 If the Owner has reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom the Owner has no reasonable objection.

5.2.4 The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner makes reasonable objection to such substitution.

5.3 SUBCONTRACTUAL RELATIONS

By an appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors.

The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed

Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-subcontractors. The Contractor shall be fully responsible to the Owner for the acts and omissions of all Subcontractors and other entities or persons directly or indirectly employed by him to perform the Work. If requested by the Owner, the form and substance of any Subcontract with the Contractor shall be subject to the prior written consent of the Owner, which consent shall not be unreasonably withheld or delayed.

ARTICLE 6

WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, he shall make such claim as provided elsewhere in the Contract Documents.

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

6.1.3 The Owner will provide for the coordination of the work of his own forces and of each separate contractor with the Work of the Contractor, who shall cooperate therewith as provided in Paragraph 6.2.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractor's reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents.

6.2.2 If any part of the Contractor's Work depends for proper execution or results upon the work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Engineer any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the Owner's or separate contractors' work as fit and

proper to receive his Work, except as to defects which may subsequently become apparent in such work by others.

6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

6.2.4 Should the Contractor cause damage to the work or property of the Owner, or to other work on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5.

6.2.5 Should the Contractor wrongfully cause damage to the work or property of any separate contractor, the Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates an arbitration proceeding against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the Owner arises therefrom the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or arbitrations costs which the Owner has incurred.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.14, the Owner may clean up and charge the cost thereof to the contractors responsible therefor.

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 GOVERNING LAW

The Contract shall be governed by the law of the Commonwealth of Massachusetts. All applicable provisions of Federal, state, or local laws, by-laws, rules, or regulations are incorporated into the Contract as if fully set forth herein, and shall prevail over any conflicting provisions of the General or Supplemental General Conditions.

7.2 SUCCESSORS AND ASSIGNS

The Owner and the Contractor each bind himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any

moneys due or to become due to him hereunder, without the previous written consent of the Owner.

7.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice. Written Notice to the Owner shall be delivered to the Office of the Town Administrator, 542 Liberty St, Hanson, MA 02341

7.4 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

The Contractor shall furnish a Performance Bond in an amount of 100 percent (100%) of the Contract price as security for the faithful performance of this Contract and also a Payment Bond in an amount not less than 100 percent (100%) of the Contract price as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. The Performance Bond and the Payment Bond may be in one or in separate instruments in accordance with local law, and in a form acceptable to the Owner, and shall remain in effect through the one-year warranty period.

7.5 RIGHTS AND REMEDIES

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law, except as otherwise set forth therein.

No action or failure to act by the Owner, the Engineer or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

7.6 TESTS

7.6.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall give the Owner and Engineer timely notice of its readiness so the Owner and Engineer may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals which are normal and customary for the type of work required by the Contract. All testing methods, organizations, and personnel shall be

approved by the Owner or Engineer before the start of testing Work, without regard to what party will ultimately pay for such Work.

7.6.2 If the Owner or Engineer determines that any Work requires special inspection, testing, or approval which Subparagraph 7.6.1 does not include, it will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.6.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Owner's additional services made necessary by such failure; otherwise the Owner shall bear such costs, and an appropriate Change Order shall be issued.

7.6.3 Required certificates of inspection, testing or approval shall be secured by the Contractor and promptly delivered by him to the Owner and Engineer.

7.6.4 If the Owner or Engineer is to observe the inspections, tests or approvals, he will do so promptly and, where practicable, at the source of supply.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial and Final Completion of the Work as defined in Subparagraph 8.1.3, including authorized adjustments thereto. Time is of the essence with regard to completion of the Work required by the Contract.

8.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein.

8.1.3 The date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Engineer when construction is substantially complete, in accordance with the Contract Documents, other than only custom punch list items, the lack of or completion of which will not interfere with the Owner's use, so the Owner can lawfully occupy and utilize the Work or designated portion thereof for the use for which it is intended. The Date of Final Completion of the Work is the date on which the Owner issues its final Certificate for Payment in accordance with Paragraph 9.9.1 hereof. The term day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

8.2 PROGRESS AND COMPLETION

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time, and Final Completion thereafter in accordance with the provisions of the Contract Documents.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the Owner or Engineer or by any employee of the Owner or Engineer, or by any separate contractor employed by the Owner or Engineer, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipated, unavoidable casualties, or any causes beyond the Contractor's or its Subcontractor's control, or by delay authorized by the Owner, then, provided such delay in no way results from the act or neglect of the Contractor or any of its Subcontractors, the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

Any claim for extension of time shall be made in writing to the Owner not more than seven (7) days after the commencement of the delay; otherwise it shall be waived. In the case of a continuing delay only one claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

8.4 LIQUIDATED DAMAGES

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

The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein as definite and certain length of times if fixed for the performance of

any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract.

8.4.3 Provided, that the contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; Provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

1. to any preference, priority or allocation order duly issued by the Owner;
2. to unforeseeable cause beyond the control and without the fault of negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
3. to any delays of subcontractors or suppliers occasioned by any of the causes specified in subsection (1.) and (2.) of this article:

8.4.4 Provided, further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the Contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

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

9.2 SCHEDULE OF VALUES

At the Pre-construction conference, the Contractor shall submit to the Engineer a schedule of values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Engineer may require. This schedule, unless objected to by the Engineer, shall be used only as a basis for the Contractor's Application for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 The Contractor shall submit to the Engineer an itemized Application for Payment supported by such data substantiating the Contractor's right to payment as provided elsewhere in the Contract Documents for the period ending the 25th day of each month within the Contract period.

9.3.2 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the Owner, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site. The Contractor shall assume responsibility to protect all such materials from loss or damage at no cost to the Owner, until they are finally incorporated into the Work, whether or not they have been paid for by the Owner.

9.3.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.4 CERTIFICATES OF PAYMENT

9.4.1 The Engineer will, within ten (10) days after the receipt of the Contractor's Application for Payment, issue a Certificate for Payment to the Contractor for such amount as the Engineer

determines is properly due, or notify the Contractor in writing his reasons for withholding a Certificate as provided in Subparagraph 9.6.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Engineer, based on its observations at the site and the data comprising the application for Payment, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Document upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents correctable prior to completion, and to any specific qualifications stated in his Certificate); and that the Contractor is entitled to payment in the amount certified. However, by issuing a Certificate for Payment, the Engineer shall not thereby be deemed to represent that he has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that he has reviewed the construction means, methods, techniques, sequences or procedures, or that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

9.5 PROGRESS PAYMENTS

9.5.1 After the Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents. The Owner reserves the right to a 5% general retainage from each progress payment, which retainage shall be released to the Contractor upon substantial completion.

9.5.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his Sub-subcontractors in similar manner.

9.5.3 The Owner may, on request and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Owner on account of Work done by such Subcontractor.

9.5.4 The Owner shall not have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.

9.5.5 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

9.6 PAYMENTS WITHHELD

9.6.1 The Engineer shall decline to certify payment and withhold its Certificate in whole or in part, to the extent necessary reasonably to protect itself. If the Engineer is unable to certify payment in the amount of the Application, he will notify the Owner and the Contractor as provided in Subparagraph 9.4.1. If the Contractor and the Owner cannot agree on a revised amount, the Engineer will promptly issue a Certificate for Payment for the amount for which it determines is properly due. The Engineer may also decline to certify payment or, because of subsequently discovered evidence or subsequent observations, it may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in its opinion to protect itself from loss because of:

- 1 defective work not remedied,
- 2 third party claims filed or reasonable evidence indicating probable filing of such claims,
- 3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment,
- 4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
- 5 damage to the Owner or another Contractor,
- 6 reasonable evidence that the Work will not be completed within the Contract Time, or material failure to carry out the Work in accordance with the Contract Documents.

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made for amounts withheld because of them.

9.7 FAILURE OF PAYMENT

If the Engineer does not issue a Certificate for Payment, through no fault of the Contractor, within ten days after receipt of the Contractor's Application for Payment, then the Contractor may, upon ten additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the Contractor's reasonable and justifiable costs of shut-down, delay and start-up, which shall be effected by appropriate Change order in accordance with Paragraph 12.3.

9.8 SUBSTANTIAL COMPLETION

9.8.1 When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Subparagraph 8.1.3, the

Contractor shall prepare for submission to the Owner a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Engineer on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibility assigned to them in such Certificate.

9.8.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and Certification by the Owner, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Engineer will promptly make such inspection and, when it finds the Work acceptable under the Contract Documents and the Contract fully performed, it will promptly issue a final Certificate for Payment stating that to the best of its knowledge, information and belief, and on the basis of its observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. The Owner's final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.9.2 have been fulfilled.

9.9.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Owner (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been fully paid or otherwise satisfied, (2) consent of surety, if any, to final payment and (3), if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as the written document described in Paragraph 13.2.2, receipts, releases and waivers of liens arising out of the Contract,

to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

9.9.3 If, after Substantial Completion of the Work, final completion thereof is delayed for more than ninety (90) days through no fault of the Contractor or by the issuance of Change Orders affecting final completion, the Owner shall, upon application by the Contractor, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted, provided that the remaining balance for Work not fully completed or corrected shall not be less than the retainage stipulated in the Contract Documents, and if bonds have been furnished as provided in Paragraph 7.5, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Owner prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.9.4 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- .1 unsettled liens,
- .2 faulty or defective Work appearing after Substantial Completion,
- .3 failure of the Work to comply with the requirements of the Contract Documents,
or
- .4 terms of any special warranties required by the Contract Documents.
- .5 obligations under the Performance and Payment Bonds.

9.9.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled prior to the time of the final Application for Payment.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

10.2 SAFETY OF PERSONS AND PROPERTY

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

- .1 all employees on the Work and all other persons who may be affected thereby;
- .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 his Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Owners and users of adjacent utilities.

10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3., except damage or loss solely attributable to the acts or omissions of the Owner, the Engineer or anyone directly or indirectly employed by the Owner or Engineer, or by anyone for whose acts the Owner or Engineer may be liable, and not attributable to the acts or omissions of the Owner, the Engineer or anyone directly or indirectly employed by them, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the

Contractor. The foregoing obligations of the Contractor are in addition to his obligation under Paragraph 4.17.

10.2.6 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner.

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.

ARTICLE 11 INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him and the Owner from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employees benefit acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;

- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations in the Contract Documents.

11.1.4 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty days prior written notice has been given to the Owner. Certificates of renewal shall be delivered to the Owner at least fifteen (15) days prior to the expiration date of any insurance policy. The Contractor shall not commence the Work until all insurance required hereunder shall have been obtained and approved by the Owner, and the Contractor shall not permit any Subcontractor or Sub-subcontractor to commence work until all insurance required of them shall have been similarly obtained and approved.

11.2 OWNER'S LIABILITY INSURANCE

11.2.1 The Owner, at its option, may purchase and maintain such insurance as will protect it against claims which may arise from operations under the Contract.

11.3 PROPERTY INSURANCE

11.3.1 The Owner may, at its option, purchase and/or maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. If the Owner does not intend to purchase or maintain such insurance for the full insurable value of the entire Work, he shall inform the Contractor in writing prior to

commencement of the Work. The Contractor may then effect insurance which will protect the interests of himself, his Subcontractors and the Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If not covered under the all risk insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain property insurance on portions of the Work stored off the site or in transit when such portions of the Work are to be included in an Application for Payment under Subparagraph 9.3.2.

11.3.2 This insurance does not cover any tools owned by mechanics, any tools, equipment, scaffolding, staging towers, and other property owned or rented by the Contractor, the capital value of which is not included in the cost of the Work.

11.3.3 The Owner, acting as trustee, shall have power to adjust and settle any loss with the insurers.

11.3.4 The construction site may be occupied by the Owner during the Work. Insurance shall not lapse or be canceled on account of this occupancy. The insurance certificates required under this contract shall include this requirement.

11.4 LOSS OF USE INSURANCE

11.4.1 The Owner, at his option, may purchase and maintain such insurance as will insure him against loss of use of his property due to fire or other hazards, however caused.

ARTICLE 12 CHANGES IN THE WORK

12.1 CHANGE ORDER

12.1.1 A Change Order is a written order to the Contractor signed by the Owner, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order.

12.1.2 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.

12.1.3 The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

- 1 by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- 2 by unit prices stated in the Contract Documents or subsequently agreed upon;
- 3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- 4 by the method provided in Subparagraph 12.1.4.

12.1.4 If none of the methods set forth in Clauses 12.1.3.1, 12.1.3.2 or 12.1.3.3 is agreed upon, the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Engineer on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clauses 12.1.3.3 and 12.1.3.4 above, the Contractor shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: actual cost of materials, including sales tax and cost of delivery; labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; bond premiums, rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. Pending final determination of cost to the Owner, payments on account shall be made on the Owner's Certificate for Payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Engineer. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

12.1.5 Unit prices, if any are required, are stated in the Bid Form and the Contract shall include all costs of the Contractor to the Owner as listed in Paragraph 12.1.4. No additional charges shall be allowed for these items under any circumstances.

12.2 CONCEALED CONDITIONS

Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical

conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in his Contract, be encountered, the Contract Sum shall be equitably adjusted by Change Order upon claim by either party made within twenty days after the first observance of the conditions.

12.3 CLAIMS FOR ADDITIONAL COST

12.3.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 10.3. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

If the Contractor claims that additional cost is involved because of, but not limited to, (1) any written interpretation by the Owner or Engineer, (2) any order by the Owner to stop the Work pursuant to Paragraph 3.3 where the Contractor was not at fault, (3) any written order for a minor change in the Work issued pursuant to Paragraph 12.4, or (4) failure of payment by the Owner pursuant to Paragraph 9.7, the Contractor shall make such claim as provided in Subparagraph 12.3.1.

12.4 MINOR CHANGES IN THE WORK

The Owner and Engineer will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order, and shall be binding on the Owner, Engineer and the Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 13

UNCOVERING AND CORRECTION OF WORK

13.1 UNCOVERING OF WORK

If any portion of the work should be covered contrary to the request of the Owner or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Owner, be uncovered for his observation and shall be replaced at the Contractor's expense.

If any other portion of the Work has been covered which the Owner has not specifically requested to observe prior to being covered, the Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it be found that this condition was caused by the Owner or a separate contractor as provided in Article 6, in which event the Owner shall be responsible for the payment of such costs.

13.2 CORRECTION OF WORK

13.2.1 The Contractor shall promptly correct all Work rejected by the Owner or Engineer as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Owner's additional services made necessary thereby.

13.2.2 The Contractor shall provide a document to the Owner certifying that if within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or requiring excessive service or maintenance or not in accordance with the Contract Documents, the Contractor shall correct it within seven (7) days after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such approval, which written acceptance shall specifically refer to such defect. This obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition. The provisions of this paragraph are in addition to, and not in limitation of, the Owner's other rights and remedies hereunder and in law and equity.

13.2.3 The Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected by the Contractor, unless removal is waived by the Owner in writing.

13.2.4 If the Contractor fails to correct defective or nonconforming Work the Owner may correct it in accordance with Paragraph 3.4.

13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Owner, the Owner may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the

Owner may upon ten additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Owner's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

13.2.6 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.

12.2.7 Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligation other than specifically to correct the Work.

13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

If the Owner prefers to accept defective or nonconforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 14

TERMINATION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a decision of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, or if the Work should be stopped for a period of thirty days by the Contractor because the Owner has not issued a Certificate for Payment as provided in Paragraph 9.7 or because the Owner unjustifiably has not made payment thereon as provided in

Paragraph 9.7, then the Contractor may, upon seven additional days written notice to the Owner, terminate the Contract and recover from the Owner payment for all Work executed.

14.2 TERMINATION BY THE OWNER

14.2.1 To the extent permitted by law, if the Contractor is adjudged a bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he refuses or fails, repeatedly except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he fails to make prompt proper payment to Subcontractors for materials or labor, or disregards laws, ordinances, rules, regulations or order of any public authority having jurisdiction, or otherwise fails to comply with any provision of the Contract Documents, then the Owner may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven days' written notice, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method he may deem expedient.

14.2.2 The Owner shall have the right to terminate this Agreement for its convenience upon ten (10) days written notice.

14.2.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:

(a) the Owner shall remain liable for payments for the services and/or expenses of Contractor accrued prior to the effective date of the notice of termination in compliance with this Agreement (less all costs reasonably incurred by the Owner as a result of the Contractor's default, if any), as determined by the Owner, but for no other amounts including, without limitation, claims for lost profits on work not performed; and

(b) the Contractor shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to work performed pursuant to the Agreement.

(c) If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Owner's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The obligation to pay said amount to the Contractor or to the Owner, as the case may be, shall survive the termination of the Contract.

SUPPLEMENTAL GENERAL CONDITIONS

SECTION 00800

	<u>Page</u>
1. Introduction	2
2. Modifications to Articles of the General Conditions	

1. INTRODUCTION

The following supplements modify, change, delete from or add to Section 00700, GENERAL CONDITIONS. Where any Subsection of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these Supplemental General Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

2. MODIFICATIONS TO ARTICLES OF THE GENERAL CONDITIONS

ARTICLE 2: ADMINISTRATION OF THE CONTRACT

2.2.4 Delete the text of subparagraph 2.2.4 and substitute the following:

Claims for concealed or unknown conditions shall be governed by Chapter 30, Section 39N of the General Laws of the Commonwealth of Massachusetts, as amended.

2.2.7.1 Delete the second sentence of subparagraph 2.2.7.1 and substitute the following:

The Contractor shall have the burden of demonstrating the effect of the claimed delay on the Contract Time, and shall furnish the Architect with such documentation relating thereto as the Architect may reasonably require.

2.2.10 Delete this subparagraph in its entirety

2.3.1 Delete the second sentence of subparagraph 2.3.1.

2.3.5 Revise the second sentence of subparagraph 2.3.5 to read:

"The approval or rejection of a Claim by the Architect shall be final and binding on the parties but subject to final dispute resolution in accordance with the terms of this Contract. Add the following sentence to the end of subparagraph 2.3.5: "The provisions of this paragraph 2.3 shall not prevent the parties from pursuing such other remedies as may be available at law if they are not satisfied with the Architect's decision."

2.3.6 Delete this subparagraph in its entirety.

2.3.8 Delete the text after the word "Architect" in line 3.

2.4- 2.5 Delete paragraphs 2.4 and 2.5 in their entirety. The parties may pursue claims in a court of competent jurisdiction and subject to the requirements of the Contract Documents. The use of any other or alternative means of dispute resolution, including mediation, shall require the consent of the parties.

3.0. ROLES AND RESPONSIBILITIES OF ARCHITECT: For the purposes of this contract, the roles and responsibilities of the "Architect" as referenced in the contract will be assumed by the "Engineer"

ARTICLE 11: INSURANCE

Delete paragraphs 11.1 through 11.4 and replace with the following;

11.01 GENERAL

- A. This section specifies the Owner's insurance requirements and relates to the General Conditions of the Contract for Construction and the Supplement to the Standard Form of Agreement Between Owner and Contractor.
- B. Provisions of the General Conditions of the Contract for Construction and Supplement to the Standard Form of Agreement Between Owner and Contractor which are not modified by the following insurance requirements remain in full effect.

11.02 INSURANCE REQUIREMENTS

- A. The insurance required shall be written for not less than the limits of liability required by law or the following limits, whichever is greater:

State and Federal Workmen's Compensation	Statutory
Employer's Liability (Each Accident)	\$500,000
Benefits required by Union Contract	As
required	

GENERAL LIABILITY*

General Liability - Bodily Injury/Death Each Occurrence	\$1,000,000
General Liability - Bodily Injury Aggregate.....	\$3,000,000
General Liability - Property Damage Each Occurrence	\$1,000,000
General Liability - Property Damage Aggregate	\$3,000,000

General Liability shall include coverage for the following:

- Comprehensive Form
- Premises/Operations Liability
- Explosion, Collapse and Underground (XCU)
- Products/Completed Operations
- Contractual Liability
- Independent Contractors
- Broad Form Property Damage
- Personal Injury Including Libel and Slander Coverage
- Broad Form CGL Endorsement

AUTOMOBILE LIABILITY**

Comp. Automobile Liability - Bodily Injury Per Person	\$ 1,000,000
Comp. Automobile Liability - Bodily Injury Per Accident.....	\$ 1,000,000
Comp. Automobile Liability - Property Damage	\$ 1,000,000
EXCESS LIABILITY (UMBRELLA COVERAGE)	
Bodily Injury and Property Damage Combined Each Occurrence	\$ 2,000,000
Bodily Injury and Property Damage Combined Aggregate	\$ 2,000,000

- B. Exclusions: The Owner’s property insurance shall not cover tools, equipment, shoring, staging, forms, temporary buildings or other equipment owned or rented by the Contractor, its Subcontractors, or any worker.
- C. Insurance Certificates: The Contractor and all subcontractors who are required to provide insurance under the Contract shall provide accurate and bone fide “Certificates of Insurance” issued by a responsible agent of the insurance company.
 - 1) Certificate Content: Such “Certificates of Insurance” shall clearly indicate the insurance coverage provided including all riders and limits specified. Each “Certificate of Insurance” shall be accompanied by a sworn and duly notarized statement from the responsible agent of the insurance company issuing the Certificate clearly stating that all insurance specified and required by the Contract Documents is provided and in force, and also a clear statement of all

exceptions and deviations, if any, from the Contract Document insurance requirements.

- 2) Responsibility: The insurance agent issuing and authorizing the “Certificate of Insurance” shall be responsible and liable for the accuracy and validity of the “Certificate of Insurance”. Each insured party shall certify by sworn and duly notarized statement that the “Certificates of Insurance” issued for them are bona fide.
 - 3) Disclaimers Prohibited: “Certificates of Insurance” shall not contain any disclaimers such as: “This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This Certificate does not amend, extend, or alter the coverage afforded by the policies listed below.” Disclaimers are not acceptable.
 - 4) Certificates of Insurance Can Be Relied Upon: Parties receiving “Certificates of Insurance” shall be entitled to rely upon the “Certificates of Insurance” and shall have the right to claim the benefits and protection provided by the insurance as it applies to them.
 - 5) Alternate to “Certificates of Insurance”: Instead of providing the “Certificates of Insurance” and the sworn statements required above, the insured may provide bona fide and accurate copies of all insurance policies and riders accompanied by a sworn and duly notarized statement from the insured that the policies, riders, and documents submitted are bona fide and valid, and that parties receiving the insurance documents may rely on the documents as satisfaction of the Contract insurance requirements.
- D. Each policy shall name the Owner and Engineers as additional insures and if this is not available for any reason, the contractor shall purchase an Owners Protection Policy that in the judgment of the owner and Engineer will provide equal protection