

**ITEM 3**

**RESIGNATIONS**

**From:** [Andrew Minea](#)  
**To:** [Carpenter, Jennifer](#)  
**Subject:** Fwd: Trustee News  
**Date:** Monday, December 4, 2023 4:15:49 PM

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Hi Jennifer,

Please see below for Jill's letter of resignation. Please let me know if you need any additional information.

Regards,  
Andrew

----- Forwarded message -----

**From:** **Jill Brown** <[jill@jwb3.com](mailto:jill@jwb3.com)>  
**Date:** Thu, Nov 2, 2023 at 2:22 PM  
**Subject:** Trustee News  
**To:** Andrew Minea <[agminea.fplbot@gmail.com](mailto:agminea.fplbot@gmail.com)>, Scott Jarzombek <[sjarzombek@fplct.org](mailto:sjarzombek@fplct.org)>

Hello Gentlemen,

I have served on the board with great pride for over three years participating in a number of committees including working on the strategic planning committee, as well as assisting as needed, of late, on the library website redesign. I also have enjoyed sitting on the Ad Hoc Committee for the book challenge discussion, which was an emotional experience at times but also a truly rewarding one, seeing democracy at work.

I have had the pleasure of witnessing our Town Librarian, truly make our community a priority and the relationships he's developed and grown during his term. I think the library is in great shape with his never ending dedication to making it a community jewel and doing it with a friendly smile on his face along with his outstanding staff. I have also appreciated his candid insights on my journey into librarianship.

Due to a few extenuating factors that I experienced these last two months, I have decided that being on this board has become a hindrance to my ability in attaining a professional role in the public library field.

When I set out to attain my MLIS two years ago, I thought it would nourish my range of knowledge in addition to being an asset to this Board by having a Trustee on hand with a passion for advocating for our library.

After it was brought to my attention around the "optics" of my application for the position at the FPL in September, despite checking with Scott on the requirements, including talk of there possibly having been a sniff of influence as a trustee if I was to attain said position, I truly felt like the rug was pulled out from under me. When I reached out to our town leadership about it, after conferring with both of you, they communicated that they never viewed my application as anything other than being a qualified candidate who should be considered for an interview.

So I am still wracking my brain as to why it was suggested to me that my application would

sniff of impropriety and perhaps that I should withdraw my application.

It really broke my heart honestly to have to withdraw my application, which I did quickly. Perhaps that was the wrong decision, but what else would you expect me to do?

In any case, I have since learned that being on this board, can create roadblocks not only here in my own town library, but also at other libraries in our larger county community.

After consulting with a number of people in the profession, as well as my friends in the community, and my family, since this is my chosen profession, I have had to make the difficult decision to resign my role on this board, so I can remove any future challenges to working in public librarianship.

Since we do have the website redesign project on a good footing with proposals being reviewed as we speak before recommending to the board and knowing how it takes time to solicit a new trustee, I am officially looking at the end of this year, December 31st, 2023 being the end of my term. Therefore I'll be able to continue to move the website redesign project along as an advisor to the library staff, while also being able to attend the last two meetings of 2023.

I didn't think I would be resigning in my 4th year, given how much passion I've had for this library and the people working in it, but I feel this is the best thing for me at this time given what transpired.

Please let me know if I should also officially submit my letter of resignation to Brenda and the selectboard, or if you will notify them. Given it's almost election time, I'm sure they have their hands quite full.

Thank you for your time and partnership.

Wishing you always the best,

Jill W Brown  
1112 Holland Hill Road  
Fairfield, CT  
201-723-2870

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Andrew Minea  
[agminea.fplbot@gmail.com](mailto:agminea.fplbot@gmail.com)  
817-343-5644

**From:** Chris Shea <[chris@domusllc.com](mailto:chris@domusllc.com)>

**Date:** December 4, 2023 at 1:12:44 PM EST

**To:** "Gerber, William" <[WGerber@fairfieldct.org](mailto:WGerber@fairfieldct.org)>

**Cc:** "Browne, Betsy" <[bbrowne@fairfieldct.org](mailto:bbrowne@fairfieldct.org)>, [aklyver@adamklyverarchitect.com](mailto:aklyver@adamklyverarchitect.com)

**Subject:** Resignation on HDC

Dear Bill,

As a result of my election to the District 2 RTM, I hereby submit my resignation as a Commissioner on the Historic District Commission effective 11/27/2023.

It has been a pleasure to serve the Town in this capacity for many years and I look forward to my new role as an RTM member.

In Service,

*Chris*

Christopher Shea

203-515-3004

1316 Cross Highway, Fairfield, CT 06824



## **ITEM 4 REAPPOINTMENTS**

December 7, 2023

To the Board of Selectmen,

As members of the Fairfield Forestry Committee, we unanimously and heartily support reappointment of Jeff Minder as the Town of Fairfield Tree Warden.

We work closely with Jeff on the many and varied issues concerning maintenance and enhancement of Town trees and the community forest. For example, we work with him to implement the tree planting and commemorative tree programs and all other aspects of the Fairfield Community Forest Management Plan. We see first-hand how he continually interacts in the most professional and knowledgeable manner with individual citizens; other Town bodies such as the Board of Education and Parks and Rec. Department; civic organizations such as the Mill River Wetland Committee, CT Audubon, Aspetuck Land Trust, school PTAs and the Fairfield PTA Council; and with local businesses and the utility companies, United Illuminating, Eversource and Aquarion.

We're especially proud of Jeff's work this year in getting almost 200 trees planted in 2023 with a long list of folks already for the Spring 2024 Planting Season! Jeff helped PTAs get trees planted in several schools to commemorate special events / people, which is so incredibly meaningful to the donors. He was extremely supportive of the "Benefits of Trees" education outreach to over 1,500 elementary students across four elementary schools: Burr, North Stratfield, McKinley and Jennings. And, as always, planted a tree for Arbor Day, this year at Tomlinson Middle School in honor of our local Lorax, Ryan Romeo, who is a student there. This, along with all the other great work Jeff spearheads is why Fairfield is the longest standing Tree USA city in Connecticut! Due to all this great work, we now have another neighborhood association, Stratfield Village Association (SVA), subsidizing the purchase of a tree to plant in the right-of-way or other public areas by citizens in that neighborhood. They join the Fairfield Beach Resident Association (FBRA), by paying for half of the price of the tree. There are so many more things that have happened this year but you get the idea!

In meetings with other towns, we are constantly reminded of the high regard Mr. Minder is held in throughout the state. We appreciate and understand that the Town of Fairfield is truly fortunate to have Mr. Minder as our Town Tree Warden.

We look forward to continue working with Mr. Minder and appreciate your re-appointing him as our Town Tree Warden.

Sincerely,

Fairfield Forestry Committee:

Roberta Clark

Tom Corell

Joe File

Amanda Ingrassia

Mary Hogue, Chair

Mike Keohane

Peter Kraus

Ted Luchsinger

Eileen O'Reilly

Kathleen Stauffer

## **ITEM 5 FIRST SELECTMAN REAPPOINTMENT**

**RECEIVED**

By Office of the First Selectman at 9:28 am, Nov 15, 2016



## Town of Fairfield

Office of the First Selectman  
Fairfield, Connecticut 06824

### BOARDS AND COMMISSIONS QUESTIONNAIRE

To be considered for appointment to a Board or Commission please fill out this form, save a copy and email the saved copy, along with a copy of your resume, to the First Selectman's office at [firstselectmanffld@town.fairfield.ct.us](mailto:firstselectmanffld@town.fairfield.ct.us). Please note that your resume and completed questionnaire are public documents. If you have any questions please contact Kathleen Griffin at 203-256-3030 or [kgriffin@town.fairfield.ct.us](mailto:kgriffin@town.fairfield.ct.us).

Board/Commission: Employees Retirement Board  
Date: 11/14/16

Name: Carolyn Trabucco  
Address: 221 Sherwood Farm Rd  
Fairfield, CT 06824

Email: CLTrabucco@gmail.com  
Home Phone: 203-331-7879  
Work Phone: \_\_\_\_\_  
Cell Phone: 203-331-7879

1. How did you learn about this position?

Brian Vehey

2. Why are you interested in serving and how can you contribute to this board / commission?

I have been interested in serving Fairfield for some time. The Employees Retirement Board is where I can contribute my professional knowledge and career experiences with my care for managing our town well. I am independent minded, highly inquisitive and clear thinking. I am also financially literate and knowledgeable on investment products and processes. My background includes serving on a corporate board, working as an equity research analyst and commodity analyst and in sustainability/ESG/governance.

3. Have you attended any meetings or reviewed past minutes / agendas? If yes, please specify.

I have reviewed all of the minutes posted on the town's website

4. Have you spoken with the chair, any members, or the appropriate Department Head?

Brian Vehey and I spoken about the board and its role.

5. Have you read the written description of the board's role?

Yes

6. Do you have any potential conflict of interest?

No

7. Do you know the time, date and location of meetings and will you be able to attend and fulfill the obligations of the position?

Yes

8. Participation requires that you are registered voter in the town of Fairfield. Additionally, the town charter requires that party balance be maintained on all boards/commissions. Are you registered to vote and what is your party affiliation?

yes - Democrat

9. Use this space to ask any questions you may have or to provide additional information you'd like to share.



## CAROLYN TRABUCO

221 Sherwood Farm Road, Fairfield, CT 06824

[CLTrabuco4@gmail.com](mailto:CLTrabuco4@gmail.com) ▪ 203-331-7879 ▪ [www.linkedin.com/in/carolyntrabuco](http://www.linkedin.com/in/carolyntrabuco)

## PROFESSIONAL PROFILE

Combining financial, analytical and communication leadership skills to enable high-impact decision making

**Business, Financial, Thematic Analyst** with expertise developing business and industry models, identifying pre-financial risks, valuing companies, defining growth vs. risk, and cultivating C-level relationships.

- **Analyzed companies/industries in oil, energy, mining, aviation, telecom, consumer products, technology, and internet** – with experience on the buy side, sell side, hedge fund side, and commodity funds side.
- Apply deep knowledge and practical skills toward creating and understanding innovative long term management compensation incentive and retention structures at leading Brazilian commercial airline and how to **execute through volatile economic conditions**.
- **Create and communicate analytical framework to assess risk of material social, workplace, governance or environmental (ESG) issues or events for use as predictive performance indicators.**

## LEADERSHIP SKILLS &amp; EXPERTISE

Strategic Planning & Execution | Business & Financial Modeling | Corporate Development and Partnerships  
Industry Analysis | Valuation | Sustainability Metrics | C-Level, Investor Relationships

## CAREER HISTORY

CORNERSTONE CAPITAL GROUP, New York, NY

2016-present

**MANAGING DIRECTOR, GLOBAL THEMATIC ANALYST**

Senior contributor to start-up financial services firm that seeks to apply the principles of sustainable finance across the capital markets, enhancing investment processes through transparency and collaboration.

- Researching and publishing new research in the emerging field of Environmental, Social and Governance (ESG) analysis for use alongside traditional financial analysis focused on identifying emerging areas of risk up to a year before they become financially material to a sector or a company.
- Applying the principles of sustainable finance across sectors, industries and companies particularly in areas of local and global stakeholder engagement, management compensation and incentives that align with corporate, community and customer values.
- Consult directly with companies who look to improve their ESG/Sustainability corporate culture or strategy.

AZUL BRAZILIAN AIRLINES, Brazil and CT

2007–Present

**BOARD OF DIRECTORS / INDEPENDENT MEMBER / COMPENSATION COMMITTEE CHAIRPERSON**

Sit on board of Brazilian airline startup co-founded with David Neeleman of JetBlue. Evaluate growth strategy, participate in marketing plans, discuss competitive responses, negotiate senior management compensation packages, created LTI plan for top 40 executives and review strategies for working with Brazilian government.

- Screened VCs and built book of high-quality investors, raising 60% of startup capital (largest raise in aviation history).
- Grew airline to 200+ destinations/140+ aircraft/10,000 employees/33% domestic market share in first 6 years.

ADAMS HILL PARTNERS, Westport, CT

Aug-November 2014

**RESEARCH ANALYST**

Idea generator in an Equity Long/Short hedge fund which primarily focused on global industrials and resources, responsible for equity analysis in oil, natural gas and services sectors through fund closure in December 2014.

PHIBRO TRADING / ASTENBECK CAPITAL MARKETS, Westport, CT

2009–2014

**SENIOR VICE PRESIDENT & RESEARCH ANALYST**

Served as 1 of 4 senior analyst advisers in an oil/commodity hedge fund, with responsibility for equity investments and oil analysis. Operated under well-known oil trader and fund manager, Andy Hall, to recommend buy and sell ideas on integrated oil, E&Ps, and global oil service equities. Maintained a global oil supply-and-demand model.

- Conducted highly technical analysis that identified the pattern within monthly oil production data for the Bakken ND play (location), suggesting the production growth rate would plateau in 2014.
- Created the analytical framework and template used to monitor and analyze oil leases and wells, forecasting production potential of major shale oil plays in TX – such as the Eagle Ford and Permian Basins.

PEQUOT CAPITAL MANAGEMENT, Westport, CT

2002–2009

**SENIOR VICE PRESIDENT, SENIOR ANALYST**

Led team in analyzing global resources and emerging markets for CORE Global Fund, reporting to CEO, Art Samberg. Conducted financial modeling, valuation analysis, and C-level interviews at companies under consideration for investment. Determined supply and demand industry framework and presented findings to investment team.

- Identified secular demand change for global materials in 2003 and generated multi-year returns by recommending top-fund-performing equities such as Nucor and CVRD (Vale).
- Directed team that prepared CEO for participation in Barron's Roundtable – providing ideas, valuation, company models, and research about industry sectors and ideas he would pitch.
- Co-managed Cosmos Fund, emerging markets focused equity long/short hedge fund.

FIRST UNION CAPITAL MARKETS, New York, NY

1998–2000

**SENIOR EQUITY RESEARCH ANALYST, WIRELESS / SENIOR EQUITY RESEARCH ANALYST, INTERNET**

Recruited to focus on the wireless communications sectors. Moved into position that focused and published on the burgeoning Internet sector – leading team of 2 with concentration on Internet Content B2C segment (YHOO).

MONTGOMERY SECURITIES, New York, NY/San Francisco, CA

1996–1998

**EQUITY RESEARCH ANALYST, HEALTHCARE INFORMATION TECHNOLOGY & WIRELESS COMMUNICATIONS**

Hired to apply healthcare technology expertise and rapport within this growth oriented sell-side company. Took on tough challenge of finding good companies in wireless sector after telecom act transformed the industry.

LEHMAN BROTHERS, New York, NY

1995–1996

**EQUITY RESEARCH ANALYST, HEALTHCARE INFORMATION TECHNOLOGY**

Transitioned to Lehman as the youngest senior analyst hired to date. Quickly learned new sector of healthcare information technology and implemented style of being analytical in a natural way.

FIDELITY INVESTMENTS/FMR RESEARCH, Boston, MA

1991–1995

**EQUITY RESEARCH ASSOCIATE / 401k CUSTOMER SERVICE REPRESENTATIVE**

Hired for customer service and saw need for enhanced communications among reps. Developed plan and gained approval for newsletter, interviewing portfolio managers and forming relationships that led to equity research associate position within the equity research group of FMR covering IPOs, Consumer Durables, Specialty Food and Cruise Lines.

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**EDUCATION**


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GEORGETOWN UNIVERSITY 1991 – Bachelor of Arts, Art History Major, International Relations Minor

Yale School of Management Executive Education 2016 – Corporate Sustainability Accelerator

Phillips Academy, Andover MA, 1987

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**NOT-FOR-PROFIT VOLUNTEER HISTORY**


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WORLD FUND, NEW YORK, NY – TRUSTEE EMERITUS

2005-2010

**BOARD OF TRUSTEES / VICE CHAIR / NOMINATING COMMITTEE CHAIRPERSON**

Worldfund is the premier U.S. non-profit dedicated exclusively to improving basic K-12 education in Latin America.

- Actively participated in strategic planning, business development and analysis, trustee recruiting and fundraising execution.
- Led the strategy repositioning team at Worldfund to focus on scalable superintendent and teacher quality improvement initiatives, creating action plan that expanded outreach from 5K to 1M students – becoming a teacher/student training facilitator and STEM curriculum implementer across Latin America.
- Researched, identified and recruited key corporate partners for STEM curriculum funding and roll out in Brazil.
- Speaking engagements including Brazilian-American Chamber of Commerce Annual Conference– On behalf of Worldfund – *"Infrastructure of Brazil"*.
- Created pathway to incremental fundraising via fun and playful Text to Pledge segment at Annual Gala.

EARTHPLACE, WESTPORT, CT – HONORARY TRUSTEE

2008-2012

**BOARD OF TRUSTEES / PRESIDENT**

Founded in 1958 in Westport, CT Earthplace maintains a 62-acre nature sanctuary, exhibits an interactive natural history museum, houses live wildlife for public viewing and hosts many public nature programs and events. The center's activities include a state-licensed preschool and summer camp, and the Harbor Watch water quality testing program.

- Created and led a strategic planning committee which focused on ways to reduce spending, improve market awareness and generate additional revenue.
- Formed and empowered a facilities and building committee to identify, scope out, recommend and implement overdue facility upgrades. Upgraded preschool playground, refurbished auditorium, replaced the roof and added solar panels, replaced all windows and carpeting, improved animal enclosures, and renovated classroom spaces.
- Restructured the staffing model to eliminate duplication, streamlined work flow models to increase efficiency, upgraded mailing, accounting, financial and fundraising software analytical tools to better track activities and focused fundraising initiatives.
- Transitioned the board to enable it to attract a new Executive Director in 2013 following the retirement of the long standing Executive Director in 2012.

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**PERSONAL INTERESTS AND ACTIVITIES**


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Frequent Contributor, Fairfielders Against Cutting Education Spending (FACES), Fairfield, CT

SASO, Fairfield CT ~ Fairfield Public Schools PTA Budget Rep 2007-present

Sea Turtle Conservation in Bahia | Chasing our two boys down Trestle at Mary Jane | Caravaggio Hunting



**ITEM 6**

**PROPOSED CONTRACT FOR PHASE 1 – FFLD METRO EAST  
TRUNK LINE SANITARY SEWER  
AND CROSSING ENGINEERING SERVICES**

AGREEMENT  
  
BETWEEN THE TOWN OF FAIRFIELD  
  
AND  
  
Luchs Consulting Engineers, LLC  
  
FOR  
  
CONSTRUCTION ENGINEERING & INSPECTION

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NOTE: ANY ITEM STAMPED "DNA" OR "DOES NOT APPLY" IS HEREBY DELETED PRIOR TO THE EXECUTION OF THIS AGREEMENT WITH THE CONCURRENCE OF THE CONSULTING ENGINEER.

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## **AGREEMENT**

**THIS AGREEMENT** has been concluded at the Town of Fairfield Connecticut by and between the Town of Fairfield , duly authorized, hereinafter referred to as the Municipality, and Luchs Consulting Engineers, LLC a Corporation qualified to do business in Connecticut and having its office located at 89 Colony Street, Meriden, CT 06451

authorized to practice professional engineering in Connecticut under the provisions of Chapter 391 of the General Statutes of Connecticut, as amended, acting herein by Ronald J. Nault it's President, hereunto duly authorized, hereinafter referred to as the Consulting Engineer.

**WHEREAS**, the Municipality has determined, based on staffing requirements and/or special expertise requirements, that the services of a Consulting Engineer are required to perform construction engineering and inspection on inspection on Phase 1 – Fairfield Metro East Trunk Line Sanitary Sewer Crossing and;

**WHEREAS**, the Municipality has approved the contracting out for these services and;

**WHEREAS**, the Municipality has the authority to employ such assistance as it may require.

### **NOW, THEREFORE, KNOW YE THAT:**

#### **RESPONSIBILITY OF THE CONSULTING ENGINEER:**

#### **THE CONSULTING ENGINEER AGREES**

##### **(1) SCOPE OF SERVICES:**

To perform construction engineering and inspection, under the general supervision of a Municipal Administrator in conformance with the "Construction Manual - Connecticut Department of Transportation, Bureau of Engineering and Construction, Office of Construction, Version 2.2, January 2011, as amended", hereinafter referred to as the "Construction Manual", and the "Information Pamphlet for Consulting Engineers Performing Construction Inspection", dated August 2008, as amended, and hereinafter referred to as the "Information Pamphlet", and the "Municipality Manual, Connecticut Department of Transportation, Bureau of Engineering and Highway Operations, Office of Construction, Version 1, July 2008", hereinafter referred to as the "Municipality Manual". The Consulting Engineer will perform construction engineering and inspection in accordance with the policies and procedures of the State, as specified in these documents and in accordance with the scope of services listed in this Paragraph, which include, but are not limited to,

the following:

SURVEY

- (a) All construction survey work with the exception of that work that is included in the construction contract to be accomplished by the Municipality's contractor as directed by the Municipal Administrator;
- (b) The checking of all construction operations and layout staking performed by the Municipality's contractor as directed by the Municipal Administrator;
- (c) All survey, construction staking, and layout work necessary for the accurate installation of fencing by the Municipality's contractor along the highway line, staking of non-access line, or other locations as directed by the Municipal Administrator;
- (d) Provide, through information obtained from the Municipality's Municipal Administrator, all controls for relocations and installations to be made by public utility companies, railroads, and governmental agencies, which have an effect or are affected by construction of the project as directed by the Municipal Administrator;
- (e) All work and measurements necessary for the computation of intermediate and final quantities such as, but not limited to, cross section measurements for borrow banks, rock excavation, structure excavation, excavation of unsuitable material and final cross section measurements along the completed roadway;

FIELD INSPECTION

- (f) Inspection of all construction activities performed by the Municipality's contractor, including the observance and reporting of work performed by public utility companies, railroads, and governmental agencies, within the project limits. When the reimbursement to the outside agency is on an actual costs basis, the Consulting Engineer will keep a daily record of man hours, equipment hours, and materials used, salvaged or scrapped in performing the work, on forms CON-40 and CON-41 and certain comparable railroad forms. He shall give sufficient inspection to utility relocation work to ensure conformance to the approved plan of relocation;
- (g) All on-the-job testing and sampling of materials as specified in the "Construction Manual" and "Information Pamphlet". Excepted from testing and sampling are those functions performed by the District Laboratory and/or the State Laboratory and not specifically made a responsibility of the Consulting Engineer. The Consulting Engineer agrees to properly lift and protect the test specimens until transported to the State Laboratory;

- (h) The performance of all necessary field density tests. The nuclear density gauge unit shall contain a full data processor, which holds all calibration constants necessary to compute and directly display wet density, moisture, and dry density either in pounds per cubic foot, or grams per cubic centimeter. The data processor shall compute and display the percent moisture and percent density on dry weight. The Consulting Engineer will be responsible for providing the gauge, calibration, and operation of the nuclear gauge;

#### CONSTRUCTION ENGINEERING

- (i) The technical investigation and/or analysis and recommendation for settlement of monetary or other claims brought against the Municipality and/or the State by Contractor(s) or others;
- (j) The coordination and implementation of all engineering, technical or administrative determinations made by the Municipality and/or the State;
- (k) To receive shop details and construction drawings from the Municipality's contractor and transmit same to the Municipality, the State or others for review and approval. These shop details and construction drawings shall include, but are not limited to, cofferdam details, pile loading tests, false work, and details of all other items required to assure their general compliance with design plans, specifications, and acceptable construction procedures and standards;
- (l) Consulting Engineer to review and provide engineering recommendations related to submittals, working drawings, and technical reviews of the work contemplated by the construction contract;
  - (m) To investigate and facilitate resolution to technical problems or design issues associated with the construction of the project;

#### ADMINISTRATIVE

- (n) To prepare and submit for approval all construction orders and all partial, monthly, and final Municipality's contractor's estimates;
- (o) To revise the original construction contract drawings (plans) to show the facility "as-built," as further defined in Paragraph (18);
- (p) The preparation of correspondence to the Municipality's contractors, fabricators, designers, and others, including reports, memoranda, requests for material tests, forms, and all other documents required for proper inspection of the construction project;

- (q) All other operations which become necessary to properly inspect the work of the construction contractor to determine his compliance with the following documents:

"State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction", Form 816, hereinafter referred to as "Standard Specifications",

Project Special Provisions and all other contract documents and memoranda,

"Public Service Facility Policy and Procedures for State Highways in Connecticut", dated June 1, 1987, hereinafter referred to as "Public Service Facility Policy".

(2) QUALIFICATIONS OF CONSULTING ENGINEER PERSONNEL:

That all personnel employed by the Consulting Engineer shall meet the minimum education, experience, training, and certification requirements for their applicable classification of employment as defined in the current edition of the "Information Pamphlet". In addition, all inspection personnel shall possess one of the following:

1. Registration as a Professional Engineer in Connecticut.
2. Engineer in Training Certification.
3. Bachelor of Science Degree in Civil Engineering or related field or an Associates Degree in Civil Engineering (Structural or Highway technology).
4. NICET Transportation Engineering Technology/Highway Construction certification (Level II or higher).
5. Level I enrollment in the NICET Transportation Engineering Technology/Highway Construction Certification Program. Level I will be used for training purposes only.
6. All Inspection Staff on bridge painting projects shall be certified at the NACE Intermediate Coating Inspection Level. All Resident Engineers or Chief Inspectors on bridge painting projects shall be NACE certified Coating Inspectors with the appropriate years of experience.

The Municipality has the right, during the term of this Agreement, to remove from the project any person or persons employed by the Consulting Engineer, who in the sole opinion of the Municipality has misconducted himself or herself or is incompetent in the performance of their assigned duties, or who neglects or refuses to require compliance with the Plans, Specifications, or Project Special Provisions. Such person or persons shall not be reemployed without the written consent of the Municipality. The Municipality reserves the right to prequalify the Consulting Engineer's supervisory and inspection personnel, determine the size of the inspection force required, and to direct the assignment and the reassignment of inspection personnel at its



discretion, as deemed necessary by the Municipality.

(3) WORK PERIOD

- (a) Complete all work stipulated in Paragraphs (1) and (18) of this Agreement within 485 calendar days, commencing from the date stipulated by the Municipality in a formal notice to proceed. A calendar day shall be every day in the week, Saturdays, Sundays, and holidays included.
- (b) The Municipality may extend the allotted time beyond the period specified above when the work has been delayed for reasons beyond the control of the Consulting Engineer. The Consulting Engineer may present to the Municipality, in writing, request for extension of allotted time for completion of the work. The Municipality will evaluate such requests, and if the Municipality determines such requests are based on valid grounds, shall grant such extension of time for completion of the work as the Municipality deems warranted. All requests for extension of time must be made prior to the expiration of calendar days specified in Paragraph (3)(a) above. Decisions made by the Municipality relative to the granting of extension of time shall be final and binding.
- (c) The Consulting Engineer agrees that no charges or claim for damages or additional compensation including lost profit shall be made by the Consulting Engineer unless the allotted additional time constitutes extra work as defined in Paragraph (4) of this Agreement. Delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Municipality may determine, it being understood, however, that the permitting of the Consulting Engineer to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the Municipality of any of its rights herein.
- (d) The Municipality will not consider any proposal by the Consulting Engineer for renegotiation of the maximum payment exclusive of extra work specified in Paragraph (41) of this Agreement unless 485 calendar days have elapsed since the initial formal notice to proceed.

(4) EXTRA WORK

Make any revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or changes in operations performed by the Consulting Engineer as may be ordered by the Municipality or any of its duly authorized representatives at any time during the life of this Agreement. No additional payment will be made for such revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or operations, unless such changes constitute Extra Work.

Extra Work is defined as follows:

- (a) Such additional work as ordered by the Municipality beyond the scope of this Agreement to the extent that such work will not be reflected in the payment for services specified in Paragraph (40) of this Agreement.
- (b) Such work as shall supersede or revise completed work that has been accepted in writing by the Municipality. Changes such as those to effect refinements in the work or inspection documents and such as those made necessary by errors, omissions, oversight or neglect on the part of the Consulting Engineer, will not be considered Extra Work.

In the event that changes in the Consulting Engineer's work or operations are suggested which, in the opinion of the Consulting Engineer, would result in Extra Work, he shall immediately submit complete documentation of the claim and upon the Municipality's concurrence shall submit an estimate of the cost for the Extra Work and refrain from working on the Extra Work item while the Municipality reviews the claim, or proceed otherwise if specifically directed by the Municipality. If approval is denied, the Consulting Engineer shall continue to process the work without delay and payment will be made according to the terms of this Agreement. No work, other than that for which a claim is being reviewed, shall be delayed pending a decision of the Municipality.

Unless the Consulting Engineer identifies and the Municipality acknowledges Extra Work prior to its performance, the Municipality will not be obligated to consider it as Extra work after the fact.

Extra Work costs shall be segregated by the Consulting Engineer to facilitate audit at a later date by the Municipality and the State or the Federal Highway Administration.

Extra Work that results in a cumulative fee exceeding the amount specified in Paragraph (41) shall be performed and paid for under a supplemental agreement specifically drawn for this work.

(5) ERRORS AND OMISSIONS BY THE CONSULTING ENGINEER

That any amount paid out by the Municipality arising from or resulting from errors, omissions, or failures on the part of the Consulting Engineer to meet professional standards of construction engineering and inspection, will be recovered from the Consulting Engineer by deductions from payments due him under the terms of this Agreement or other legal means. The Consulting Engineer shall be notified by the Municipality of any potential claim prior to the Municipality deducting amounts from payments due, he shall be afforded an opportunity to respond to and defend against such claim or alleged claim in an informal proceeding before the Municipal Administrator or his designee.

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF CORPORATION OR LLC~~  
~~otherwise mark DNA and use (6) below~~ **DNA**

~~Assume full responsibility for the accuracy of all products of its work under this Agreement including any supplements thereto, and shall so indicate by affixing the Connecticut Certificate of Registration Number~~

~~for the Corporate Practice of Engineering by a corporation or limited liability company on the Title Sheet(s) of all plans and/or documents, as well as the signature and Connecticut Professional Engineer's Seal of the individual(s) in charge of the work performed under the terms of this Agreement. Each individual listed on the said Connecticut Corporate Certificate of Registration as an engineer or land surveyor for a corporation or limited liability company, or so listed on the subsequently amended Corporate Certificate of Registration, shall be registered as a Professional Engineer or Land Surveyor (whichever is appropriate) in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Examiners for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform Consulting Engineer and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.~~

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF PARTNERSHIP otherwise~~  
~~mark DNA and use (6) above~~     DNA

~~To assume full responsibility for the accuracy of all products of his engineering work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Professional Engineer's Seal on the Title Sheet(s) of all plans, designs, and/or documents so produced. Each Partner who will be performing engineering work under this Agreement shall be registered as a Professional Engineer in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Registration for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other~~

~~documents so produced.~~

(7) FURNISHING OF TOOLS OF THE TRADE BY CONSULTING ENGINEER

To furnish all tools of the trade and equipment necessary for the satisfactory performance of the services required by this Agreement at no direct cost to the Municipality.

(8) CONSULTING ENGINEER'S INSPECTION FORCE

To furnish an inspection force at the level of and in the numbers established by negotiations for the construction engineering and inspection of this contract. The Resident Engineer/Chief Inspector shall work under the general supervision of the Municipality's Municipal Administrator. All orders to the Municipality's contractor on site will be transmitted by the Consulting Engineer's Resident Engineer/Chief Inspector.

(9) ATTENDANCE AT TRAINING SEMINARS, SCHOOLS, AND/OR MEETINGS

That the Municipality reserves the right, during the term of this Agreement, to require the presence of the Consulting Engineer's personnel at training schools, seminars, or other meetings as may be required.

(10) COOPERATION WITH OTHERS

To cooperate fully with other Consulting Engineers, state personnel, municipal officials, public utility companies, railroads, governmental agencies, and others engaged in surveying, mapping, designing, inspection and construction services, or work on traffic control, lighting, and other facilities within or adjacent to the project; to attend such meetings, discussions and hearings as may be requested by the Municipality; to furnish plans and other data as may be requested from time to time by the Municipality to effectuate this cooperation; and to comply with all orders given by the Municipal Administrator in connection with the work under this Agreement.

(11) PROTECTION OF RECORDS

To cooperate fully with the Municipality and the State and to maintain and protect complete construction records at the field office for review, use, and approval at all times. These records shall be transferred to the custody of the Municipality when the Consulting Engineer has completed his assignment or when requested by the Municipality and final payment to the Consulting Engineer shall be withheld until such transfer has been completed.

(12) INSURANCE

With respect to the operations performed by the Consulting Engineer under the terms of this Agreement and also those performed for the Consulting Engineer by its subcontractors, the Consulting Engineer will be required to carry for the duration of this Agreement, and any supplements thereto, with the Municipality and the State being named as an additional insured party for paragraphs (A) and (B) below, the

following minimum insurance coverages at no direct cost to the State or Municipality. In the event the Consulting Engineer secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (A) and/or (B) below, the Municipality and State of Connecticut shall be named as an additional insured.

A. COMMERCIAL GENERAL LIABILITY

The Consulting Engineer shall carry Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

B. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

C. RAILROAD PROTECTIVE LIABILITY

When the Agreement involves work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by the Consulting Engineer and/or its subcontractor(s), the Consulting Engineer shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Consulting Engineer shall obtain and submit evidence of the minimum coverage indicated above to the Municipality prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the Municipality.

D. VALUABLE PAPERS AND RECORDS

The Consulting Engineer shall secure and maintain a Valuable Papers Insurance Policy at no direct cost to the Municipality, until the work has been completed and accepted by the Municipality. Said Policy will assure the Municipality that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or any other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars (\$50,000) regardless of the physical location of the insured items.

E. WORKERS' COMPENSATION

With respect to all operations the Consulting Engineer performs and all those performed for the Consulting Engineer by subcontractors, the Consulting Engineer and subcontractor(s) shall carry Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively.

F. PROFESSIONAL LIABILITY INSURANCE

Secure and maintain at no direct cost to the Municipality a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars (\$ 2,000,000). The Consulting Engineer shall obtain the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this contract as the same relates to negligent acts, errors or omissions in the work performed by the Consulting Engineer. The Consulting Engineer may, at his election, obtain a policy containing a maximum Two Hundred Fifty Thousand (\$ 250,000) deductible clause, but if he should obtain a policy containing such a clause the Consulting Engineer shall be liable, as stated above herein, to the extent of the deductible amount. The Consulting Engineer shall continue this liability insurance coverage for a period of three (3) years from the date of completion of Consulting Engineer's work.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Consulting Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Consulting Engineer under this agreement.

Failure of the Consulting Engineer to maintain insurance coverage in accordance with the terms of the agreement shall constitute a violation of the agreement and shall subject the Consulting Engineer to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

G. CERTIFICATE OF INSURANCE

The Consulting Engineer agrees to furnish to the Municipality a Certificate of Insurance on the form(s) provided by the Municipality,

in conjunction with Items A, B, C, D, and E above, and a "Certificate of Insurance DOC-001", in conjunction with Item F above, fully executed by an insurance company or companies satisfactory to the Municipality, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

The Consulting Engineer shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the Municipality or the State. In providing said policies, the Consulting Engineer may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this agreement/contract.

(13) RESPONSIBILITY FOR CLAIMS AND LIABILITY

To indemnify and save harmless the Municipality and/or the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors, or omissions in the work performed by the Consulting Engineer and/or any of its subcontractors under this Agreement, including any supplements thereto, or resulting from the nonperformance of the Consulting Engineer and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

It is further understood and agreed by the parties hereto, that the Consulting Engineer shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Municipality and the Consulting Engineer, unless requested to do so by the Municipality. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

(14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS

That the Consulting Engineer shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion, thereof, or of the work provided for herein, or of his right, title, or interest herein, to any person, firm, partnership or corporation without the written consent of the Municipality and then he shall do so only by executing a subcontractor's agreement and shall furnish the Municipality a certified copy of this subcontractor's agreement. Any work subcontracted by the Consulting Engineer will be paid for by the Municipality at the actual costs to the Consulting Engineer with no additions. For breach or violation of the above stipulation, the Municipality shall have the right to annul this Agreement without liability. The Consulting Engineer shall also furnish to the Municipality certification of Public Liability and Property Damage Insurance Coverage, regular Protective Public Liability Insurance Coverage, and Professional Liability Insurance coverage, if applicable, for and in behalf of the Municipality and the State of

Connecticut from the subcontractor. Each insurance policy shall state that the insurance company has a right and duty to defend the insured against any suit seeking damages (or under Workers' Compensation, benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. In general, work that is to be sublet will be limited to that of an unusual or highly specialized nature, or work of relatively short or intermittent duration which can be more efficiently performed by a subcontractor. It is understood that the Municipality is not bound to the subcontractor for suits or other litigation resulting from the work performed by him.

(15) TERMINATION

That the Municipality, by written notice to the Consulting Engineer, may suspend, postpone, abandon, or terminate this Agreement for the convenience of the Municipality, for violation by the Consulting Engineer of any provision contained in this Agreement, or for any failure by the Consulting Engineer to render to the satisfaction of the Municipality the services required under this Agreement, including any failure to make acceptable progress with work required under this Agreement. Such action on the part of the Municipality shall in no event be deemed a breach of contract. Upon receipt of written notification from the Municipality that this Agreement is to be suspended, postponed, abandoned, or terminated, the Consulting Engineer shall immediately cease operations on work required under this Agreement. Upon receipt of written notification that this Agreement is to be abandoned or terminated, the Consulting Engineer shall also immediately assemble all material which is in its possession or custody and which has been prepared, developed, furnished, or obtained under the terms of this Agreement, and shall transmit the same, together with the Consulting Engineer's evaluation of the cost of the work performed, to the Municipality on or before the fifteenth day following the receipt of written notice of abandonment or termination. Said material shall include, but not be limited to, documents, plans, computations, drawings, notes, records, and correspondence. Upon receipt of this material, the Municipality shall make settlement with the Consulting Engineer in one of the following manners:

- (a) If the Municipality terminates this Agreement for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.
- (b) If the Municipality terminates this Agreement because the Consulting Engineer has failed to fulfill its obligations under the Agreement, the Municipality may complete the work required hereunder by contracting with another party or by any



other means, and the Consulting Engineer shall be liable for any additional costs incurred by the Municipality in doing so.

- (c) If the Municipality, after terminating the Consulting Engineer for alleged failure to fulfill its obligations under this Agreement, determines that the Consulting Engineer has not failed to fulfill those obligations, the rights and remedies of the parties shall be the same as if the Municipality had terminated the Agreement for convenience.

In determining the basis for such equitable settlement for items (a), (b), and (c) as indicated above, the Municipality shall take into account any monies owed the Consulting Engineer for work previously performed under this Agreement, less any payments previously made for said work, and the amount of reimbursable expenses incurred by the Consulting Engineer, less any payments previously made, to reimburse the Consulting Engineer for those expenses.

The Consulting Engineer agrees to accept the Municipality's valuation of the work performed under this Agreement, and the Municipality will not be liable for any profit that the Consulting Engineer expected or might have expected to make on portions of the Project work that have not been performed.

If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the Project, the Consulting Engineer may not make a claim against the Municipality in any form or forum for loss of anticipated profit or for any other reason related to the Project or this Agreement.

The rights and remedies of the Municipality under this Article are in addition to any other rights and remedies that the Municipality may possess by law under this Agreement.

Decisions of the Municipality on matters discussed in this Article shall be final and binding.

(16) PROGRESS REPORTS

To submit monthly progress reports, in quadruplicate, by calendar months to the Municipality showing the percentage of construction work performed to date. These progress reports, together with copies of certified monthly payrolls for all approved personnel, and such other supporting data as may be required, shall be subject to examination and approval by the Municipality and the State.

(17) PAYMENT TO THE CONSULTING ENGINEER

To accept payment for all services rendered in connection with this Agreement, in accordance with the sum or sums hereinafter stipulated in Paragraphs (40) and (41) of this Agreement.

(18) SUBMITTAL OF ESTIMATES AND FINAL DOCUMENTS/SUBMISSION OF CERTIFIED STATEMENT

To prepare and submit for approval construction contractor's monthly/semimonthly estimates and a final construction estimate. The final estimate shall be supported by a complete set of all pertinent job records and shall be furnished to the Municipality within the time frame stipulated herein.

To furnish the following documents to the Municipality within sixty (60) calendar days of the completion date of construction as noted on the CON-82.

- (1) (a) Final Estimate, (b) Index of Construction Orders, (c) Records of Daily Cost Plus, (Form CON-9), (d) Receipted Bills Supporting Cost Plus, (e) Final Construction Order, (f) Statement of Credits due the State, if applicable, and (g) Substantiating Evidence, if escalator clause is invoked, (h) Construction Report, (i) Statement of Working Days, (j) Breakdown of Participating and Non-Participating Cost by Project, (k) Substantiation of Payments made to D.B.E.'s or S.B.E.'s and a determination on recommended monetary assessments for failure to meet contract assignment goals for D.B.E.'s or S.B.E.'s work performance and any other required documents.
- (2) When requested by the Municipal Administrator, the complete set of original contract drawings (plans) showing as-built details for the plans, profiles, cross-sections and all diaries, field books, and other data in conformance with the requirements of the Construction Manual. The Consulting Engineer further agrees to submit, upon completion of construction, a statement certified by a professional engineer licensed in the State of Connecticut. This statement shall verify that the project, as built, conforms to the contract plans and/or the contract plans as modified by the construction orders approved by the Municipality and the State in all instances and that work performed and materials furnished comply with the requirements of the plans, specifications, and orders of the Municipality, and that all payments to the construction contractor are in conformance with the specifications.

If it is determined that the documents in (1) and (2) of this Article cannot be furnished within sixty (60) calendar days of the completion date of construction as noted on the CON-82, then by the forty-fifth (45th) day, the Consulting Engineer shall provide the Municipality with a listing of documents/information still required from the Contractor. At that time, a determination will be made by the Municipality on whether the Consulting Engineer will be extended to complete the remaining documents or whether the Municipality will complete the remainder.

If for causes within his control, the Consulting Engineer fails to furnish the Municipality with the documents noted in (1) and (2) of this Article within the allotted time, the Municipality may assess Consulting Engineer:

- a) Liquidated damages in the amount of Two Hundred Forty Dollars (\$240) per calendar day for each day beyond the stipulated sixty (60) calendar days until submission of the required documents, and
- b) Correction of errors and/or omissions will be made at the Consulting Engineer's own expense.

(19) AGENT FOR SERVICE OF PROCESS

That the Secretary of State of the State of Connecticut (including any successor thereto) is hereby appointed by the Consulting Engineer as its agent for service of process for any action arising out, or as a result, of this Agreement, such appointment to be in effect throughout the life of this Agreement including any supplements hereto, and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

(20) SUBMITTAL OF CERTIFIED PAYROLL

To submit to the Municipality each month two (2) copies of a certified payroll, on a form acceptable to the Municipality, of the Consulting Engineer's own field forces and those of approved subcontractors. These payrolls shall be used as a basis in computing each month's payment. The certification shall be dated, signed, and read as follows: "I (Name of Consulting Engineer or Subcontractor), do hereby certify that during the period covered by this payroll, all personnel shown were working on the project, and their salary, rate of compensation, hours worked, and amount earned, is a true and accurate report". The personnel shown on the certified payroll, their employment and duration of employment, salary or hourly rate, hours of work, including overtime, if any, overtime rate, and all changes in status of any of the beforementioned information, shall have the prior written approval of the Municipality.

(21) COVENANT AGAINST CONTINGENT FEES

The Consulting Engineer agrees and warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consulting Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consulting Engineer, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the payments due the Consulting Engineer, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(22) MAINTENANCE AND AUDIT OF RECORDS

The Consulting Engineer agrees to incorporate the entire Maintenance and Audit of Records article of this Agreement, in all subconsultant agreements.

- (a) Project Accounts

The Consulting Engineer shall maintain an accounting system that is adequate to segregate and accumulate reasonable, allocable costs and maintain accounts and records in accordance with generally accepted accounting principles consistently applied.

(b) Allowable Costs

The authority for determining allowable costs under the Agreement shall be "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2," which is incorporated herein by reference.

(c) Audit and Inspection of Records

The Consulting Engineer shall permit the authorized representatives of the Municipality, the State, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the Consulting Engineer relating to his performance under the Agreement until the expiration of three (3) years after final payment under this Agreement.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation, upon request, a detailed job cost report of all project costs incurred under this Agreement.

The Consulting Engineer further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Municipality, the State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes work not exceeding \$25,000.00.

The periods of access and examination described above, for records which relate to (1) appeals for disputes, (2) litigation of the settlement of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by the Municipality, the State, the Comptroller General, or any of their duly authorized representatives, shall continue until final disposition of all such appeals, litigation, claims, or exceptions.

In accordance with Title 23 CFR, Chapter 1, Part 172.7(d), the Connecticut Department of Transportation as recipient or subrecipient of federal-aid highway funds, may share the audit information in complying with the State or subrecipient's acceptance of a Consulting Engineer's overhead rates provided that the Consulting Engineer is given notice of each use and transfer.

(d) Record Retention

The Consulting Engineer agrees that it shall preserve all of its

records and accounts concerning the implementation of this Agreement including, but not limited to, any records, books, or other documents relative to charges, including charges for Extra Work, alleged breaches of agreement, settlement of claims, soils and foundation services, or any other matter involving the Consulting Engineer's or Subcontractor's demand for compensation by the Municipality for a period of not less than three (3) years from the date of the final payment under this Agreement. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

(e) Annual Audit of In-House Unit Cost Rates

The Consulting Engineer agrees to have a CPA perform an audit of any in-house unit cost rate(s) billed by the Consulting Engineer. The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The schedule(s) which detail the computation of the audited unit cost rate(s) must present the individual expenses applicable and the actual usage which is the basis for the unit cost rate(s). The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2". This audit may be submitted with the audit of indirect costs. Failure to submit this audit will result in any costs billed by the Consulting Engineer for in-house charges to be considered ineligible for reimbursement.

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year during the term of this agreement

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of audits of the in-house unit cost rates issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

(f) Annual Audit of Indirect Costs

The Consulting Engineer agrees to prepare a "Schedule of Indirect Costs" from its operations for each fiscal year which the Agreement covers. The schedule shall consist of direct labor costs and indirect costs listed by accounts for home office design and construction engineering/inspection (field) projects, if applicable.

The Consulting Engineer agrees to have this schedule audited by an independent Certified Public Accountant (CPA). The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year for which the Agreement covers.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of Indirect Cost audits issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in the "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward within thirty (30) days of issuance, a copy of the company's annual financial schedule audit to the Office of External Audits of the Connecticut Department of Transportation.

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

The Consulting Engineer also agrees it shall make arrangements with their Certified Public Accountant to have copies of their working papers forwarded to the Office of External Audits of the Connecticut Department of Transportation when requested.

(23) COMMENCEMENT OF SERVICES

That the Consulting Engineer shall not begin performance under the terms of this Agreement until notified by the Municipality in writing. With written authorization from the Municipality, the Consulting Engineer may commence operations prior to the start of the construction contract.

(24) DIRECT COST ITEMS

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy No. F&A-34, April 21, 2005, Subject: Policy on the Acquisition and Inventory of Equipment Purchased by Consultants".

(25) CARE OF MUNICIPALLY-OWNED EQUIPMENT

That the Consulting Engineer will assume full responsibility for the

use and care of all Municipally-owned equipment issued for use on the Project. This equipment is to be returned to the Municipality upon completion of the Project in good condition. The Consulting Engineer will replace at no cost to the Municipality any Municipally-owned equipment which is lost or damaged except for normal wear and tear, as determined by the Municipality, while in the Consulting Engineer's possession.

(26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS

That while engaged in performing the provisions or terms of this Agreement, the Consulting Engineer will ensure that the following steps will be adhered to concerning claims of injury or damage due to the construction contractor's operations:

- (a) That the Consulting Engineer will advise all claimants to submit the claim in writing to the Municipality, which for the purpose of this Paragraph will be interpreted to mean the Municipal Administrator at the appropriate address.
- (b) That the Consulting Engineer will record for the project file pertinent information concerning claims or potential claims including name, date, time, and nature of the claim or potential claim as these claims/potential claims become apparent.
- (c) That the Consulting Engineer will file a report for the project records if required to do so by the Municipality.

(27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT

That the Consulting Engineer agrees in case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern, and that wherever a blank ( ) or the words "DOES NOT APPLY" appears in all copies of this Agreement, this represents a deletion of a condition which does not apply to this contract.

(28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Disadvantaged Business Enterprises For Federal Funded Projects", as set forth in Exhibit A, Schedule 1 (attached herewith) dated February 26, 2009.

(29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) DOES NOT APPLY

~~The Consulting Engineer shall cooperate with the State in implementing the required contract obligations concerning "Small Contractor" and/or "Small Contractor Minority Business Enterprises" utilization on this Agreement in accordance with Section 32-9e of the Connecticut General Statutes, as revised. The Consulting Engineer shall comply with this provision in accordance with the "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)", as set forth in Exhibit A, Schedule 2 (attached herewith) dated March, 2001.~~

~~The State advises the Consulting Engineer that failure to carry out the~~

~~requirements set forth in said "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)" shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.~~

(30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in the Commissioner's Letter dated October 26, 1988 Re: Prompt Payment to Subcontractor(s), as set forth in Exhibit A, Schedule 3 (attached herewith) as revised.

The Consulting Engineer shall pay the subcontractor for work performed within thirty (30) days after the Consulting Engineer receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work.

For the purpose of this Article satisfactory completion shall have been accomplished when:

(1) The subcontractor has fulfilled the contract requirements of both the Municipality and the subcontract for the subcontracted work, including the submission of all submittals and audit requirements stipulated in Article 22(f), when applicable, and

(2) The work done by the subcontractor has been reviewed and accepted by the Municipality and final approval of the subcontractor's work has been determined and agreed upon.

If the Consulting Engineer determines that a subcontractor's work is not complete, the Consulting Engineer shall notify the subcontractor and the Municipality, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Municipality within twenty-one days of the subcontractor's request for release of retainage.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Consulting Engineer to comply with the provisions of this section will be reflected in the "Consultant Performance Evaluation" for future projects.

(31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG

The Consulting Engineer understands and agrees that a "Connecticut Department of Transportation Subconsultant Payment Log" Form shall be completed quarterly (January, April, July, and October) and furnished to the Municipality for each subcontractor the Consulting Engineer utilizes under this Agreement. Instructions for completing and processing this Form are stipulated on its reverse side. A copy of said form is included herewith.

(32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS



The Consulting Engineer shall comply with all the State and Federal Statutory and Administrative requirements incorporated herein by reference and set forth in Exhibit A attached hereto, and all Schedules attached hereto which are also hereby made a part of this Agreement.

**RESPONSIBILITY OF THE MUNICIPALITY:**

**THE MUNICIPALITY AGREES**

**(33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY**

To furnish to the Consulting Engineer one copy or more as may be required of the latest edition of the following manuals and/or documents:

- Connecticut Department of Transportation Specifications for Location Surveys
- Construction Manual
- Municipality Manual
- Information Pamphlet
- All maps, location and descriptions of coordinate values of existing points, locations and elevations of existing bench marks, and any other layout information that is available
- Original construction contract drawings (plans) for the project to be revised in accordance with Paragraph (1)(i).
- Standard Specifications - Form 816
- Public Service Facility Policy
- Project inspection record books and standard State forms
- Preliminary computations and Grade list
- Pamphlet for Monitoring Performance and Payment Requests for Consultants, dated June 1994, and any amendments

The Municipality agrees to furnish any publications of the Municipality and/or the State, requested by the Consulting Engineer, for use in inspection of the project.

**(34) MUNICIPALLY ASSIGNED ADMINISTRATOR**

To assign a Municipal Administrator who will provide general supervision of the Consulting Engineer's activities.

**(35) MUNICIPALLY PROVIDED EQUIPMENT**

Provide space or a field office with office equipment on or near the project which will have adequate space for the Consulting Engineer's staff, and the Municipality's Municipal Administrator, as specified in

the Standard Specifications.

(36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY

To advertise, receive bids and award the construction contract, and to conduct a preconstruction meeting for the project.

(37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (a) To perform or arrange for the performance of all off-site shop and mill inspections and laboratory tests and analysis of those classes of material which are normally inspected, tested, and analyzed prior to delivery to the site of the work.
- (b) To perform the so-called Proctor Laboratory Density test to determine the relationship between the moisture content and density of various fill materials to be used on the project in accordance with AASHTO T-180, Method D.
- (c) To arrange for the District or State Laboratory to transport and test all material sampled by the Consulting Engineer under the terms set forth in Paragraph (1) (g) of this Agreement.

(38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE

Notwithstanding the requirements of Section 1, the Municipality and/or the State will provide technical assistance and/or engineering recommendations relative to construction or design-related issues associated with the project.

(39) FINAL INSPECTION

To make final inspection of the construction contract within ten (10) calendar days after the construction work is completed.

**ARTICLES OF MUTUAL AGREEMENT**

**THE MUNICIPALITY AND THE CONSULTING ENGINEER MUTUALLY AGREE:**

(40) PAYMENT

That subject to the limitations stipulated in Paragraph (41) of this Agreement, the Municipality shall pay the Consulting Engineer in the following manner for all work performed in accordance with the terms of this Agreement with the exceptions of those services for which a different method of payment is stipulated:

The Consulting Engineer and subconsultants may bill direct costs for meals, subsistence and transportation, if applicable, in accordance with the latest State Travel Regulations-State Managers limiting amounts. All mileage, including that for rental cars, will be reimbursed at the current mileage rate only. Actual cost shall be: (1) salaries of employees directly chargeable to the project at rates not to exceed those shown in Paragraph (44); and (2) burden, fringe and overhead costs properly allocable to the project. For 2XXX, the tentative percentage for field office operations will be \_\_\_\_%.

This percentage will be revised annually based on a State approved audit of burden, fringe and overhead costs of the previous years experience. The term "Salaries" as used in this Agreement shall mean the gross wage or payment made to employees before deductions for employee paid taxes and fringe benefits. The final determination of the sum to be paid for actual costs will be made following an audit of the Consulting Engineers records. The certified payroll shall cover salaries computed at straight-time rates. The certified percentage for burden, fringe, and overhead shall be applied only to the "straight-time" portion of overtime pay. No payment shall be made to partners or officials of the firm for those services unless they are engaged in production work in which case compensation will be made at production rates.

(41) MAXIMUM PAYMENT

That the maximum amount which the Municipality shall pay to the Consulting Engineer for all work performed under the terms of this Agreement, excepting work for which payment is provided in Paragraph (43), shall not exceed (\$491,000.00. The total payment for Extra Work shall not exceed(\$49,000.00). The total payment for work performed under this Agreement, including Extra Work shall not exceed (\$540,000.00). The maximum amount will not be revised unless there is a substantial change in the scope or character of the work to be performed by the Consulting Engineer which would justify a revision of this figure, as determined by the Municipality; or if, for any reason, the Consulting Engineer does not or cannot start his work prior to or in sufficient time to meet the construction contractor's schedule of operations, and the Municipality finds it necessary to provide certain inspection and survey services, the limiting amount and fixed fee shall be reduced an equitable amount to reflect the Municipality's expense in connection therewith.

(42) PROGRESS PAYMENTS

That progress payments shall be made to the Consulting Engineer on a monthly basis for all work covered by this Agreement except work for which payment is provided in paragraph (43). Said progress payment to be the sums of the following: (a) the actual costs shown on the voucher for the period, plus (b) eighty-five percent (85%) of the appropriate fixed fee amount for profit stipulated in paragraph (40) divided by the number of monthly periods in the total time allowed for completion of the construction work and closeout period. From the progress payments thus computed each month there shall be deducted all credits, if any, due the Municipality. Prior to the final payment, the Municipality may release such portion or portions of the retainage as it considers to be in its best interest. In no case, however, will the retainage be reduced to less than eighty-five (85%) of the fixed fee amount stipulated in paragraph (40) of the Original Agreement until after completion of the final audit.

The Consulting Engineer may request the substitution of securities for retainage in accordance with Connecticut General Statutes Section 3-112a.

(43) PAYMENT FOR EXTRA WORK

- (a) Extra work approvals associated with increases in costs for:
- an extension of construction contract time.
  - changes or refinements in work assignments, operations or staffing levels.
  - increases in premium overtime or shift differential cost.
  - investigation of claims.
  - escalated burden, fringe, and overhead costs based on audit results.

A fee, established through negotiations, will be paid from extra work funds under Paragraph (41) of this Agreement to the extent that these funds are available. The Consulting Engineer will be paid based on a certified monthly payroll including burden, fringe and overhead. No additional fixed fee for profit associated with payroll increases identified above will be considered unless the work period specified in Paragraph (3)(d) is exceeded and the extra work funds established under Paragraph (41) have been fully utilized. Extra work approvals that will exceed the amount stipulated in Paragraph (41) of this Agreement or the work period specified in Paragraph (3)(d) will be paid for under a supplemental agreement based on a negotiated fee for services.

- (b) Extra work approvals associated with approved design changes that require engineering work at the main or home office of the Consulting Engineer shall be paid on a certified monthly payroll plus the burden, fringe and overhead cost and a fixed fee for profit. Extra work associated with design changes shall be based on a scope of services provided by the Municipality and a negotiated fee for these services. No additional payment will be made for authorized minor design changes that can be made in the field by the Consulting Engineer.
- (c) Extra work approvals for claims investigations assigned to the Consulting Engineer after final payment has been made or investigation that will exceed the calendar days stipulated in Paragraph (3)(d) will be based on a scope of services provided by the Municipality and a negotiated fee for these services. The Consulting Engineer will be paid based on a certified monthly payroll plus burden, fringe and overhead cost and a fixed fee for profit.

(44) MAXIMUM HOURLY RATES

That the following maximum hourly rate for each classification of employee to be used on the project shall be as follows and additional classifications if required must be submitted to the Municipality for prior approval.

| <u>Classifications</u>   | <u>Maximum Hourly Rates</u><br><u>Effective through 2024</u> |                                       |
|--------------------------|--------------------------------------------------------------|---------------------------------------|
|                          | <u>Certified Payroll</u><br><u>Actual Hourly</u>             | <u>Maximum Hourly</u><br><u>Rates</u> |
| Construction Coordinator |                                                              |                                       |
| Chief Inspector          |                                                              |                                       |
| Inspector                |                                                              |                                       |
| Surveyor                 |                                                              |                                       |
| Rod Man                  |                                                              |                                       |
| Secretary                |                                                              |                                       |

\*\*\* The Contracting Engineer shall use the following maximum hourly rates until the Department of Transportation Commissioner sends written notification rescinding the wage freeze.

\*\*\*\* The Contracting Engineer may use the above maximum hourly rates prospectively only upon written notification by the Department of Transportation Commissioner that the wage freeze has been rescinded.

The above maximum hourly rates of pay shall be subject to renegotiation should the work required under this Agreement not be completed as stipulated in Paragraph (3)(d). Any adjustment to the maximum hourly rates stated above shall apply only to such services as may be rendered subsequent to the date of renegotiation as stipulated above. Overtime work, when authorized by the Municipality, shall be paid for by the Municipality at "straight-time" rates except when otherwise required by law or regulation or when otherwise approved by the Municipality. The surcharge for burden, fringe and overhead shall be applied only to the "straight-time" portion of any overtime pay.

(45) ACCEPTANCE DATE

That the acceptance date of the work of this Agreement shall be established as the date the Municipality is in receipt of all papers and documents required in this Agreement. Within thirty (30) days of acceptance, the Consulting Engineer shall submit a final payment voucher for monies due him. If the Consulting Engineer fails to submit this voucher within the specified time, the Municipality may process a final payment voucher based on the available information.

(46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF TOWN OF FAIRFIELD

That the attached Certification of Consulting Engineer and Certification of the Town of Fairfield, as set forth in Exhibit A, Schedule 4, (attached herewith) as revised.

(47) FEE ADJUSTMENT

That the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Municipality determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(48) NOTICE BETWEEN PARTIES TO AGREEMENT

That it is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a) - be in writing (hardcopy) addressed to:

(i) When the Municipality is to receive such notice -

(ii) When the Consulting Engineer is to receive such notice -

the person(s) acting herein as signatory for the Consulting Engineer receiving such notice;

**Ronald J. Nault, P.E., President  
Luchs Consulting Engineers, LLC  
89 Colony Street  
Meriden, CT 06451**

b) - be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and

c) - contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "official notice" as used herein, shall be construed to include but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change, revision, addition to or deletion from the document, contract, or agreement in which this "official notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the parties hereto from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

~~(49) REVISIONS IN ORGANIZATION OF CORPORATION USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (49) below DNA~~

~~That the Consulting Engineer shall notify the Municipality in writing when there is a change in its Connecticut Certificate of Registration for the Corporate Practice of Engineering or Land Surveying by a corporation or limited liability company in the State of Connecticut or a change in the individual(s) in charge of the work specified herein. Neither change shall relieve the Consulting Engineer of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.~~

~~(49) REVISIONS IN ORGANIZATION OF PARTNERSHIP USE ONLY IF PARTNERSHIP  
otherwise mark DNA and use (49) above DNA~~

~~That the Municipality, on written notice by the Consulting Engineer of changes in the partnership structure of the organization, may enter into a supplemental agreement with the new partners providing releases are provided from the former partner, or partners, stating that he has been compensated in full or that provision has been made for compensation in full for all work performed under terms of this Agreement and a financial statement is submitted showing that solvency of the partnership is maintained. The death of a partner shall not release the partnership from the performance of this Agreement and the remaining functions must be performed by the surviving partner(s) until the terms of this Agreement are fully executed. The withdrawal of any partner from the partnership shall not relieve him from his liability for performance of this Agreement.~~

(50) OWNERSHIP OF DOCUMENTS

That all products of the work under the terms of this Agreement shall become and remain the property of the Municipality. This shall include all partially completed work in the event that the Agreement is terminated before completion for any reason.

- a) The Consulting Engineer shall transfer to the Municipality, as part of the consideration for this Agreement, any and all copyright rights or other proprietary interests which the Consulting Engineer may have in materials ("Work Products") produced by it under the terms of this Agreement; and that the Consulting Engineer shall, whenever so requested by (the Municipality), sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality a letter agreement, in form and content satisfactory to the Municipality, stating that the Consulting Engineer thereby irrevocably transfers to the Municipality all of its copyright and other proprietary rights in the Work Products designated by the Municipality in its related request.
- b) If deemed appropriate by the Municipality in its sole discretion, the Consulting Engineer shall agree that any or all Work Products shall be deemed a work of joint authorship by the Municipality and the Consulting Engineer for copyright purposes, and shall be registered as such with the United States Copyright Office. The Consulting Engineer hereby waives any right to oppose or object to such a claim of joint authorship or to such related copyright

registration.

- c) The Consulting Engineer shall not engage or allow any party ("Other Party") other than itself or the Municipality to contribute directly to the creation of any Work Product unless the Consulting Engineer has first obtained from said Other Party a written agreement ("Secondary Agreement") containing essentially the same terms as Section B above; i.e., the Other Party
  - 1) shall agree to transfer to the Municipality any and all copyright or other proprietary rights said Other Party may have in designated Work Products, or, if the Municipality so requests, shall agree to deem such Work Product a work of joint authorship by the Municipality and by Other Party, and, if appropriate, by the Consulting Engineer also; and
  - 2) shall agree to sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality any letter agreement ("Letter Agreement") of the kind described in Section b) above which the Municipality shall request from it. The Secondary Agreement between the Consulting Engineer and an Other Party shall provide expressly that any such Letter Agreement delivered by the Other Party to the Municipality shall be directly enforceable by the Municipality, and that the execution, delivery, and enforceability of such a Letter Agreement are part of the consideration for the Secondary Agreement.

(51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)

That the Municipality makes no express or implied warranty of any kind with regard to the particular Computer Aided Design and Drafting File(s) provided to the Consulting Engineer under this Agreement, if any, its documentation, or its fitness for any purpose, including but not limited to the implied guarantees of fitness for a particular purpose. The Municipality shall not be held liable for errors contained herein, or for any consequential or incidental damages which may arise in connection with the use, performance, duplication, modification, transfer or distribution of these files or copies thereof.

(52) PAYMENT OF RECOVERABLE COSTS DUE TO THE MUNICIPALITY

The Municipality shall have the right to set off against amounts otherwise due to the Consulting Engineer under this Agreement or under any other agreement or arrangement that the Consulting Engineer has with the Municipality (a) any costs that the Municipality incurs which are due to the Consulting Engineer's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Consulting Engineer to the Municipality. Any sum taken in set-off from the Consulting Engineer shall be deemed to have been paid to the Consulting Engineer for purposes of the Consulting Engineer's payment obligations under Connecticut General Statute Section 49-41c.

(53) JURISDICTION AND FORUM LANGUAGE



This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of laws principles would dictate otherwise. This Agreement shall be deemed to have been made in Fairfield, Connecticut. Nothing herein shall be construed to waive any of the Municipality's immunities.

(54) ~~SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP~~ **DNA**

~~The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Small Business Participation Pilot Program SBPPP as Subcontractors and Material Suppliers or Manufacturers", as set forth in Exhibit A, Schedule 11 (attached herewith) dated May 12, 2010.~~

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

TOWN OF FAIRFIELD

\_\_\_\_\_  
Typed Name:

By \_\_\_\_\_ (Seal)  
Typed Name:

\_\_\_\_\_  
Typed Name:

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

Luchs Consulting Engineers, LLC

\_\_\_\_\_  
Typed Name: Dawn Crandall

By \_\_\_\_\_ (Seal)  
Typed Name: Ronald J. Nault, P.E., President

\_\_\_\_\_  
Typed Name: Paula Kusmit

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

CONNECTICUT CORPORATE ENGINEERING  
PRACTICE -- CERTIFICATE OF  
AUTHORIZATION NO. JPC 0000061

EXHIBIT A  
and Schedules 1 through 11

**THE CONSULTING ENGINEER AGREES:**

**1. GOVERNMENTAL AGENCY EXEMPTION**

That the Consulting Engineer hereby acknowledges and agrees to comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The attached copy of the "Governmental Agency Exemption Certificate", as set forth in Exhibit A, Schedule 5 (attached herewith).

**2. CODE OF ETHICS FOR STATE EMPLOYEES DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 6 (attached herewith).~~

**3. CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:~~

- ~~\_\_\_\_\_ (a) No person hired by the State as a Consulting Engineer or independent contractor shall:~~
- ~~\_\_\_\_\_ (1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;~~
- ~~\_\_\_\_\_ (2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or~~
- ~~\_\_\_\_\_ (3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.~~
- ~~(b) \_\_\_\_\_ No person shall give anything of value to a person hired by the \_\_\_\_\_ State as a Consulting Engineer or independent contractor based on \_\_\_\_\_ an understanding that the actions of the Consulting Engineer or \_\_\_\_\_ independent contractor on behalf of the State would be influenced.~~

#### 4. EXECUTIVE ORDERS

##### A. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Consulting Engineer's request, the Department shall provide a copy of these orders to the Consulting Engineer.

#### 5. NON-DISCRIMINATION

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Consulting Engineer.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations

adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor

shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. CAMPAIGN CONTRIBUTION AND SOLICITATION BAN **DOES NOT APPLY**

~~For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this agreement/contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice set forth in Exhibit A, Schedule 7 (attached herewith).~~

#### 7. PRIVATIZED PUBLIC RECORDS

The following Article is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more. The Department is entitled to receive a copy of records and files related to the performance of the Consulting Engineer under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the Department pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the Department in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

#### 8. OVERSIGHT OF LARGE STATE CONTRACTS DOES NOT APPLY

~~The following Article is applicable to those contracts with an aggregate value of Five Million Dollars (\$5,000,000) or more. If an officer, employee or appointing authority of the Consulting Engineer takes or threatens to take any personnel action against any employee of the Consulting Engineer in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), the Consulting Engineer shall be liable for a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the Department may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.~~

~~The Consulting Engineer shall post a notice of the provisions of this section in a conspicuous place which is readily available for viewing by the employees of the Consulting Engineer.~~

#### 9. CIVIL RIGHTS

As a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Consulting Engineer shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.),

all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances set forth in Exhibit A, Schedule 8 (attached herewith).

#### 10. CERTIFICATION FOR FEDERAL AID CONTRACTS

That the Consulting Engineer certifies, by signing and submitting this Bid, Agreement, Contract, Proposal, to the best of his/her/its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consulting Engineer, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consulting Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. If applicable, the Exhibit A, Schedule 9 (attached herewith), Disclosure Form-LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consulting Engineer also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this certification be included in all subcontracts, sub-subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317456, Newington, CT 06131-7546, to the attention of the project manager.

#### 11. SUSPENSION OR DEBARMENT

That suspended or debarred contractors Consulting Engineers,



suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

- 1) That the signature on the Agreement by the Consulting Engineer shall constitute certification that to the best of its knowledge and belief the Consulting Engineer or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or any position involving the administration of Federal or State funds:
  - a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Has not within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1)b. of this certification; and
  - d. Have not within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the Consulting Engineer is unable to certify to any of the statements in this certification, such Consulting Engineer shall attach an explanation to this Agreement.

The Consulting Engineer agrees to insure that the following certification be included in each Subcontract Agreement, to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

- a. The prospective subcontracts, sub-subcontracts participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.

- b. Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certifications, such prospective participant shall attach an explanation to this proposal.

## 12. AMERICANS WITH DISABILITIES ACT

This clause applies to those Consulting Engineers who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act"), Public Law 101-336, during the term of the Agreement. The Consulting Engineer represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Consulting Engineer to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Consulting Engineer. The Consulting Engineer warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Consulting Engineer to be in compliance with this Act, as the same applies to performance under this Agreement.

## 13. FEDERAL OBLIGATION TO THIRD PARTY

(1) The Purchaser and Consulting Engineer acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consulting Engineer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Consulting Engineer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Consulting Engineer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consulting Engineer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consulting Engineer further acknowledges that if it makes, or causes to be made, a

false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consulting Engineer to the extent the Federal Government deems appropriate.

(2) The Consulting Engineer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consulting Engineer, to the extent the Federal Government deems appropriate.

(3) The Consulting Engineer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### 15. ENERGY CONSERVATION

The Consulting Engineer agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### 16. FLY AMERICA REQUIREMENTS

The Consulting Engineer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consulting Engineer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consulting Engineer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 17. CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS "SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES"

That the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities," as set forth in Exhibit A, Schedule 10 (attached herewith) dated March 3, 2009.

## 18. AMERICAN RECOVERY AND REINVESTMENT ACT

The following Article only applies to projects funded under the American Recovery and Reinvestment Act of 2009.

For the purposes of this Article, "Contractor" means any prime contractor, consulting engineer, or other entity contracting with the State of Connecticut Department of Transportation ("DOT") or a Municipality undertaking a project ("Project") funded under the American Recovery and Reinvestment Act of 2009 ("Act"). Additionally, to the extent that a Municipality is employing its own staff to undertake work on the Project, solely with respect to such work by its staff, the Municipality itself is likewise subject to the requirements herein that are imposed on the Contractor. A Project undertaken by a Municipality is identified herein as a "Municipality-administered Project," and a Project undertaken by DOT is identified herein as a "DOT-administered Project."

(1) The Contractor agrees to accurately and timely record and report, in accordance with the requirements of the Act and additional guidelines, policies and regulations issued or promulgated pursuant to the Act, information regarding jobs or positions created or retained in Connecticut, the United States and outlying areas as a result of funding provided through the Act for the Project, including, but not limited to, the following requirements:

A. The Contractor shall accurately complete and submit to DOT or the Municipality, as applicable, on a monthly basis from commencement through completion of its work on the Project, an employment report using Form FHWA-1589 available at:<http://www.fhwa.dot.gov/economicrecovery/forms/fhwa1589.xls> ("Monthly Employment Report").

B. No later than seven (7) calendar days after the last calendar day of the month being reported ("Seven Day Submission Requirement"), the Contractor shall:

- (i) With respect to DOT-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to DOT by e-mail to: [Theodore.Szymanski@ct.gov](mailto:Theodore.Szymanski@ct.gov), with a copy to [Philip.Scarrozzo@ct.gov](mailto:Philip.Scarrozzo@ct.gov); and also submit a hard copy, to the applicable DOT District office for inclusion in the Project file, signed by an authorized representative of the Contractor;
- (ii) With respect to Municipality-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to the Municipality's designated employee by email or other electronic means as instructed by the Municipality; and
- (iii) Provide a consistent filename for each Monthly Employment Report in the format ContractNumberMonthYear.xls (e.g., #####MAY09.xls);

C. Each of the Contractor's subcontractors and second-tier subcontractors shall submit an employment report using Form FHWA-1589 ("Monthly Subcontractor Employment Report") in Microsoft Excel file format to the Contractor on a monthly basis within sufficient time to enable the

Contractor, in turn, to submit such Monthly Subcontractor Employment Report(s) to DOT or the Municipality, as applicable, by the Contractor's Seven (7) Day Submission Requirement. Failure by the collective subcontractors to timely submit such Monthly Subcontractor Employment Report(s) to the Contractor does not excuse the Contractor's obligation to submit its Monthly Employment Report within the required time.

(2) Receipt of funds pursuant to the Act under this Contract is contingent upon the Contractor meeting the reporting requirements of this Contract and any additional reporting requirements of the Act as may be required by the appropriate federal agency through its issuance of guidelines or promulgation of regulation(s).

a. The Contractor agrees that at any time during the Project, the Federal Highway Administration ("FHWA") and/or DOT, after notice, may change the reporting requirements herein. In that event, the Contractor and its subcontractor(s) and second-tier subcontractor(s) shall comply with such requirements.

b. DOT or the Municipality may take any action that FHWA authorizes for non-compliance with the reporting requirements set forth in Section 2 above.

(3) The Contractor agrees to comply with Sections 1605 and 1606 of the Act and any additional federal guidelines or regulations issued or promulgated thereunder.

(4) The following language is made a part of this Contract and shall be made part of all subcontracts and second tier subcontracts:

A. Access of United States Government Accountability Office, Section 902 of Title IX of Division A of the Act.

Pursuant to Section 902 of Title IX of Division A of the Act, the United States Comptroller General and its representatives may:

(1) examine any records of the Contractor or any of its subcontractors, or any State or local agency administering such Contract, that directly pertains to, and involve transactions relating to, the Contract or Subcontract; and

(2) interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the Contract, regarding such transactions.

Nothing in Section 902 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the United States Comptroller General.

B. Office of the Inspector General's Authority, Section 1515 of Title XV of Division A of the Act.

Pursuant to Section 1515, of Title XV of Division A of the Act, the United States Office of the Inspector General or any of its representatives may:

(1) examine any records of the Contractor or grantee, any of its

subcontractors or subgrantees, or any State or local agency administering such Contract, that pertain to, and involve transactions relating to the Contract, subcontract, grant, or subgrant; and

- (2) interview any officer or employee of the Contractor, grantee, subgrantee or agency regarding such transactions.

Nothing in Section 1515 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the Inspector General.

C. Whistleblower Protections. Section 1553 of Title XV of Division A of the Act prohibits all non-federal recipients of Act funds from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to Act funds; (2) a gross waste of Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Act funds; (4) an abuse of authority related to implementation or use of Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Act funds. The recipient of Act funds must post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the Act.

D. False Claims Act. The recipient of Act funds shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.



June 29, 2023  
Rev. July 31, 2023

Town of Fairfield  
Engineering Department  
Attn. Bill Hurley, Engineering Manager  
Sullivan Independence Hall  
725 Old Post Road  
Fairfield, CT 06824

Electronic Submission  
to [whurley@fairfieldct.org](mailto:whurley@fairfieldct.org)

Re: RFP for Construction Administration and Inspection Services Project #2023-49  
Fairfield Metro East Trunk Line Sanitary Sewer Crossing

Dear Mr. Hurley:

Luchs Consulting Engineers, LLC is pleased to respond to the Town of Fairfield's request for proposal to provide Construction Administration and Inspection Services during Construction and Site Monitoring for the Sewer Crossing and Restoration of Wetlands.

We have assembled an experienced Team familiar with the specific aspects of this specialty construction as follows:

Ronald Nault, P.E. – Principal-in-Charge  
Matthew Horn, P.E. – Construction Engineer  
Coleman Walsh, NICET IV – Chief Inspector  
Alex Parisi, BSCE – Senior Inspector  
Terry Gallagher, PE – Wetlands Inspector

Under this Management Plan, Matt Horn, P.E., with over 16 years of Construction Inspection experience, will support Coleman Walsh at Progress Meetings and with technical details, but Coleman will be our primary person providing Task 2 Inspection of the Sanitary Sewer work including coordination, record-keeping, monitoring of pay items and project close-out. Coleman has over 40 years of construction inspection experience including soldier piles, deep excavation, dewatering, sewer pipe installation and contaminated soils management. Coleman will be supported by Alex Parisi, Senior Inspector with over 15 years of pipeline inspection experience, when needed. Coleman served in this same "Chief Inspector, Office Engineer and Project Coordinator" role for the Reconstruction of Moose Hill Road in Trumbull recently. While Coleman is billed at a higher Chief Inspector rate, his ability to run the entire Project results in a very competitive total value to the Town without the typical need for additional staff.

Per our discussion on July 31, 2023, we have reduced the expected staffing hours by combining duties of the Chief Inspector to cover more of the Site Monitoring Task 2 and Landscaping Task 3 work, if possible. We also anticipate the Chief Inspector will be able to assist in the review of red-line as-built drawings and monitor sewer by-pass pumping, as needed.

For the Task 3 Restoration of Wetlands, our Wetlands Inspector for special needs will be Terry Gallagher, P.E. Terry is an expert in water resources, soil erosion and sediment control and wetlands restoration design and implementation. Terry performed these same services on the Steelpointe Harbor Project in Bridgeport.

Per your request we are enclosing herein completed proposal forms along with key personnel resumes of the individuals who will be conducting the project tasks.

We look forward to assisting the Town of Fairfield with the successful completion of this project. If you have any questions with the enclosed, please do not hesitate to contact me.

Sincerely,  
LUCHS CONSULTING ENGINEERS, LLC.



Ronald J. Nault, P.E.  
President-Project Manager

Enclosures





**TOWN OF FAIRFIELD  
ENGINEERING DEPARTMENT**

**EAST TRUNK LINE WETLAND CROSSINGS  
REQUEST FOR PROPOSAL**

To: Shortlisted Firms

From: The Town of Fairfield

Date: June 14, 2023

Re: **RFP for Construction Administration and Inspection Services during Construction &  
Site Monitoring for the Restoration of Wetlands & Closeout**

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**Overview**

The purpose of this RFP is to retain the services of a qualified Consultant to provide construction administration, inspection and support services for Town of Fairfield Project #2023-49 East Trunk Sewer Wetlands Crossing.

The construction Contract duration for Project #2023-49 must be completed by December 2024 and will run concurrent with this Contract. In addition, this Contract will require construction administration, inspection and support services for a duration up to three (3) months for close-out if necessary. Any reference herein to the "Contractor" shall be deemed to include the Contractor who will be awarded the construction Contract.

The Consultant must be knowledgeable in all aspects of construction management and shall possess comprehensive construction inspection experience in sanitary sewer systems, bypass pumping systems, dewatering, shoring, excavation, soldier piles, clearing and grading, demolition, soil management, and permitting.

The Consultant must also be knowledgeable of Federal, State and Local laws, codes, rules and regulations applicable to sanitary sewer systems, wetland conservation and protection, dewatering, soil management plans, thereby ensuring that the Contractor performs the Work in compliance with the applicable laws, codes, rules and regulations.

The Consultant shall thoroughly review the Construction Contract documents and the requirements of this Contract in order to determine the level of staffing project management, administrative, and specialized technical support required by this Contract. Consultant shall note that the work of this Contract is expected to involve, but not be limited to, wetlands protection and restoration, dewatering, shoring, sanitary sewer piping, bypass pumping system, piling, soil management, etc. The Consultant will be required to coordinate and collaborate with the Design Engineer D&B Engineers and Architects Lead Environmental Professional (LEP) Loureiro and Town of Fairfield departments, including WPCA, Engineering, Conservation, and Economic and Community Development.

8. Co-ordinate contractor monitoring bypass pumping at all times (via alarms) and during testing (to be determined by Town). Consultant shall ensure contractor has emergency pumping plan or standby or third pump availability.

**C. Final Inspection and Close out-** This will include but not limited to the final inspection during project closeout and review and approval of all the final documents required in the contract documents such as test results, special bonds, as-built drawings or any other pertinent document required for the final closeout.

Reminder for the purposes of this proposal we use the 16 month schedule

**Task 2 Estimated Total Hours (A, B, C):** 2,773 **X hr. rate** 160.00 = \$443,680

**Name of Assigned Inspector:** Coleman Walsh **Alternate:** Alex Parisi  
(Include Qualification & Experience for the Inspector)

**Task 2 Estimated Total Hours (A, B, C):** 200 **X hr. rate** 175.00 = \$35,000

**Name of Assigned Engineer:** Matt Horn, P.E. **Alternate:** Anthony DiElsi, P.E.  
(Include Qualification & Experience for the Engineer)

**List Additional Personnel, Hours & Rates:** TBD, if needed

**Name of Employee:** Alex Parisi **Alternate:** \$145.00/hour

**Name of Employee:** Tyler Young **Alternate:** \$125.00/hour

### **Task 3 - Restoration of Wetlands & Closeout**

#### **3.1 Site Monitoring (can be combined with Inspector/Engineer duties if qualified)**

As per specific conditions of Inland Wetland Permit Application No. WP-22-222, site monitoring will be required through the construction process, specifically during ground disturbance work as is related to sediment and erosion control. This may be performed by a consultant qualified or certified in sediment and erosion control, a licensed engineer, or similar. The site Monitor shall follow the technical specifications provided by the Design Engineers for the detailed list of requirements.

1. Monitor the site for Soil Erosion and Sedimentation Control.
2. During excavation monitor and direct the location of Temporary Stockpile location as per Inland wetland and ACOE permits. (attached requirements for reference)
3. Monitor the site for the limits of disturbance and restoration to pre-existing conditions prior to starting the construction and after completion of the project for ACOE and Inland Wetland Permits.
4. Monitor any unsuitable material – not to be stored on site to be disposed of (refer page 0200-7 for tech specs)

**3.1 Estimated Total Hours: 50 X hr. rate \$165.00 = \$8,250**

**Name of Employee (If Applicable): Terrance Gallagher, P.E.**

**3.2 Landscaping and Soil Engineer Services:** This includes reviewing soil testing lab results recommendation for plantings, top soil and turf establishments (Please refer to Sheet No.63 of Volume 2 in Project 2023-49 bid documents).

**A. Furnishing and Placing Topsoil** – Refer to planting plan

1. Soil Testing Lab hired for soil analysis by either town or contractor to be determined
2. Engineer to review and oversee sampling, depth, location taken from varied location (page 02900-2 of technical specs)
3. Recommendation by the soil scientist/qualified engineer for any corrective action

**B. Turf Establishments-** Turf to be reestablished in accordance with Volume 2 Contract drawings.

**C. Furnish Plants and Mulch** – (Refer to specification page #02980-12)

**3.2 Estimated Total Hours (A, B & C) 20 X hr. rate 165.00= \$3,300**

**Name of Employee (If Applicable): Terrance Gallagher, P.E.**

**Total not to exceed Tasks 2-3: \$490,230**

AGREEMENT  
BETWEEN THE TOWN OF FAIRFIELD  
AND  
Luchs Consulting Engineers, LLC  
FOR  
CONSTRUCTION ENGINEERING & INSPECTION

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NOTE: ANY ITEM STAMPED "DNA" OR "DOES NOT APPLY" IS HEREBY DELETED PRIOR TO THE EXECUTION OF THIS AGREEMENT WITH THE CONCURRENCE OF THE CONSULTING ENGINEER.

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**ARTICLES OF MUTUAL AGREEMENT**

- (40) PAYMENT
- (41) MAXIMUM PAYMENT
- (42) PROGRESS PAYMENTS
- (43) PAYMENT FOR EXTRA WORK
- (44) MAXIMUM HOURLY RATES
- (45) ACCEPTANCE DATE
- (46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF MUNICIPALITY
- (47) FEE ADJUSTMENT
- (48) NOTICE BETWEEN PARTIES TO AGREEMENT
- (49) REVISIONS IN ORGANIZATION
- (50) OWNERSHIP OF DOCUMENTS
- (51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)
- (52) PAYMENT OF RECOVERABLE COSTS DUE THE MUNICIPALITY
- (53) JURISDICTION AND FORUM LANGUAGE
- (54) SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP

## **AGREEMENT**

**THIS AGREEMENT** has been concluded at the Town of Fairfield Connecticut by and between the Town of Fairfield , duly authorized, hereinafter referred to as the Municipality, and Luchs Consulting Engineers, LLC a Corporation qualified to do business in Connecticut and having its office located at 89 Colony Street, Meriden, CT 06451

authorized to practice professional engineering in Connecticut under the provisions of Chapter 391 of the General Statutes of Connecticut, as amended, acting herein by Ronald J. Nault it's President, hereunto duly authorized, hereinafter referred to as the Consulting Engineer.

**WHEREAS**, the Municipality has determined, based on staffing requirements and/or special expertise requirements, that the services of a Consulting Engineer are required to perform construction engineering and inspection on inspection on Phase 1 – Fairfield Metro East Trunk Line Sanitary Sewer Crossing and;

**WHEREAS**, the Municipality has approved the contracting out for these services and;

**WHEREAS**, the Municipality has the authority to employ such assistance as it may require.

### **NOW, THEREFORE, KNOW YE THAT:**

#### **RESPONSIBILITY OF THE CONSULTING ENGINEER:**

#### **THE CONSULTING ENGINEER AGREES**

##### **(1) SCOPE OF SERVICES:**

To perform construction engineering and inspection, under the general supervision of a Municipal Administrator in conformance with the "Construction Manual - Connecticut Department of Transportation, Bureau of Engineering and Construction, Office of Construction, Version 2.2, January 2011, as amended", hereinafter referred to as the "Construction Manual", and the "Information Pamphlet for Consulting Engineers Performing Construction Inspection", dated August 2008, as amended, and hereinafter referred to as the "Information Pamphlet", and the "Municipality Manual, Connecticut Department of Transportation, Bureau of Engineering and Highway Operations, Office of Construction, Version 1, July 2008", hereinafter referred to as the "Municipality Manual". The Consulting Engineer will perform construction engineering and inspection in accordance with the policies and procedures of the State, as specified in these documents and in accordance with the scope of services listed in this Paragraph, which include, but are not limited to,

the following:

SURVEY

- (a) All construction survey work with the exception of that work that is included in the construction contract to be accomplished by the Municipality's contractor as directed by the Municipal Administrator;
- (b) The checking of all construction operations and layout staking performed by the Municipality's contractor as directed by the Municipal Administrator;
- (c) All survey, construction staking, and layout work necessary for the accurate installation of fencing by the Municipality's contractor along the highway line, staking of non-access line, or other locations as directed by the Municipal Administrator;
- (d) Provide, through information obtained from the Municipality's Municipal Administrator, all controls for relocations and installations to be made by public utility companies, railroads, and governmental agencies, which have an effect or are affected by construction of the project as directed by the Municipal Administrator;
- (e) All work and measurements necessary for the computation of intermediate and final quantities such as, but not limited to, cross section measurements for borrow banks, rock excavation, structure excavation, excavation of unsuitable material and final cross section measurements along the completed roadway;

FIELD INSPECTION

- (f) Inspection of all construction activities performed by the Municipality's contractor, including the observance and reporting of work performed by public utility companies, railroads, and governmental agencies, within the project limits. When the reimbursement to the outside agency is on an actual costs basis, the Consulting Engineer will keep a daily record of man hours, equipment hours, and materials used, salvaged or scrapped in performing the work, on forms CON-40 and CON-41 and certain comparable railroad forms. He shall give sufficient inspection to utility relocation work to ensure conformance to the approved plan of relocation;
- (g) All on-the-job testing and sampling of materials as specified in the "Construction Manual" and "Information Pamphlet". Excepted from testing and sampling are those functions performed by the District Laboratory and/or the State Laboratory and not specifically made a responsibility of the Consulting Engineer. The Consulting Engineer agrees to properly lift and protect the test specimens until transported to the State Laboratory;



- (h) The performance of all necessary field density tests. The nuclear density gauge unit shall contain a full data processor, which holds all calibration constants necessary to compute and directly display wet density, moisture, and dry density either in pounds per cubic foot, or grams per cubic centimeter. The data processor shall compute and display the percent moisture and percent density on dry weight. The Consulting Engineer will be responsible for providing the gauge, calibration, and operation of the nuclear gauge;

#### CONSTRUCTION ENGINEERING

- (i) The technical investigation and/or analysis and recommendation for settlement of monetary or other claims brought against the Municipality and/or the State by Contractor(s) or others;
- (j) The coordination and implementation of all engineering, technical or administrative determinations made by the Municipality and/or the State;
- (k) To receive shop details and construction drawings from the Municipality's contractor and transmit same to the Municipality, the State or others for review and approval. These shop details and construction drawings shall include, but are not limited to, cofferdam details, pile loading tests, false work, and details of all other items required to assure their general compliance with design plans, specifications, and acceptable construction procedures and standards;
- (l) Consulting Engineer to review and provide engineering recommendations related to submittals, working drawings, and technical reviews of the work contemplated by the construction contract;
  - (m) To investigate and facilitate resolution to technical problems or design issues associated with the construction of the project;

#### ADMINISTRATIVE

- (n) To prepare and submit for approval all construction orders and all partial, monthly, and final Municipality's contractor's estimates;
- (o) To revise the original construction contract drawings (plans) to show the facility "as-built," as further defined in Paragraph (18);
- (p) The preparation of correspondence to the Municipality's contractors, fabricators, designers, and others, including reports, memoranda, requests for material tests, forms, and all other documents required for proper inspection of the construction project;

- (q) All other operations which become necessary to properly inspect the work of the construction contractor to determine his compliance with the following documents:

"State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction", Form 816, hereinafter referred to as "Standard Specifications",

Project Special Provisions and all other contract documents and memoranda,

"Public Service Facility Policy and Procedures for State Highways in Connecticut", dated June 1, 1987, hereinafter referred to as "Public Service Facility Policy".

(2) QUALIFICATIONS OF CONSULTING ENGINEER PERSONNEL:

That all personnel employed by the Consulting Engineer shall meet the minimum education, experience, training, and certification requirements for their applicable classification of employment as defined in the current edition of the "Information Pamphlet". In addition, all inspection personnel shall possess one of the following:

1. Registration as a Professional Engineer in Connecticut.
2. Engineer in Training Certification.
3. Bachelor of Science Degree in Civil Engineering or related field or an Associates Degree in Civil Engineering (Structural or Highway technology).
4. NICET Transportation Engineering Technology/Highway Construction certification (Level II or higher).
5. Level I enrollment in the NICET Transportation Engineering Technology/Highway Construction Certification Program. Level I will be used for training purposes only.
6. All Inspection Staff on bridge painting projects shall be certified at the NACE Intermediate Coating Inspection Level. All Resident Engineers or Chief Inspectors on bridge painting projects shall be NACE certified Coating Inspectors with the appropriate years of experience.

The Municipality has the right, during the term of this Agreement, to remove from the project any person or persons employed by the Consulting Engineer, who in the sole opinion of the Municipality has misconducted himself or herself or is incompetent in the performance of their assigned duties, or who neglects or refuses to require compliance with the Plans, Specifications, or Project Special Provisions. Such person or persons shall not be reemployed without the written consent of the Municipality. The Municipality reserves the right to prequalify the Consulting Engineer's supervisory and inspection personnel, determine the size of the inspection force required, and to direct the assignment and the reassignment of inspection personnel at its

discretion, as deemed necessary by the Municipality.

(3) WORK PERIOD

- (a) Complete all work stipulated in Paragraphs (1) and (18) of this Agreement within 485 calendar days, commencing from the date stipulated by the Municipality in a formal notice to proceed. A calendar day shall be every day in the week, Saturdays, Sundays, and holidays included.
- (b) The Municipality may extend the allotted time beyond the period specified above when the work has been delayed for reasons beyond the control of the Consulting Engineer. The Consulting Engineer may present to the Municipality, in writing, request for extension of allotted time for completion of the work. The Municipality will evaluate such requests, and if the Municipality determines such requests are based on valid grounds, shall grant such extension of time for completion of the work as the Municipality deems warranted. All requests for extension of time must be made prior to the expiration of calendar days specified in Paragraph (3)(a) above. Decisions made by the Municipality relative to the granting of extension of time shall be final and binding.
- (c) The Consulting Engineer agrees that no charges or claim for damages or additional compensation including lost profit shall be made by the Consulting Engineer unless the allotted additional time constitutes extra work as defined in Paragraph (4) of this Agreement. Delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Municipality may determine, it being understood, however, that the permitting of the Consulting Engineer to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the Municipality of any of its rights herein.
- (d) The Municipality will not consider any proposal by the Consulting Engineer for renegotiation of the maximum payment exclusive of extra work specified in Paragraph (41) of this Agreement unless 485 calendar days have elapsed since the initial formal notice to proceed.

(4) EXTRA WORK

Make any revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or changes in operations performed by the Consulting Engineer as may be ordered by the Municipality or any of its duly authorized representatives at any time during the life of this Agreement. No additional payment will be made for such revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or operations, unless such changes constitute Extra Work.

Extra Work is defined as follows:

- (a) Such additional work as ordered by the Municipality beyond the scope of this Agreement to the extent that such work will not be reflected in the payment for services specified in Paragraph (40) of this Agreement.
- (b) Such work as shall supersede or revise completed work that has been accepted in writing by the Municipality. Changes such as those to effect refinements in the work or inspection documents and such as those made necessary by errors, omissions, oversight or neglect on the part of the Consulting Engineer, will not be considered Extra Work.

In the event that changes in the Consulting Engineer's work or operations are suggested which, in the opinion of the Consulting Engineer, would result in Extra Work, he shall immediately submit complete documentation of the claim and upon the Municipality's concurrence shall submit an estimate of the cost for the Extra Work and refrain from working on the Extra Work item while the Municipality reviews the claim, or proceed otherwise if specifically directed by the Municipality. If approval is denied, the Consulting Engineer shall continue to process the work without delay and payment will be made according to the terms of this Agreement. No work, other than that for which a claim is being reviewed, shall be delayed pending a decision of the Municipality.

Unless the Consulting Engineer identifies and the Municipality acknowledges Extra Work prior to its performance, the Municipality will not be obligated to consider it as Extra work after the fact.

Extra Work costs shall be segregated by the Consulting Engineer to facilitate audit at a later date by the Municipality and the State or the Federal Highway Administration.

Extra Work that results in a cumulative fee exceeding the amount specified in Paragraph (41) shall be performed and paid for under a supplemental agreement specifically drawn for this work.

(5) ERRORS AND OMISSIONS BY THE CONSULTING ENGINEER

That any amount paid out by the Municipality arising from or resulting from errors, omissions, or failures on the part of the Consulting Engineer to meet professional standards of construction engineering and inspection, will be recovered from the Consulting Engineer by deductions from payments due him under the terms of this Agreement or other legal means. The Consulting Engineer shall be notified by the Municipality of any potential claim prior to the Municipality deducting amounts from payments due, he shall be afforded an opportunity to respond to and defend against such claim or alleged claim in an informal proceeding before the Municipal Administrator or his designee.

(6) RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (6) below ~~DNA~~

Assume full responsibility for the accuracy of all products of its work under this Agreement including any supplements thereto, and shall so indicate by affixing the Connecticut Certificate of Registration Number

for the Corporate Practice of Engineering by a corporation or limited liability company on the Title Sheet(s) of all plans and/or documents, as well as the signature and Connecticut Professional Engineer's Seal of the individual(s) in charge of the work performed under the terms of this Agreement. Each individual listed on the said Connecticut Corporate Certificate of Registration as an engineer or land surveyor for a corporation or limited liability company, or so listed on the subsequently amended Corporate Certificate of Registration, shall be registered as a Professional Engineer or Land Surveyor (whichever is appropriate) in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Examiners for Professional Engineers and Land Surveyors.

With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform Consulting Engineer and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF PARTNERSHIP otherwise~~  
~~mark DNA and use (6) above~~     DNA

~~To assume full responsibility for the accuracy of all products of his engineering work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Professional Engineer's Seal on the Title Sheet(s) of all plans, designs, and/or documents so produced. Each Partner who will be performing engineering work under this Agreement shall be registered as a Professional Engineer in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Registration for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other~~

~~documents so produced.~~

(7) FURNISHING OF TOOLS OF THE TRADE BY CONSULTING ENGINEER

To furnish all tools of the trade and equipment necessary for the satisfactory performance of the services required by this Agreement at no direct cost to the Municipality.

(8) CONSULTING ENGINEER'S INSPECTION FORCE

To furnish an inspection force at the level of and in the numbers established by negotiations for the construction engineering and inspection of this contract. The Resident Engineer/Chief Inspector shall work under the general supervision of the Municipality's Municipal Administrator. All orders to the Municipality's contractor on site will be transmitted by the Consulting Engineer's Resident Engineer/Chief Inspector.

(9) ATTENDANCE AT TRAINING SEMINARS, SCHOOLS, AND/OR MEETINGS

That the Municipality reserves the right, during the term of this Agreement, to require the presence of the Consulting Engineer's personnel at training schools, seminars, or other meetings as may be required.

(10) COOPERATION WITH OTHERS

To cooperate fully with other Consulting Engineers, state personnel, municipal officials, public utility companies, railroads, governmental agencies, and others engaged in surveying, mapping, designing, inspection and construction services, or work on traffic control, lighting, and other facilities within or adjacent to the project; to attend such meetings, discussions and hearings as may be requested by the Municipality; to furnish plans and other data as may be requested from time to time by the Municipality to effectuate this cooperation; and to comply with all orders given by the Municipal Administrator in connection with the work under this Agreement.

(11) PROTECTION OF RECORDS

To cooperate fully with the Municipality and the State and to maintain and protect complete construction records at the field office for review, use, and approval at all times. These records shall be transferred to the custody of the Municipality when the Consulting Engineer has completed his assignment or when requested by the Municipality and final payment to the Consulting Engineer shall be withheld until such transfer has been completed.

(12) INSURANCE

With respect to the operations performed by the Consulting Engineer under the terms of this Agreement and also those performed for the Consulting Engineer by its subcontractors, the Consulting Engineer will be required to carry for the duration of this Agreement, and any supplements thereto, with the Municipality and the State being named as an additional insured party for paragraphs (A) and (B) below, the

following minimum insurance coverages at no direct cost to the State or Municipality. In the event the Consulting Engineer secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (A) and/or (B) below, the Municipality and State of Connecticut shall be named as an additional insured.

A. COMMERCIAL GENERAL LIABILITY

The Consulting Engineer shall carry Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

B. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

C. RAILROAD PROTECTIVE LIABILITY

When the Agreement involves work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by the Consulting Engineer and/or its subcontractor(s), the Consulting Engineer shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Consulting Engineer shall obtain and submit evidence of the minimum coverage indicated above to the Municipality prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the Municipality.

D. VALUABLE PAPERS AND RECORDS

The Consulting Engineer shall secure and maintain a Valuable Papers Insurance Policy at no direct cost to the Municipality, until the work has been completed and accepted by the Municipality. Said Policy will assure the Municipality that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or any other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars (\$50,000) regardless of the physical location of the insured items.

E. WORKERS' COMPENSATION

With respect to all operations the Consulting Engineer performs and all those performed for the Consulting Engineer by subcontractors, the Consulting Engineer and subcontractor(s) shall carry Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively.

F. PROFESSIONAL LIABILITY INSURANCE

Secure and maintain at no direct cost to the Municipality a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars (\$ 2,000,000). The Consulting Engineer shall obtain the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this contract as the same relates to negligent acts, errors or omissions in the work performed by the Consulting Engineer. The Consulting Engineer may, at his election, obtain a policy containing a maximum Two Hundred Fifty Thousand (\$ 250,000) deductible clause, but if he should obtain a policy containing such a clause the Consulting Engineer shall be liable, as stated above herein, to the extent of the deductible amount. The Consulting Engineer shall continue this liability insurance coverage for a period of three (3) years from the date of completion of Consulting Engineer's work.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Consulting Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Consulting Engineer under this agreement.

Failure of the Consulting Engineer to maintain insurance coverage in accordance with the terms of the agreement shall constitute a violation of the agreement and shall subject the Consulting Engineer to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

G. CERTIFICATE OF INSURANCE

The Consulting Engineer agrees to furnish to the Municipality a Certificate of Insurance on the form(s) provided by the Municipality,



in conjunction with Items A, B, C, D, and E above, and a "Certificate of Insurance DOC-001", in conjunction with Item F above, fully executed by an insurance company or companies satisfactory to the Municipality, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

The Consulting Engineer shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the Municipality or the State. In providing said policies, the Consulting Engineer may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this agreement/contract.

(13) RESPONSIBILITY FOR CLAIMS AND LIABILITY

To indemnify and save harmless the Municipality and/or the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors, or omissions in the work performed by the Consulting Engineer and/or any of its subcontractors under this Agreement, including any supplements thereto, or resulting from the nonperformance of the Consulting Engineer and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

It is further understood and agreed by the parties hereto, that the Consulting Engineer shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Municipality and the Consulting Engineer, unless requested to do so by the Municipality. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

(14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS

That the Consulting Engineer shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion, thereof, or of the work provided for herein, or of his right, title, or interest herein, to any person, firm, partnership or corporation without the written consent of the Municipality and then he shall do so only by executing a subcontractor's agreement and shall furnish the Municipality a certified copy of this subcontractor's agreement. Any work subcontracted by the Consulting Engineer will be paid for by the Municipality at the actual costs to the Consulting Engineer with no additions. For breach or violation of the above stipulation, the Municipality shall have the right to annul this Agreement without liability. The Consulting Engineer shall also furnish to the Municipality certification of Public Liability and Property Damage Insurance Coverage, regular Protective Public Liability Insurance Coverage, and Professional Liability Insurance coverage, if applicable, for and in behalf of the Municipality and the State of

Connecticut from the subcontractor. Each insurance policy shall state that the insurance company has a right and duty to defend the insured against any suit seeking damages (or under Workers' Compensation, benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. In general, work that is to be sublet will be limited to that of an unusual or highly specialized nature, or work of relatively short or intermittent duration which can be more efficiently performed by a subcontractor. It is understood that the Municipality is not bound to the subcontractor for suits or other litigation resulting from the work performed by him.

(15) TERMINATION

That the Municipality, by written notice to the Consulting Engineer, may suspend, postpone, abandon, or terminate this Agreement for the convenience of the Municipality, for violation by the Consulting Engineer of any provision contained in this Agreement, or for any failure by the Consulting Engineer to render to the satisfaction of the Municipality the services required under this Agreement, including any failure to make acceptable progress with work required under this Agreement. Such action on the part of the Municipality shall in no event be deemed a breach of contract. Upon receipt of written notification from the Municipality that this Agreement is to be suspended, postponed, abandoned, or terminated, the Consulting Engineer shall immediately cease operations on work required under this Agreement. Upon receipt of written notification that this Agreement is to be abandoned or terminated, the Consulting Engineer shall also immediately assemble all material which is in its possession or custody and which has been prepared, developed, furnished, or obtained under the terms of this Agreement, and shall transmit the same, together with the Consulting Engineer's evaluation of the cost of the work performed, to the Municipality on or before the fifteenth day following the receipt of written notice of abandonment or termination. Said material shall include, but not be limited to, documents, plans, computations, drawings, notes, records, and correspondence. Upon receipt of this material, the Municipality shall make settlement with the Consulting Engineer in one of the following manners:

- (a) If the Municipality terminates this Agreement for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.
- (b) If the Municipality terminates this Agreement because the Consulting Engineer has failed to fulfill its obligations under the Agreement, the Municipality may complete the work required hereunder by contracting with another party or by any

other means, and the Consulting Engineer shall be liable for any additional costs incurred by the Municipality in doing so.

- (c) If the Municipality, after terminating the Consulting Engineer for alleged failure to fulfill its obligations under this Agreement, determines that the Consulting Engineer has not failed to fulfill those obligations, the rights and remedies of the parties shall be the same as if the Municipality had terminated the Agreement for convenience.

In determining the basis for such equitable settlement for items (a), (b), and (c) as indicated above, the Municipality shall take into account any monies owed the Consulting Engineer for work previously performed under this Agreement, less any payments previously made for said work, and the amount of reimbursable expenses incurred by the Consulting Engineer, less any payments previously made, to reimburse the Consulting Engineer for those expenses.

The Consulting Engineer agrees to accept the Municipality's valuation of the work performed under this Agreement, and the Municipality will not be liable for any profit that the Consulting Engineer expected or might have expected to make on portions of the Project work that have not been performed.

If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the Project, the Consulting Engineer may not make a claim against the Municipality in any form or forum for loss of anticipated profit or for any other reason related to the Project or this Agreement.

The rights and remedies of the Municipality under this Article are in addition to any other rights and remedies that the Municipality may possess by law under this Agreement.

Decisions of the Municipality on matters discussed in this Article shall be final and binding.

(16) PROGRESS REPORTS

To submit monthly progress reports, in quadruplicate, by calendar months to the Municipality showing the percentage of construction work performed to date. These progress reports, together with copies of certified monthly payrolls for all approved personnel, and such other supporting data as may be required, shall be subject to examination and approval by the Municipality and the State.

(17) PAYMENT TO THE CONSULTING ENGINEER

To accept payment for all services rendered in connection with this Agreement, in accordance with the sum or sums hereinafter stipulated in Paragraphs (40) and (41) of this Agreement.

(18) SUBMITTAL OF ESTIMATES AND FINAL DOCUMENTS/SUBMISSION OF CERTIFIED STATEMENT

To prepare and submit for approval construction contractor's monthly/semimonthly estimates and a final construction estimate. The final estimate shall be supported by a complete set of all pertinent job records and shall be furnished to the Municipality within the time frame stipulated herein.

To furnish the following documents to the Municipality within sixty (60) calendar days of the completion date of construction as noted on the CON-82.

- (1) (a) Final Estimate, (b) Index of Construction Orders, (c) Records of Daily Cost Plus, (Form CON-9), (d) Receipted Bills Supporting Cost Plus, (e) Final Construction Order, (f) Statement of Credits due the State, if applicable, and (g) Substantiating Evidence, if escalator clause is invoked, (h) Construction Report, (i) Statement of Working Days, (j) Breakdown of Participating and Non-Participating Cost by Project, (k) Substantiation of Payments made to D.B.E.'s or S.B.E.'s and a determination on recommended monetary assessments for failure to meet contract assignment goals for D.B.E.'s or S.B.E.'s work performance and any other required documents.
- (2) When requested by the Municipal Administrator, the complete set of original contract drawings (plans) showing as-built details for the plans, profiles, cross-sections and all diaries, field books, and other data in conformance with the requirements of the Construction Manual. The Consulting Engineer further agrees to submit, upon completion of construction, a statement certified by a professional engineer licensed in the State of Connecticut. This statement shall verify that the project, as built, conforms to the contract plans and/or the contract plans as modified by the construction orders approved by the Municipality and the State in all instances and that work performed and materials furnished comply with the requirements of the plans, specifications, and orders of the Municipality, and that all payments to the construction contractor are in conformance with the specifications.

If it is determined that the documents in (1) and (2) of this Article cannot be furnished within sixty (60) calendar days of the completion date of construction as noted on the CON-82, then by the forty-fifth (45th) day, the Consulting Engineer shall provide the Municipality with a listing of documents/information still required from the Contractor. At that time, a determination will be made by the Municipality on whether the Consulting Engineer will be extended to complete the remaining documents or whether the Municipality will complete the remainder.

If for causes within his control, the Consulting Engineer fails to furnish the Municipality with the documents noted in (1) and (2) of this Article within the allotted time, the Municipality may assess Consulting Engineer:

- a) Liquidated damages in the amount of Two Hundred Forty Dollars (\$240) per calendar day for each day beyond the stipulated sixty (60) calendar days until submission of the required documents, and
- b) Correction of errors and/or omissions will be made at the Consulting Engineer's own expense.

(19) AGENT FOR SERVICE OF PROCESS

That the Secretary of State of the State of Connecticut (including any successor thereto) is hereby appointed by the Consulting Engineer as its agent for service of process for any action arising out, or as a result, of this Agreement, such appointment to be in effect throughout the life of this Agreement including any supplements hereto, and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

(20) SUBMITTAL OF CERTIFIED PAYROLL

To submit to the Municipality each month two (2) copies of a certified payroll, on a form acceptable to the Municipality, of the Consulting Engineer's own field forces and those of approved subcontractors. These payrolls shall be used as a basis in computing each month's payment. The certification shall be dated, signed, and read as follows: "I (Name of Consulting Engineer or Subcontractor), do hereby certify that during the period covered by this payroll, all personnel shown were working on the project, and their salary, rate of compensation, hours worked, and amount earned, is a true and accurate report". The personnel shown on the certified payroll, their employment and duration of employment, salary or hourly rate, hours of work, including overtime, if any, overtime rate, and all changes in status of any of the beforementioned information, shall have the prior written approval of the Municipality.

(21) COVENANT AGAINST CONTINGENT FEES

The Consulting Engineer agrees and warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consulting Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consulting Engineer, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the payments due the Consulting Engineer, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(22) MAINTENANCE AND AUDIT OF RECORDS

The Consulting Engineer agrees to incorporate the entire Maintenance and Audit of Records article of this Agreement, in all subconsultant agreements.

- (a) Project Accounts

The Consulting Engineer shall maintain an accounting system that is adequate to segregate and accumulate reasonable, allocable costs and maintain accounts and records in accordance with generally accepted accounting principles consistently applied.

(b) Allowable Costs

The authority for determining allowable costs under the Agreement shall be "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2," which is incorporated herein by reference.

(c) Audit and Inspection of Records

The Consulting Engineer shall permit the authorized representatives of the Municipality, the State, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the Consulting Engineer relating to his performance under the Agreement until the expiration of three (3) years after final payment under this Agreement.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation, upon request, a detailed job cost report of all project costs incurred under this Agreement.

The Consulting Engineer further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Municipality, the State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes work not exceeding \$25,000.00.

The periods of access and examination described above, for records which relate to (1) appeals for disputes, (2) litigation of the settlement of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by the Municipality, the State, the Comptroller General, or any of their duly authorized representatives, shall continue until final disposition of all such appeals, litigation, claims, or exceptions.

In accordance with Title 23 CFR, Chapter 1, Part 172.7(d), the Connecticut Department of Transportation as recipient or subrecipient of federal-aid highway funds, may share the audit information in complying with the State or subrecipient's acceptance of a Consulting Engineer's overhead rates provided that the Consulting Engineer is given notice of each use and transfer.

(d) Record Retention

The Consulting Engineer agrees that it shall preserve all of its

records and accounts concerning the implementation of this Agreement including, but not limited to, any records, books, or other documents relative to charges, including charges for Extra Work, alleged breaches of agreement, settlement of claims, soils and foundation services, or any other matter involving the Consulting Engineer's or Subcontractor's demand for compensation by the Municipality for a period of not less than three (3) years from the date of the final payment under this Agreement. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

(e) Annual Audit of In-House Unit Cost Rates

The Consulting Engineer agrees to have a CPA perform an audit of any in-house unit cost rate(s) billed by the Consulting Engineer. The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The schedule(s) which detail the computation of the audited unit cost rate(s) must present the individual expenses applicable and the actual usage which is the basis for the unit cost rate(s). The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2". This audit may be submitted with the audit of indirect costs. Failure to submit this audit will result in any costs billed by the Consulting Engineer for in-house charges to be considered ineligible for reimbursement.

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year during the term of this agreement

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of audits of the in-house unit cost rates issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

(f) Annual Audit of Indirect Costs

The Consulting Engineer agrees to prepare a "Schedule of Indirect Costs" from its operations for each fiscal year which the Agreement covers. The schedule shall consist of direct labor costs and indirect costs listed by accounts for home office design and construction engineering/inspection (field) projects, if applicable.

The Consulting Engineer agrees to have this schedule audited by an independent Certified Public Accountant (CPA). The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year for which the Agreement covers.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of Indirect Cost audits issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in the "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward within thirty (30) days of issuance, a copy of the company's annual financial schedule audit to the Office of External Audits of the Connecticut Department of Transportation.

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

The Consulting Engineer also agrees it shall make arrangements with their Certified Public Accountant to have copies of their working papers forwarded to the Office of External Audits of the Connecticut Department of Transportation when requested.

(23) COMMENCEMENT OF SERVICES

That the Consulting Engineer shall not begin performance under the terms of this Agreement until notified by the Municipality in writing. With written authorization from the Municipality, the Consulting Engineer may commence operations prior to the start of the construction contract.

(24) DIRECT COST ITEMS

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy No. F&A-34, April 21, 2005, Subject: Policy on the Acquisition and Inventory of Equipment Purchased by Consultants".

(25) CARE OF MUNICIPALLY-OWNED EQUIPMENT

That the Consulting Engineer will assume full responsibility for the



use and care of all Municipally-owned equipment issued for use on the Project. This equipment is to be returned to the Municipality upon completion of the Project in good condition. The Consulting Engineer will replace at no cost to the Municipality any Municipally-owned equipment which is lost or damaged except for normal wear and tear, as determined by the Municipality, while in the Consulting Engineer's possession.

(26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS

That while engaged in performing the provisions or terms of this Agreement, the Consulting Engineer will ensure that the following steps will be adhered to concerning claims of injury or damage due to the construction contractor's operations:

- (a) That the Consulting Engineer will advise all claimants to submit the claim in writing to the Municipality, which for the purpose of this Paragraph will be interpreted to mean the Municipal Administrator at the appropriate address.
- (b) That the Consulting Engineer will record for the project file pertinent information concerning claims or potential claims including name, date, time, and nature of the claim or potential claim as these claims/potential claims become apparent.
- (c) That the Consulting Engineer will file a report for the project records if required to do so by the Municipality.

(27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT

That the Consulting Engineer agrees in case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern, and that wherever a blank ( ) or the words "DOES NOT APPLY" appears in all copies of this Agreement, this represents a deletion of a condition which does not apply to this contract.

(28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Disadvantaged Business Enterprises For Federal Funded Projects", as set forth in Exhibit A, Schedule 1 (attached herewith) dated February 26, 2009.

(29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) DOES NOT APPLY

~~The Consulting Engineer shall cooperate with the State in implementing the required contract obligations concerning "Small Contractor" and/or "Small Contractor Minority Business Enterprises" utilization on this Agreement in accordance with Section 32-9e of the Connecticut General Statutes, as revised. The Consulting Engineer shall comply with this provision in accordance with the "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)", as set forth in Exhibit A, Schedule 2 (attached herewith) dated March, 2001.~~

~~The State advises the Consulting Engineer that failure to carry out the~~

~~requirements set forth in said "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set Aside)" shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.~~

(30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in the Commissioner's Letter dated October 26, 1988 Re: Prompt Payment to Subcontractor(s), as set forth in Exhibit A, Schedule 3 (attached herewith) as revised.

The Consulting Engineer shall pay the subcontractor for work performed within thirty (30) days after the Consulting Engineer receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work.

For the purpose of this Article satisfactory completion shall have been accomplished when:

(1) The subcontractor has fulfilled the contract requirements of both the Municipality and the subcontract for the subcontracted work, including the submission of all submittals and audit requirements stipulated in Article 22(f), when applicable, and

(2) The work done by the subcontractor has been reviewed and accepted by the Municipality and final approval of the subcontractor's work has been determined and agreed upon.

If the Consulting Engineer determines that a subcontractor's work is not complete, the Consulting Engineer shall notify the subcontractor and the Municipality, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Municipality within twenty-one days of the subcontractor's request for release of retainage.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Consulting Engineer to comply with the provisions of this section will be reflected in the "Consultant Performance Evaluation" for future projects.

(31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG

The Consulting Engineer understands and agrees that a "Connecticut Department of Transportation Subconsultant Payment Log" Form shall be completed quarterly (January, April, July, and October) and furnished to the Municipality for each subcontractor the Consulting Engineer utilizes under this Agreement. Instructions for completing and processing this Form are stipulated on its reverse side. A copy of said form is included herewith.

(32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS

The Consulting Engineer shall comply with all the State and Federal Statutory and Administrative requirements incorporated herein by reference and set forth in Exhibit A attached hereto, and all Schedules attached hereto which are also hereby made a part of this Agreement.

**RESPONSIBILITY OF THE MUNICIPALITY:**

**THE MUNICIPALITY AGREES**

**(33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY**

To furnish to the Consulting Engineer one copy or more as may be required of the latest edition of the following manuals and/or documents:

- Connecticut Department of Transportation Specifications for Location Surveys
- Construction Manual
- Municipality Manual
- Information Pamphlet
- All maps, location and descriptions of coordinate values of existing points, locations and elevations of existing bench marks, and any other layout information that is available
- Original construction contract drawings (plans) for the project to be revised in accordance with Paragraph (1)(i).
- Standard Specifications - Form 816
- Public Service Facility Policy
- Project inspection record books and standard State forms
- Preliminary computations and Grade list
- Pamphlet for Monitoring Performance and Payment Requests for Consultants, dated June 1994, and any amendments

The Municipality agrees to furnish any publications of the Municipality and/or the State, requested by the Consulting Engineer, for use in inspection of the project.

**(34) MUNICIPALLY ASSIGNED ADMINISTRATOR**

To assign a Municipal Administrator who will provide general supervision of the Consulting Engineer's activities.

**(35) MUNICIPALLY PROVIDED EQUIPMENT**

Provide space or a field office with office equipment on or near the project which will have adequate space for the Consulting Engineer's staff, and the Municipality's Municipal Administrator, as specified in

the Standard Specifications.

(36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY

To advertise, receive bids and award the construction contract, and to conduct a preconstruction meeting for the project.

(37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (a) To perform or arrange for the performance of all off-site shop and mill inspections and laboratory tests and analysis of those classes of material which are normally inspected, tested, and analyzed prior to delivery to the site of the work.
- (b) To perform the so-called Proctor Laboratory Density test to determine the relationship between the moisture content and density of various fill materials to be used on the project in accordance with AASHTO T-180, Method D.
- (c) To arrange for the District or State Laboratory to transport and test all material sampled by the Consulting Engineer under the terms set forth in Paragraph (1) (g) of this Agreement.

(38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE

Notwithstanding the requirements of Section 1, the Municipality and/or the State will provide technical assistance and/or engineering recommendations relative to construction or design-related issues associated with the project.

(39) FINAL INSPECTION

To make final inspection of the construction contract within ten (10) calendar days after the construction work is completed.

**ARTICLES OF MUTUAL AGREEMENT**

**THE MUNICIPALITY AND THE CONSULTING ENGINEER MUTUALLY AGREE:**

(40) PAYMENT

That subject to the limitations stipulated in Paragraph (41) of this Agreement, the Municipality shall pay the Consulting Engineer in the following manner for all work performed in accordance with the terms of this Agreement with the exceptions of those services for which a different method of payment is stipulated:

The Consulting Engineer and subconsultants may bill direct costs for meals, subsistence and transportation, if applicable, in accordance with the latest State Travel Regulations-State Managers limiting amounts. All mileage, including that for rental cars, will be reimbursed at the current mileage rate only. Actual cost shall be: (1) salaries of employees directly chargeable to the project at rates not to exceed those shown in Paragraph (44); and (2) burden, fringe and overhead costs properly allocable to the project. For 2XXX, the tentative percentage for field office operations will be \_\_\_\_%.

This percentage will be revised annually based on a State approved audit of burden, fringe and overhead costs of the previous years experience. The term "Salaries" as used in this Agreement shall mean the gross wage or payment made to employees before deductions for employee paid taxes and fringe benefits. The final determination of the sum to be paid for actual costs will be made following an audit of the Consulting Engineers records. The certified payroll shall cover salaries computed at straight-time rates. The certified percentage for burden, fringe, and overhead shall be applied only to the "straight-time" portion of overtime pay. No payment shall be made to partners or officials of the firm for those services unless they are engaged in production work in which case compensation will be made at production rates.

(41) MAXIMUM PAYMENT

That the maximum amount which the Municipality shall pay to the Consulting Engineer for all work performed under the terms of this Agreement, excepting work for which payment is provided in Paragraph (43), shall not exceed (\$491,000.00. The total payment for Extra Work shall not exceed(\$49,000.00). The total payment for work performed under this Agreement, including Extra Work shall not exceed (\$540,000.00). The maximum amount will not be revised unless there is a substantial change in the scope or character of the work to be performed by the Consulting Engineer which would justify a revision of this figure, as determined by the Municipality; or if, for any reason, the Consulting Engineer does not or cannot start his work prior to or in sufficient time to meet the construction contractor's schedule of operations, and the Municipality finds it necessary to provide certain inspection and survey services, the limiting amount and fixed fee shall be reduced an equitable amount to reflect the Municipality's expense in connection therewith.

(42) PROGRESS PAYMENTS

That progress payments shall be made to the Consulting Engineer on a monthly basis for all work covered by this Agreement except work for which payment is provided in paragraph (43). Said progress payment to be the sums of the following: (a) the actual costs shown on the voucher for the period, plus (b) eighty-five percent (85%) of the appropriate fixed fee amount for profit stipulated in paragraph (40) divided by the number of monthly periods in the total time allowed for completion of the construction work and closeout period. From the progress payments thus computed each month there shall be deducted all credits, if any, due the Municipality. Prior to the final payment, the Municipality may release such portion or portions of the retainage as it considers to be in its best interest. In no case, however, will the retainage be reduced to less than eighty-five (85%) of the fixed fee amount stipulated in paragraph (40) of the Original Agreement until after completion of the final audit.

The Consulting Engineer may request the substitution of securities for retainage in accordance with Connecticut General Statutes Section 3-112a.

(43) PAYMENT FOR EXTRA WORK

- (a) Extra work approvals associated with increases in costs for:
- an extension of construction contract time.
  - changes or refinements in work assignments, operations or staffing levels.
  - increases in premium overtime or shift differential cost.
  - investigation of claims.
  - escalated burden, fringe, and overhead costs based on audit results.

A fee, established through negotiations, will be paid from extra work funds under Paragraph (41) of this Agreement to the extent that these funds are available. The Consulting Engineer will be paid based on a certified monthly payroll including burden, fringe and overhead. No additional fixed fee for profit associated with payroll increases identified above will be considered unless the work period specified in Paragraph (3)(d) is exceeded and the extra work funds established under Paragraph (41) have been fully utilized. Extra work approvals that will exceed the amount stipulated in Paragraph (41) of this Agreement or the work period specified in Paragraph (3)(d) will be paid for under a supplemental agreement based on a negotiated fee for services.

- (b) Extra work approvals associated with approved design changes that require engineering work at the main or home office of the Consulting Engineer shall be paid on a certified monthly payroll plus the burden, fringe and overhead cost and a fixed fee for profit. Extra work associated with design changes shall be based on a scope of services provided by the Municipality and a negotiated fee for these services. No additional payment will be made for authorized minor design changes that can be made in the field by the Consulting Engineer.
- (c) Extra work approvals for claims investigations assigned to the Consulting Engineer after final payment has been made or investigation that will exceed the calendar days stipulated in Paragraph (3)(d) will be based on a scope of services provided by the Municipality and a negotiated fee for these services. The Consulting Engineer will be paid based on a certified monthly payroll plus burden, fringe and overhead cost and a fixed fee for profit.

(44) MAXIMUM HOURLY RATES

That the following maximum hourly rate for each classification of employee to be used on the project shall be as follows and additional classifications if required must be submitted to the Municipality for prior approval.

| <u>Classifications</u>                      | <u>Maximum Hourly Rates</u><br><u>Effective through 2024</u> |                |
|---------------------------------------------|--------------------------------------------------------------|----------------|
|                                             | <u>Certified Payroll</u>                                     | Maximum Hourly |
|                                             | <u>Actual Hourly</u>                                         | Rates          |
| Construction <del>Coordinator</del> Manager |                                                              | \$175 per hour |
| Chief Inspector                             |                                                              | \$160 per hour |
| Inspector                                   |                                                              |                |
| <del>Surveyor</del>                         |                                                              |                |
| <del>Rod Man</del>                          |                                                              |                |
| <del>Secretary</del> Senior Inspector       |                                                              | \$145 per hour |

\*\*\* The Contracting Engineer shall use the following maximum hourly rates until the Department of Transportation Commissioner sends written notification rescinding the wage freeze.

\*\*\*\* The Contracting Engineer may use the above maximum hourly rates prospectively only upon written notification by the Department of Transportation Commissioner that the wage freeze has been rescinded.

The above maximum hourly rates of pay shall be subject to renegotiation should the work required under this Agreement not be completed as stipulated in Paragraph (3)(d). Any adjustment to the maximum hourly rates stated above shall apply only to such services as may be rendered subsequent to the date of renegotiation as stipulated above. Overtime work, when authorized by the Municipality, shall be paid for by the Municipality at "straight-time" rates except when otherwise required by law or regulation or when otherwise approved by the Municipality. The surcharge for burden, fringe and overhead shall be applied only to the "straight-time" portion of any overtime pay.

(45) ACCEPTANCE DATE

That the acceptance date of the work of this Agreement shall be established as the date the Municipality is in receipt of all papers and documents required in this Agreement. Within thirty (30) days of acceptance, the Consulting Engineer shall submit a final payment voucher for monies due him. If the Consulting Engineer fails to submit this voucher within the specified time, the Municipality may process a final payment voucher based on the available information.

(46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF TOWN OF FAIRFIELD

That the attached Certification of Consulting Engineer and Certification of the Town of Fairfield, as set forth in Exhibit A, Schedule 4, (attached herewith) as revised.

(47) FEE ADJUSTMENT

That the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Municipality determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(48) NOTICE BETWEEN PARTIES TO AGREEMENT

That it is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a) - be in writing (hardcopy) addressed to:

(i) When the Municipality is to receive such notice -

William A. Gerber, First Selectman  
Sullivan Independence Hall  
725 Post Road  
Fairfield, CT 06824

With a copy to:

Philip C. Pires, Esq.  
Town Attorney  
Cohen and Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

(ii) When the Consulting Engineer is to receive such notice -

the person(s) acting herein as signatory for the Consulting Engineer receiving such notice;

**Ronald J. Nault, P.E., President**  
**Luchs Consulting Engineers, LLC**  
**89 Colony Street**  
**Meriden, CT 06451**

b) - be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and

c) - contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "official notice" as used herein, shall be construed to include but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change, revision, addition to or deletion from the document, contract, or



agreement in which this "official notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the parties hereto from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

- (49) REVISIONS IN ORGANIZATION OF CORPORATION USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (49) below ~~DNA~~

That the Consulting Engineer shall notify the Municipality in writing when there is a change in its Connecticut Certificate of Registration for the Corporate Practice of Engineering or Land Surveying by a corporation or limited liability company in the State of Connecticut or a change in the individual(s) in charge of the work specified herein. Neither change shall relieve the Consulting Engineer of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.

- (49) ~~REVISIONS IN ORGANIZATION OF PARTNERSHIP USE ONLY IF PARTNERSHIP~~  
~~otherwise mark DNA and use (49) above~~ **DNA**

~~That the Municipality, on written notice by the Consulting Engineer of changes in the partnership structure of the organization, may enter into a supplemental agreement with the new partners providing releases are provided from the former partner, or partners, stating that he has been compensated in full or that provision has been made for compensation in full for all work performed under terms of this Agreement and a financial statement is submitted showing that solvency of the partnership is maintained. The death of a partner shall not release the partnership from the performance of this Agreement and the remaining functions must be performed by the surviving partner(s) until the terms of this Agreement are fully executed. The withdrawal of any partner from the partnership shall not relieve him from his liability for performance of this Agreement.~~

- (50) OWNERSHIP OF DOCUMENTS

That all products of the work under the terms of this Agreement shall become and remain the property of the Municipality. This shall include all partially completed work in the event that the Agreement is terminated before completion for any reason.

- a) The Consulting Engineer shall transfer to the Municipality, as part of the consideration for this Agreement, any and all copyright rights or other proprietary interests which the Consulting Engineer may have in materials ("Work Products") produced by it under the terms of this Agreement; and that the Consulting Engineer shall, whenever so requested by (the Municipality), sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality a letter agreement, in form and content satisfactory to the Municipality, stating that the Consulting Engineer thereby

irrevocably transfers to the Municipality all of its copyright and other proprietary rights in the Work Products designated by the Municipality in its related request.

- b) If deemed appropriate by the Municipality in its sole discretion, the Consulting Engineer shall agree that any or all Work Products shall be deemed a work of joint authorship by the Municipality and the Consulting Engineer for copyright purposes, and shall be registered as such with the United States Copyright Office. The Consulting Engineer hereby waives any right to oppose or object to such a claim of joint authorship or to such related copyright registration.
- c) The Consulting Engineer shall not engage or allow any party ("Other Party") other than itself or the Municipality to contribute directly to the creation of any Work Product unless the Consulting Engineer has first obtained from said Other Party a written agreement ("Secondary Agreement") containing essentially the same terms as Section B above; i.e., the Other Party
  - 1) shall agree to transfer to the Municipality any and all copyright or other proprietary rights said Other Party may have in designated Work Products, or, if the Municipality so requests, shall agree to deem such Work Product a work of joint authorship by the Municipality and by Other Party, and, if appropriate, by the Consulting Engineer also; and
  - 2) shall agree to sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality any letter agreement ("Letter Agreement") of the kind described in Section b) above which the Municipality shall request from it. The Secondary Agreement between the Consulting Engineer and an Other Party shall provide expressly that any such Letter Agreement delivered by the Other Party to the Municipality shall be directly enforceable by the Municipality, and that the execution, delivery, and enforceability of such a Letter Agreement are part of the consideration for the Secondary Agreement.

(51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)

That the Municipality makes no express or implied warranty of any kind with regard to the particular Computer Aided Design and Drafting File(s) provided to the Consulting Engineer under this Agreement, if any, its documentation, or its fitness for any purpose, including but not limited to the implied guarantees of fitness for a particular purpose. The Municipality shall not be held liable for errors contained herein, or for any consequential or incidental damages which may arise in connection with the use, performance, duplication, modification, transfer or distribution of these files or copies thereof.

(52) PAYMENT OF RECOVERABLE COSTS DUE TO THE MUNICIPALITY

The Municipality shall have the right to set off against amounts

otherwise due to the Consulting Engineer under this Agreement or under any other agreement or arrangement that the Consulting Engineer has with the Municipality (a) any costs that the Municipality incurs which are due to the Consulting Engineer's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Consulting Engineer to the Municipality. Any sum taken in set-off from the Consulting Engineer shall be deemed to have been paid to the Consulting Engineer for purposes of the Consulting Engineer's payment obligations under Connecticut General Statute Section 49-41c.

(53) JURISDICTION AND FORUM LANGUAGE

This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of laws principles would dictate otherwise. This Agreement shall be deemed to have been made in Fairfield, Connecticut. Nothing herein shall be construed to waive any of the Municipality's immunities.

(54) ~~SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP~~ DNA

~~The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Small Business Participation Pilot Program SBPPP as Subcontractors and Material Suppliers or Manufacturers", as set forth in Exhibit A, Schedule 11 (attached herewith) dated May 12, 2010.~~

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

TOWN OF FAIRFIELD

\_\_\_\_\_  
Typed Name:

By \_\_\_\_\_ (Seal)  
Typed Name:- William A. Gerber  
Its First Selectman

\_\_\_\_\_  
Typed Name:

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

Luchs Consulting Engineers, LLC

\_\_\_\_\_  
Typed Name: Dawn Crandall

By \_\_\_\_\_ (Seal)  
Typed Name: Ronald J. Nault, P.E., President

\_\_\_\_\_  
Typed Name: Paula Kusmit

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

CONNECTICUT CORPORATE ENGINEERING  
PRACTICE -- CERTIFICATE OF  
AUTHORIZATION NO. JPC 0000061

EXHIBIT A  
and Schedules 1 through 11

**THE CONSULTING ENGINEER AGREES:**

**1. GOVERNMENTAL AGENCY EXEMPTION**

That the Consulting Engineer hereby acknowledges and agrees to comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The attached copy of the "Governmental Agency Exemption Certificate", as set forth in Exhibit A, Schedule 5 (attached herewith).

**2. CODE OF ETHICS FOR STATE EMPLOYEES DOES NOT APPLY**

~~The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 6 (attached herewith).~~

**3. CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS DOES NOT APPLY**

~~The Consulting Engineer shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:~~

- ~~(a) No person hired by the State as a Consulting Engineer or independent contractor shall:~~
- ~~(1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;~~
  - ~~(2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or~~
  - ~~(3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.~~
- ~~(b) No person shall give anything of value to a person hired by the State as a Consulting Engineer or independent contractor based on an understanding that the actions of the Consulting Engineer or independent contractor on behalf of the State would be influenced.~~

#### 4. EXECUTIVE ORDERS

##### A. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Consulting Engineer's request, the Department shall provide a copy of these orders to the Consulting Engineer.

#### 5. NON-DISCRIMINATION

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Consulting Engineer.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations

adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor

shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. CAMPAIGN CONTRIBUTION AND SOLICITATION BAN **DOES NOT APPLY**



~~For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this agreement/contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice set forth in Exhibit A, Schedule 7 (attached herewith).~~

#### 7. PRIVATIZED PUBLIC RECORDS

The following Article is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more. The Department is entitled to receive a copy of records and files related to the performance of the Consulting Engineer under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the Department pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the Department in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

#### 8. OVERSIGHT OF LARGE STATE CONTRACTS DOES NOT APPLY

~~The following Article is applicable to those contracts with an aggregate value of Five Million Dollars (\$5,000,000) or more. If an officer, employee or appointing authority of the Consulting Engineer takes or threatens to take any personnel action against any employee of the Consulting Engineer in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), the Consulting Engineer shall be liable for a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the Department may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.~~

~~The Consulting Engineer shall post a notice of the provisions of this section in a conspicuous place which is readily available for viewing by the employees of the Consulting Engineer.~~

#### 9. CIVIL RIGHTS

As a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Consulting Engineer shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.),

all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances set forth in Exhibit A, Schedule 8 (attached herewith).

#### 10. CERTIFICATION FOR FEDERAL AID CONTRACTS

That the Consulting Engineer certifies, by signing and submitting this Bid, Agreement, Contract, Proposal, to the best of his/her/its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consulting Engineer, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consulting Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. If applicable, the Exhibit A, Schedule 9 (attached herewith), Disclosure Form-LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consulting Engineer also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this certification be included in all subcontracts, sub-subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317456, Newington, CT 06131-7546, to the attention of the project manager.

#### 11. SUSPENSION OR DEBARMENT

That suspended or debarred contractors Consulting Engineers,

suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

- 1) That the signature on the Agreement by the Consulting Engineer shall constitute certification that to the best of its knowledge and belief the Consulting Engineer or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or any position involving the administration of Federal or State funds:
  - a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Has not within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1)b. of this certification; and
  - d. Have not within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the Consulting Engineer is unable to certify to any of the statements in this certification, such Consulting Engineer shall attach an explanation to this Agreement.

The Consulting Engineer agrees to insure that the following certification be included in each Subcontract Agreement, to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

- a. The prospective subcontracts, sub-subcontracts participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.

- b. Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certifications, such prospective participant shall attach an explanation to this proposal.

## 12. AMERICANS WITH DISABILITIES ACT

This clause applies to those Consulting Engineers who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act"), Public Law 101-336, during the term of the Agreement. The Consulting Engineer represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Consulting Engineer to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Consulting Engineer. The Consulting Engineer warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Consulting Engineer to be in compliance with this Act, as the same applies to performance under this Agreement.

## 13. FEDERAL OBLIGATION TO THIRD PARTY

(1) The Purchaser and Consulting Engineer acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consulting Engineer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Consulting Engineer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Consulting Engineer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consulting Engineer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consulting Engineer further acknowledges that if it makes, or causes to be made, a

false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consulting Engineer to the extent the Federal Government deems appropriate.

(2) The Consulting Engineer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consulting Engineer, to the extent the Federal Government deems appropriate.

(3) The Consulting Engineer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### 15. ENERGY CONSERVATION

The Consulting Engineer agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### 16. FLY AMERICA REQUIREMENTS

The Consulting Engineer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consulting Engineer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consulting Engineer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 17. CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS "SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES"

That the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities," as set forth in Exhibit A, Schedule 10 (attached herewith) dated March 3, 2009.

## 18. AMERICAN RECOVERY AND REINVESTMENT ACT

The following Article only applies to projects funded under the American Recovery and Reinvestment Act of 2009.

For the purposes of this Article, "Contractor" means any prime contractor, consulting engineer, or other entity contracting with the State of Connecticut Department of Transportation ("DOT") or a Municipality undertaking a project ("Project") funded under the American Recovery and Reinvestment Act of 2009 ("Act"). Additionally, to the extent that a Municipality is employing its own staff to undertake work on the Project, solely with respect to such work by its staff, the Municipality itself is likewise subject to the requirements herein that are imposed on the Contractor. A Project undertaken by a Municipality is identified herein as a "Municipality-administered Project," and a Project undertaken by DOT is identified herein as a "DOT-administered Project."

(1) The Contractor agrees to accurately and timely record and report, in accordance with the requirements of the Act and additional guidelines, policies and regulations issued or promulgated pursuant to the Act, information regarding jobs or positions created or retained in Connecticut, the United States and outlying areas as a result of funding provided through the Act for the Project, including, but not limited to, the following requirements:

A. The Contractor shall accurately complete and submit to DOT or the Municipality, as applicable, on a monthly basis from commencement through completion of its work on the Project, an employment report using Form FHWA-1589 available at:<http://www.fhwa.dot.gov/economicrecovery/forms/fhwa1589.xls> ("Monthly Employment Report").

B. No later than seven (7) calendar days after the last calendar day of the month being reported ("Seven Day Submission Requirement"), the Contractor shall:

- (i) With respect to DOT-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to DOT by e-mail to: [Theodore.Szymanski@ct.gov](mailto:Theodore.Szymanski@ct.gov), with a copy to [Philip.Scarrozzo@ct.gov](mailto:Philip.Scarrozzo@ct.gov); and also submit a hard copy, to the applicable DOT District office for inclusion in the Project file, signed by an authorized representative of the Contractor;
- (ii) With respect to Municipality-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to the Municipality's designated employee by email or other electronic means as instructed by the Municipality; and
- (iii) Provide a consistent filename for each Monthly Employment Report in the format ContractNumberMonthYear.xls (e.g., #####MAY09.xls);

C. Each of the Contractor's subcontractors and second-tier subcontractors shall submit an employment report using Form FHWA-1589 ("Monthly Subcontractor Employment Report") in Microsoft Excel file format to the Contractor on a monthly basis within sufficient time to enable the

Contractor, in turn, to submit such Monthly Subcontractor Employment Report(s) to DOT or the Municipality, as applicable, by the Contractor's Seven (7) Day Submission Requirement. Failure by the collective subcontractors to timely submit such Monthly Subcontractor Employment Report(s) to the Contractor does not excuse the Contractor's obligation to submit its Monthly Employment Report within the required time.

(2) Receipt of funds pursuant to the Act under this Contract is contingent upon the Contractor meeting the reporting requirements of this Contract and any additional reporting requirements of the Act as may be required by the appropriate federal agency through its issuance of guidelines or promulgation of regulation(s).

a. The Contractor agrees that at any time during the Project, the Federal Highway Administration ("FHWA") and/or DOT, after notice, may change the reporting requirements herein. In that event, the Contractor and its subcontractor(s) and second-tier subcontractor(s) shall comply with such requirements.

b. DOT or the Municipality may take any action that FHWA authorizes for non-compliance with the reporting requirements set forth in Section 2 above.

(3) The Contractor agrees to comply with Sections 1605 and 1606 of the Act and any additional federal guidelines or regulations issued or promulgated thereunder.

(4) The following language is made a part of this Contract and shall be made part of all subcontracts and second tier subcontracts:

A. Access of United States Government Accountability Office, Section 902 of Title IX of Division A of the Act.

Pursuant to Section 902 of Title IX of Division A of the Act, the United States Comptroller General and its representatives may:

(1) examine any records of the Contractor or any of its subcontractors, or any State or local agency administering such Contract, that directly pertains to, and involve transactions relating to, the Contract or Subcontract; and

(2) interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the Contract, regarding such transactions.

Nothing in Section 902 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the United States Comptroller General.

B. Office of the Inspector General's Authority, Section 1515 of Title XV of Division A of the Act.

Pursuant to Section 1515, of Title XV of Division A of the Act, the United States Office of the Inspector General or any of its representatives may:

(1) examine any records of the Contractor or grantee, any of its

subcontractors or subgrantees, or any State or local agency administering such Contract, that pertain to, and involve transactions relating to the Contract, subcontract, grant, or subgrant; and

- (2) interview any officer or employee of the Contractor, grantee, subgrantee or agency regarding such transactions.

Nothing in Section 1515 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the Inspector General.

C. Whistleblower Protections. Section 1553 of Title XV of Division A of the Act prohibits all non-federal recipients of Act funds from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to Act funds; (2) a gross waste of Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Act funds; (4) an abuse of authority related to implementation or use of Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Act funds. The recipient of Act funds must post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the Act.

D. False Claims Act. The recipient of Act funds shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.



**ITEM 7**

**PROPOSED CONTRACT FOR PHASE 2 – EAST TRUNK  
INTERCEPTOR SEWER ENGINEERING SERVICES**

AGREEMENT  
BETWEEN THE TOWN OF FAIRFIELD  
AND  
Luchs Consulting Engineers, LLC  
FOR  
CONSTRUCTION ENGINEERING & INSPECTION

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NOTE: ANY ITEM STAMPED "DNA" OR "DOES NOT APPLY" IS HEREBY DELETED PRIOR TO THE EXECUTION OF THIS AGREEMENT WITH THE CONCURRENCE OF THE CONSULTING ENGINEER.

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- (49) REVISIONS IN ORGANIZATION
- (50) OWNERSHIP OF DOCUMENTS
- (51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)
- (52) PAYMENT OF RECOVERABLE COSTS DUE THE MUNICIPALITY
- (53) JURISDICTION AND FORUM LANGUAGE
- (54) SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP

## **AGREEMENT**

**THIS AGREEMENT** has been concluded at the Town of Fairfield Connecticut by and between the Town of Fairfield , duly authorized, hereinafter referred to as the Municipality, and Luchs Consulting Engineers, LLC a Corporation qualified to do business in Connecticut and having its office located at 89 Colony Street, Meriden, CT 06451

authorized to practice professional engineering in Connecticut under the provisions of Chapter 391 of the General Statutes of Connecticut, as amended, acting herein by Ronald J. Nault it's President, hereunto duly authorized, hereinafter referred to as the Consulting Engineer.

**WHEREAS**, the Municipality has determined, based on staffing requirements and/or special expertise requirements, that the services of a Consulting Engineer are required to perform construction engineering and inspection on inspection on Phase 2 – East Trunk Interceptor Sewer and;

**WHEREAS**, the Municipality has approved the contracting out for these services and;

**WHEREAS**, the Municipality has the authority to employ such assistance as it may require.

### **NOW, THEREFORE, KNOW YE THAT:**

#### **RESPONSIBILITY OF THE CONSULTING ENGINEER:**

#### **THE CONSULTING ENGINEER AGREES**

##### **(1) SCOPE OF SERVICES:**

To perform construction engineering and inspection, under the general supervision of a Municipal Administrator in conformance with the "Construction Manual - Connecticut Department of Transportation, Bureau of Engineering and Construction, Office of Construction, Version 2.2, January 2011, as amended", hereinafter referred to as the "Construction Manual", and the "Information Pamphlet for Consulting Engineers Performing Construction Inspection", dated August 2008, as amended, and hereinafter referred to as the "Information Pamphlet", and the "Municipality Manual, Connecticut Department of Transportation, Bureau of Engineering and Highway Operations, Office of Construction, Version 1, July 2008", hereinafter referred to as the "Municipality Manual". The Consulting Engineer will perform construction engineering and inspection in accordance with the policies and procedures of the State, as specified in these documents and in accordance with the scope of services listed in this Paragraph, which include, but are not limited to, the following:

#### SURVEY

- (a) All construction survey work with the exception of that work that is included in the construction contract to be accomplished by the Municipality's contractor as directed by the Municipal Administrator;
- (b) The checking of all construction operations and layout staking performed by the Municipality's contractor as directed by the Municipal Administrator;
- (c) All survey, construction staking, and layout work necessary for the accurate installation of fencing by the Municipality's contractor along the highway line, staking of non-access line, or other locations as directed by the Municipal Administrator;
- (d) Provide, through information obtained from the Municipality's Municipal Administrator, all controls for relocations and installations to be made by public utility companies, railroads, and governmental agencies, which have an effect or are affected by construction of the project as directed by the Municipal Administrator;
- (e) All work and measurements necessary for the computation of intermediate and final quantities such as, but not limited to, cross section measurements for borrow banks, rock excavation, structure excavation, excavation of unsuitable material and final cross section measurements along the completed roadway;

#### FIELD INSPECTION

- (f) Inspection of all construction activities performed by the Municipality's contractor, including the observance and reporting of work performed by public utility companies, railroads, and governmental agencies, within the project limits. When the reimbursement to the outside agency is on an actual costs basis, the Consulting Engineer will keep a daily record of man hours, equipment hours, and materials used, salvaged or scrapped in performing the work, on forms CON-40 and CON-41 and certain comparable railroad forms. He shall give sufficient inspection to utility relocation work to ensure conformance to the approved plan of relocation;
- (g) All on-the-job testing and sampling of materials as specified in the "Construction Manual" and "Information Pamphlet". Excepted from testing and sampling are those functions performed by the District Laboratory and/or the State Laboratory and not specifically made a responsibility of the Consulting Engineer. The Consulting Engineer agrees to properly lift and protect the test specimens until transported to the State Laboratory;

- (h) The performance of all necessary field density tests. The nuclear density gauge unit shall contain a full data processor, which holds all calibration constants necessary to compute and directly display wet density, moisture, and dry density either in pounds per cubic foot, or grams per cubic centimeter. The data processor shall compute and display the percent moisture and percent density on dry weight. The Consulting Engineer will be responsible for providing the gauge, calibration, and operation of the nuclear gauge;

#### CONSTRUCTION ENGINEERING

- (i) The technical investigation and/or analysis and recommendation for settlement of monetary or other claims brought against the Municipality and/or the State by Contractor(s) or others;
- (j) The coordination and implementation of all engineering, technical or administrative determinations made by the Municipality and/or the State;
- (k) To receive shop details and construction drawings from the Municipality's contractor and transmit same to the Municipality, the State or others for review and approval. These shop details and construction drawings shall include, but are not limited to, cofferdam details, pile loading tests, false work, and details of all other items required to assure their general compliance with design plans, specifications, and acceptable construction procedures and standards;
- (l) Consulting Engineer to review and provide engineering recommendations related to submittals, working drawings, and technical reviews of the work contemplated by the construction contract;
  - (m) To investigate and facilitate resolution to technical problems or design issues associated with the construction of the project;

#### ADMINISTRATIVE

- (n) To prepare and submit for approval all construction orders and all partial, monthly, and final Municipality's contractor's estimates;
- (o) To revise the original construction contract drawings (plans) to show the facility "as-built," as further defined in Paragraph (18);
- (p) The preparation of correspondence to the Municipality's contractors, fabricators, designers, and others, including reports, memoranda, requests for material tests, forms, and all other documents required for proper inspection of the construction project;

- (q) All other operations which become necessary to properly inspect the work of the construction contractor to determine his compliance with the following documents:

"State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction", Form 816, hereinafter referred to as "Standard Specifications",

Project Special Provisions and all other contract documents and memoranda,

"Public Service Facility Policy and Procedures for State Highways in Connecticut", dated June 1, 1987, hereinafter referred to as "Public Service Facility Policy".

(2) QUALIFICATIONS OF CONSULTING ENGINEER PERSONNEL:

That all personnel employed by the Consulting Engineer shall meet the minimum education, experience, training, and certification requirements for their applicable classification of employment as defined in the current edition of the "Information Pamphlet". In addition, all inspection personnel shall possess one of the following:

1. Registration as a Professional Engineer in Connecticut.
2. Engineer in Training Certification.
3. Bachelor of Science Degree in Civil Engineering or related field or an Associates Degree in Civil Engineering (Structural or Highway technology).
4. NICET Transportation Engineering Technology/Highway Construction certification (Level II or higher).
5. Level I enrollment in the NICET Transportation Engineering Technology/Highway Construction Certification Program. Level I will be used for training purposes only.
6. All Inspection Staff on bridge painting projects shall be certified at the NACE Intermediate Coating Inspection Level. All Resident Engineers or Chief Inspectors on bridge painting projects shall be NACE certified Coating Inspectors with the appropriate years of experience.

The Municipality has the right, during the term of this Agreement, to remove from the project any person or persons employed by the Consulting Engineer, who in the sole opinion of the Municipality has misconducted himself or herself or is incompetent in the performance of their assigned duties, or who neglects or refuses to require compliance with the Plans, Specifications, or Project Special Provisions. Such person or persons shall not be reemployed without the written consent of the Municipality. The Municipality reserves the right to prequalify the Consulting Engineer's supervisory and inspection personnel, determine the size of the inspection force required, and to direct the assignment and the reassignment of inspection personnel at its discretion, as deemed necessary by the Municipality.



(3) WORK PERIOD

- (a) Complete all work stipulated in Paragraphs (1) and (18) of this Agreement within 485 calendar days, commencing from the date stipulated by the Municipality in a formal notice to proceed. A calendar day shall be every day in the week, Saturdays, Sundays, and holidays included.
- (b) The Municipality may extend the allotted time beyond the period specified above when the work has been delayed for reasons beyond the control of the Consulting Engineer. The Consulting Engineer may present to the Municipality, in writing, request for extension of allotted time for completion of the work. The Municipality will evaluate such requests, and if the Municipality determines such requests are based on valid grounds, shall grant such extension of time for completion of the work as the Municipality deems warranted. All requests for extension of time must be made prior to the expiration of calendar days specified in Paragraph (3)(a) above. Decisions made by the Municipality relative to the granting of extension of time shall be final and binding.
- (c) The Consulting Engineer agrees that no charges or claim for damages or additional compensation including lost profit shall be made by the Consulting Engineer unless the allotted additional time constitutes extra work as defined in Paragraph (4) of this Agreement. Delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Municipality may determine, it being understood, however, that the permitting of the Consulting Engineer to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the Municipality of any of its rights herein.
- (d) The Municipality will not consider any proposal by the Consulting Engineer for renegotiation of the maximum payment exclusive of extra work specified in Paragraph (41) of this Agreement unless 485 calendar days have elapsed since the initial formal notice to proceed.

(4) EXTRA WORK

Make any revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or changes in operations performed by the Consulting Engineer as may be ordered by the Municipality or any of its duly authorized representatives at any time during the life of this Agreement. No additional payment will be made for such revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or operations, unless such changes constitute Extra Work.

Extra Work is defined as follows:

- (a) Such additional work as ordered by the Municipality beyond

the scope of this Agreement to the extent that such work will not be reflected in the payment for services specified in Paragraph (40) of this Agreement.

- (b) Such work as shall supersede or revise completed work that has been accepted in writing by the Municipality. Changes such as those to effect refinements in the work or inspection documents and such as those made necessary by errors, omissions, oversight or neglect on the part of the Consulting Engineer, will not be considered Extra Work.

In the event that changes in the Consulting Engineer's work or operations are suggested which, in the opinion of the Consulting Engineer, would result in Extra Work, he shall immediately submit complete documentation of the claim and upon the Municipality's concurrence shall submit an estimate of the cost for the Extra Work and refrain from working on the Extra Work item while the Municipality reviews the claim, or proceed otherwise if specifically directed by the Municipality. If approval is denied, the Consulting Engineer shall continue to process the work without delay and payment will be made according to the terms of this Agreement. No work, other than that for which a claim is being reviewed, shall be delayed pending a decision of the Municipality.

Unless the Consulting Engineer identifies and the Municipality acknowledges Extra Work prior to its performance, the Municipality will not be obligated to consider it as Extra work after the fact.

Extra Work costs shall be segregated by the Consulting Engineer to facilitate audit at a later date by the Municipality and the State or the Federal Highway Administration.

Extra Work that results in a cumulative fee exceeding the amount specified in Paragraph (41) shall be performed and paid for under a supplemental agreement specifically drawn for this work.

(5) ERRORS AND OMISSIONS BY THE CONSULTING ENGINEER

That any amount paid out by the Municipality arising from or resulting from errors, omissions, or failures on the part of the Consulting Engineer to meet professional standards of construction engineering and inspection, will be recovered from the Consulting Engineer by deductions from payments due him under the terms of this Agreement or other legal means. The Consulting Engineer shall be notified by the Municipality of any potential claim prior to the Municipality deducting amounts from payments due, he shall be afforded an opportunity to respond to and defend against such claim or alleged claim in an informal proceeding before the Municipal Administrator or his designee.

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF CORPORATION OR LLC~~  
~~otherwise mark DNA and use (6) below~~ **DNA**

~~Assume full responsibility for the accuracy of all products of its work under this Agreement including any supplements thereto, and shall so indicate by affixing the Connecticut Certificate of Registration Number for the Corporate Practice of Engineering by a corporation or limited~~

~~liability company on the Title Sheet(s) of all plans and/or documents, as well as the signature and Connecticut Professional Engineer's Seal of the individual(s) in charge of the work performed under the terms of this Agreement. Each individual listed on the said Connecticut Corporate Certificate of Registration as an engineer or land surveyor for a corporation or limited liability company, or so listed on the subsequently amended Corporate Certificate of Registration, shall be registered as a Professional Engineer or Land Surveyor (whichever is appropriate) in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Examiners for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform Consulting Engineer and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.~~

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF PARTNERSHIP otherwise~~  
~~mark DNA and use (6) above~~     DNA

~~To assume full responsibility for the accuracy of all products of his engineering work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Professional Engineer's Seal on the Title Sheet(s) of all plans, designs, and/or documents so produced. Each Partner who will be performing engineering work under this Agreement shall be registered as a Professional Engineer in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Registration for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.~~

(7) FURNISHING OF TOOLS OF THE TRADE BY CONSULTING ENGINEER

To furnish all tools of the trade and equipment necessary for the satisfactory performance of the services required by this Agreement at no direct cost to the Municipality.

(8) CONSULTING ENGINEER'S INSPECTION FORCE

To furnish an inspection force at the level of and in the numbers established by negotiations for the construction engineering and inspection of this contract. The Resident Engineer/Chief Inspector shall work under the general supervision of the Municipality's Municipal Administrator. All orders to the Municipality's contractor on site will be transmitted by the Consulting Engineer's Resident Engineer/Chief Inspector.

(9) ATTENDANCE AT TRAINING SEMINARS, SCHOOLS, AND/OR MEETINGS

That the Municipality reserves the right, during the term of this Agreement, to require the presence of the Consulting Engineer's personnel at training schools, seminars, or other meetings as may be required.

(10) COOPERATION WITH OTHERS

To cooperate fully with other Consulting Engineers, state personnel, municipal officials, public utility companies, railroads, governmental agencies, and others engaged in surveying, mapping, designing, inspection and construction services, or work on traffic control, lighting, and other facilities within or adjacent to the project; to attend such meetings, discussions and hearings as may be requested by the Municipality; to furnish plans and other data as may be requested from time to time by the Municipality to effectuate this cooperation; and to comply with all orders given by the Municipal Administrator in connection with the work under this Agreement.

(11) PROTECTION OF RECORDS

To cooperate fully with the Municipality and the State and to maintain and protect complete construction records at the field office for review, use, and approval at all times. These records shall be transferred to the custody of the Municipality when the Consulting Engineer has completed his assignment or when requested by the Municipality and final payment to the Consulting Engineer shall be withheld until such transfer has been completed.

(12) INSURANCE

With respect to the operations performed by the Consulting Engineer under the terms of this Agreement and also those performed for the Consulting Engineer by its subcontractors, the Consulting Engineer will be required to carry for the duration of this Agreement, and any supplements thereto, with the Municipality and the State being named as an additional insured party for paragraphs (A) and (B) below, the following minimum insurance coverages at no direct cost to the State or

Municipality. In the event the Consulting Engineer secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (A) and/or (B) below, the Municipality and State of Connecticut shall be named as an additional insured.

A. COMMERCIAL GENERAL LIABILITY

The Consulting Engineer shall carry Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

B. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

C. RAILROAD PROTECTIVE LIABILITY

When the Agreement involves work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by the Consulting Engineer and/or its subcontractor(s), the Consulting Engineer shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Consulting Engineer shall obtain and submit evidence of the minimum coverage indicated above to the Municipality prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the Municipality.

D. VALUABLE PAPERS AND RECORDS

The Consulting Engineer shall secure and maintain a Valuable Papers Insurance Policy at no direct cost to the Municipality, until the work has been completed and accepted by the Municipality. Said Policy will assure the Municipality that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or any other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars (\$50,000) regardless of the physical location of the insured items.

#### E. WORKERS' COMPENSATION

With respect to all operations the Consulting Engineer performs and all those performed for the Consulting Engineer by subcontractors, the Consulting Engineer and subcontractor(s) shall carry Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively.

#### F. PROFESSIONAL LIABILITY INSURANCE

Secure and maintain at no direct cost to the Municipality a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars (\$ 2,000,000). The Consulting Engineer shall obtain the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this contract as the same relates to negligent acts, errors or omissions in the work performed by the Consulting Engineer. The Consulting Engineer may, at his election, obtain a policy containing a maximum Two Hundred Fifty Thousand (\$ 250,000) deductible clause, but if he should obtain a policy containing such a clause the Consulting Engineer shall be liable, as stated above herein, to the extent of the deductible amount. The Consulting Engineer shall continue this liability insurance coverage for a period of three (3) years from the date of completion of Consulting Engineer's work.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Consulting Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Consulting Engineer under this agreement.

Failure of the Consulting Engineer to maintain insurance coverage in accordance with the terms of the agreement shall constitute a violation of the agreement and shall subject the Consulting Engineer to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

#### G. CERTIFICATE OF INSURANCE

The Consulting Engineer agrees to furnish to the Municipality a Certificate of Insurance on the form(s) provided by the Municipality, in conjunction with Items A, B, C, D, and E above, and a "Certificate

of Insurance DOC-001", in conjunction with Item F above, fully executed by an insurance company or companies satisfactory to the Municipality, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

The Consulting Engineer shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the Municipality or the State. In providing said policies, the Consulting Engineer may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this agreement/contract.

(13) RESPONSIBILITY FOR CLAIMS AND LIABILITY

To indemnify and save harmless the Municipality and/or the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors, or omissions in the work performed by the Consulting Engineer and/or any of its subcontractors under this Agreement, including any supplements thereto, or resulting from the nonperformance of the Consulting Engineer and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

It is further understood and agreed by the parties hereto, that the Consulting Engineer shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Municipality and the Consulting Engineer, unless requested to do so by the Municipality. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

(14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS

That the Consulting Engineer shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion, thereof, or of the work provided for herein, or of his right, title, or interest herein, to any person, firm, partnership or corporation without the written consent of the Municipality and then he shall do so only by executing a subcontractor's agreement and shall furnish the Municipality a certified copy of this subcontractor's agreement. Any work subcontracted by the Consulting Engineer will be paid for by the Municipality at the actual costs to the Consulting Engineer with no additions. For breach or violation of the above stipulation, the Municipality shall have the right to annul this Agreement without liability. The Consulting Engineer shall also furnish to the Municipality certification of Public Liability and Property Damage Insurance Coverage, regular Protective Public Liability Insurance Coverage, and Professional Liability Insurance coverage, if applicable, for and in behalf of the Municipality and the State of Connecticut from the subcontractor. Each insurance policy shall state

that the insurance company has a right and duty to defend the insured against any suit seeking damages (or under Workers' Compensation, benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. In general, work that is to be sublet will be limited to that of an unusual or highly specialized nature, or work of relatively short or intermittent duration which can be more efficiently performed by a subcontractor. It is understood that the Municipality is not bound to the subcontractor for suits or other litigation resulting from the work performed by him.

(15) TERMINATION

That the Municipality, by written notice to the Consulting Engineer, may suspend, postpone, abandon, or terminate this Agreement for the convenience of the Municipality, for violation by the Consulting Engineer of any provision contained in this Agreement, or for any failure by the Consulting Engineer to render to the satisfaction of the Municipality the services required under this Agreement, including any failure to make acceptable progress with work required under this Agreement. Such action on the part of the Municipality shall in no event be deemed a breach of contract. Upon receipt of written notification from the Municipality that this Agreement is to be suspended, postponed, abandoned, or terminated, the Consulting Engineer shall immediately cease operations on work required under this Agreement. Upon receipt of written notification that this Agreement is to be abandoned or terminated, the Consulting Engineer shall also immediately assemble all material which is in its possession or custody and which has been prepared, developed, furnished, or obtained under the terms of this Agreement, and shall transmit the same, together with the Consulting Engineer's evaluation of the cost of the work performed, to the Municipality on or before the fifteenth day following the receipt of written notice of abandonment or termination. Said material shall include, but not be limited to, documents, plans, computations, drawings, notes, records, and correspondence. Upon receipt of this material, the Municipality shall make settlement with the Consulting Engineer in one of the following manners:

- (a) If the Municipality terminates this Agreement for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.
- (b) If the Municipality terminates this Agreement because the Consulting Engineer has failed to fulfill its obligations under the Agreement, the Municipality may complete the work required hereunder by contracting with another party or by any other means, and the Consulting Engineer



shall be liable for any additional costs incurred by the Municipality in doing so.

- (c) If the Municipality, after terminating the Consulting Engineer for alleged failure to fulfill its obligations under this Agreement, determines that the Consulting Engineer has not failed to fulfill those obligations, the rights and remedies of the parties shall be the same as if the Municipality had terminated the Agreement for convenience.

In determining the basis for such equitable settlement for items (a), (b), and (c) as indicated above, the Municipality shall take into account any monies owed the Consulting Engineer for work previously performed under this Agreement, less any payments previously made for said work, and the amount of reimbursable expenses incurred by the Consulting Engineer, less any payments previously made, to reimburse the Consulting Engineer for those expenses.

The Consulting Engineer agrees to accept the Municipality's valuation of the work performed under this Agreement, and the Municipality will not be liable for any profit that the Consulting Engineer expected or might have expected to make on portions of the Project work that have not been performed.

If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the Project, the Consulting Engineer may not make a claim against the Municipality in any form or forum for loss of anticipated profit or for any other reason related to the Project or this Agreement.

The rights and remedies of the Municipality under this Article are in addition to any other rights and remedies that the Municipality may possess by law under this Agreement.

Decisions of the Municipality on matters discussed in this Article shall be final and binding.

(16) PROGRESS REPORTS

To submit monthly progress reports, in quadruplicate, by calendar months to the Municipality showing the percentage of construction work performed to date. These progress reports, together with copies of certified monthly payrolls for all approved personnel, and such other supporting data as may be required, shall be subject to examination and approval by the Municipality and the State.

(17) PAYMENT TO THE CONSULTING ENGINEER

To accept payment for all services rendered in connection with this Agreement, in accordance with the sum or sums hereinafter stipulated in Paragraphs (40) and (41) of this Agreement.

(18) SUBMITTAL OF ESTIMATES AND FINAL DOCUMENTS/SUBMISSION OF CERTIFIED STATEMENT

To prepare and submit for approval construction contractor's monthly/semimonthly estimates and a final construction estimate. The final estimate shall be supported by a complete set of all pertinent job records and shall be furnished to the Municipality within the time frame stipulated herein.

To furnish the following documents to the Municipality within sixty (60) calendar days of the completion date of construction as noted on the CON-82.

- (1) (a) Final Estimate, (b) Index of Construction Orders, (c) Records of Daily Cost Plus, (Form CON-9), (d) Receipted Bills Supporting Cost Plus, (e) Final Construction Order, (f) Statement of Credits due the State, if applicable, and (g) Substantiating Evidence, if escalator clause is invoked, (h) Construction Report, (i) Statement of Working Days, (j) Breakdown of Participating and Non-Participating Cost by Project, (k) Substantiation of Payments made to D.B.E.'s or S.B.E.'s and a determination on recommended monetary assessments for failure to meet contract assignment goals for D.B.E.'s or S.B.E.'s work performance and any other required documents.
- (2) When requested by the Municipal Administrator, the complete set of original contract drawings (plans) showing as-built details for the plans, profiles, cross-sections and all diaries, field books, and other data in conformance with the requirements of the Construction Manual. The Consulting Engineer further agrees to submit, upon completion of construction, a statement certified by a professional engineer licensed in the State of Connecticut. This statement shall verify that the project, as built, conforms to the contract plans and/or the contract plans as modified by the construction orders approved by the Municipality and the State in all instances and that work performed and materials furnished comply with the requirements of the plans, specifications, and orders of the Municipality, and that all payments to the construction contractor are in conformance with the specifications.

If it is determined that the documents in (1) and (2) of this Article cannot be furnished within sixty (60) calendar days of the completion date of construction as noted on the CON-82, then by the forty-fifth (45th) day, the Consulting Engineer shall provide the Municipality with a listing of documents/information still required from the Contractor. At that time, a determination will be made by the Municipality on whether the Consulting Engineer will be extended to complete the remaining documents or whether the Municipality will complete the remainder.

If for causes within his control, the Consulting Engineer fails to furnish the Municipality with the documents noted in (1) and (2) of this Article within the allotted time, the Municipality may assess Consulting Engineer:

- a) Liquidated damages in the amount of Two Hundred Forty Dollars

(\$240) per calendar day for each day beyond the stipulated sixty (60) calendar days until submission of the required documents, and

- b) Correction of errors and/or omissions will be made at the Consulting Engineer's own expense.

(19) AGENT FOR SERVICE OF PROCESS

That the Secretary of State of the State of Connecticut (including any successor thereto) is hereby appointed by the Consulting Engineer as its agent for service of process for any action arising out, or as a result, of this Agreement, such appointment to be in effect throughout the life of this Agreement including any supplements hereto, and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

(20) SUBMITTAL OF CERTIFIED PAYROLL

To submit to the Municipality each month two (2) copies of a certified payroll, on a form acceptable to the Municipality, of the Consulting Engineer's own field forces and those of approved subcontractors. These payrolls shall be used as a basis in computing each month's payment. The certification shall be dated, signed, and read as follows: "I (Name of Consulting Engineer or Subcontractor), do hereby certify that during the period covered by this payroll, all personnel shown were working on the project, and their salary, rate of compensation, hours worked, and amount earned, is a true and accurate report". The personnel shown on the certified payroll, their employment and duration of employment, salary or hourly rate, hours of work, including overtime, if any, overtime rate, and all changes in status of any of the beforementioned information, shall have the prior written approval of the Municipality.

(21) COVENANT AGAINST CONTINGENT FEES

The Consulting Engineer agrees and warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consulting Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consulting Engineer, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the payments due the Consulting Engineer, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(22) MAINTENANCE AND AUDIT OF RECORDS

The Consulting Engineer agrees to incorporate the entire Maintenance and Audit of Records article of this Agreement, in all subconsultant agreements.

- (a) Project Accounts

The Consulting Engineer shall maintain an accounting system that is adequate to segregate and accumulate reasonable, allocable costs and maintain accounts and records in accordance with generally accepted accounting principles consistently applied.

(b) Allowable Costs

The authority for determining allowable costs under the Agreement shall be "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2," which is incorporated herein by reference.

(c) Audit and Inspection of Records

The Consulting Engineer shall permit the authorized representatives of the Municipality, the State, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the Consulting Engineer relating to his performance under the Agreement until the expiration of three (3) years after final payment under this Agreement.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation, upon request, a detailed job cost report of all project costs incurred under this Agreement.

The Consulting Engineer further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Municipality, the State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes work not exceeding \$25,000.00.

The periods of access and examination described above, for records which relate to (1) appeals for disputes, (2) litigation of the settlement of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by the Municipality, the State, the Comptroller General, or any of their duly authorized representatives, shall continue until final disposition of all such appeals, litigation, claims, or exceptions.

In accordance with Title 23 CFR, Chapter 1, Part 172.7(d), the Connecticut Department of Transportation as recipient or subrecipient of federal-aid highway funds, may share the audit information in complying with the State or subrecipient's acceptance of a Consulting Engineer's overhead rates provided that the Consulting Engineer is given notice of each use and transfer.

(d) Record Retention

The Consulting Engineer agrees that it shall preserve all of its records and accounts concerning the implementation of this Agreement

including, but not limited to, any records, books, or other documents relative to charges, including charges for Extra Work, alleged breaches of agreement, settlement of claims, soils and foundation services, or any other matter involving the Consulting Engineer's or Subcontractor's demand for compensation by the Municipality for a period of not less than three (3) years from the date of the final payment under this Agreement. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

(e) Annual Audit of In-House Unit Cost Rates

The Consulting Engineer agrees to have a CPA perform an audit of any in-house unit cost rate(s) billed by the Consulting Engineer. The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The schedule(s) which detail the computation of the audited unit cost rate(s) must present the individual expenses applicable and the actual usage which is the basis for the unit cost rate(s). The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2". This audit may be submitted with the audit of indirect costs. Failure to submit this audit will result in any costs billed by the Consulting Engineer for in-house charges to be considered ineligible for reimbursement.

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year during the term of this agreement

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of audits of the in-house unit cost rates issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

(f) Annual Audit of Indirect Costs

The Consulting Engineer agrees to prepare a "Schedule of Indirect Costs" from its operations for each fiscal year which the Agreement covers. The schedule shall consist of direct labor costs and indirect costs listed by accounts for home office design and construction engineering/inspection (field) projects, if applicable.

The Consulting Engineer agrees to have this schedule audited by an

independent Certified Public Accountant (CPA). The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year for which the Agreement covers.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of Indirect Cost audits issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in the "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward within thirty (30) days of issuance, a copy of the company's annual financial schedule audit to the Office of External Audits of the Connecticut Department of Transportation.

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

The Consulting Engineer also agrees it shall make arrangements with their Certified Public Accountant to have copies of their working papers forwarded to the Office of External Audits of the Connecticut Department of Transportation when requested.

(23) COMMENCEMENT OF SERVICES

That the Consulting Engineer shall not begin performance under the terms of this Agreement until notified by the Municipality in writing. With written authorization from the Municipality, the Consulting Engineer may commence operations prior to the start of the construction contract.

(24) DIRECT COST ITEMS

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy No. F&A-34, April 21, 2005, Subject: Policy on the Acquisition and Inventory of Equipment Purchased by Consultants".

(25) CARE OF MUNICIPALLY-OWNED EQUIPMENT

That the Consulting Engineer will assume full responsibility for the use and care of all Municipally-owned equipment issued for use on the

Project. This equipment is to be returned to the Municipality upon completion of the Project in good condition. The Consulting Engineer will replace at no cost to the Municipality any Municipally-owned equipment which is lost or damaged except for normal wear and tear, as determined by the Municipality, while in the Consulting Engineer's possession.

(26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS

That while engaged in performing the provisions or terms of this Agreement, the Consulting Engineer will ensure that the following steps will be adhered to concerning claims of injury or damage due to the construction contractor's operations:

- (a) That the Consulting Engineer will advise all claimants to submit the claim in writing to the Municipality, which for the purpose of this Paragraph will be interpreted to mean the Municipal Administrator at the appropriate address.
- (b) That the Consulting Engineer will record for the project file pertinent information concerning claims or potential claims including name, date, time, and nature of the claim or potential claim as these claims/potential claims become apparent.
- (c) That the Consulting Engineer will file a report for the project records if required to do so by the Municipality.

(27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT

That the Consulting Engineer agrees in case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern, and that wherever a blank ( ) or the words "DOES NOT APPLY" appears in all copies of this Agreement, this represents a deletion of a condition which does not apply to this contract.

(28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Disadvantaged Business Enterprises For Federal Funded Projects", as set forth in Exhibit A, Schedule 1 (attached herewith) dated February 26, 2009.

(29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) DOES NOT APPLY

~~The Consulting Engineer shall cooperate with the State in implementing the required contract obligations concerning "Small Contractor" and/or "Small Contractor Minority Business Enterprises" utilization on this Agreement in accordance with Section 32-9e of the Connecticut General Statutes, as revised. The Consulting Engineer shall comply with this provision in accordance with the "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)", as set forth in Exhibit A, Schedule 2 (attached herewith) dated March, 2001.~~

~~The State advises the Consulting Engineer that failure to carry out the requirements set forth in said "Special Provisions, Small Contractor~~

~~And Small Contractor Minority Business Enterprises (Set-Aside)" shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.~~

(30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in the Commissioner's Letter dated October 26, 1988 Re: Prompt Payment to Subcontractor(s), as set forth in Exhibit A, Schedule 3 (attached herewith) as revised.

The Consulting Engineer shall pay the subcontractor for work performed within thirty (30) days after the Consulting Engineer receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work.

For the purpose of this Article satisfactory completion shall have been accomplished when:

(1) The subcontractor has fulfilled the contract requirements of both the Municipality and the subcontract for the subcontracted work, including the submission of all submittals and audit requirements stipulated in Article 22(f), when applicable, and

(2) The work done by the subcontractor has been reviewed and accepted by the Municipality and final approval of the subcontractor's work has been determined and agreed upon.

If the Consulting Engineer determines that a subcontractor's work is not complete, the Consulting Engineer shall notify the subcontractor and the Municipality, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Municipality within twenty-one days of the subcontractor's request for release of retainage.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Consulting Engineer to comply with the provisions of this section will be reflected in the "Consultant Performance Evaluation" for future projects.

(31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG

The Consulting Engineer understands and agrees that a "Connecticut Department of Transportation Subconsultant Payment Log" Form shall be completed quarterly (January, April, July, and October) and furnished to the Municipality for each subcontractor the Consulting Engineer utilizes under this Agreement. Instructions for completing and processing this Form are stipulated on its reverse side. A copy of said form is included herewith.

(32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS



The Consulting Engineer shall comply with all the State and Federal Statutory and Administrative requirements incorporated herein by reference and set forth in Exhibit A attached hereto, and all Schedules attached hereto which are also hereby made a part of this Agreement.

**RESPONSIBILITY OF THE MUNICIPALITY:**

**THE MUNICIPALITY AGREES**

**(33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY**

To furnish to the Consulting Engineer one copy or more as may be required of the latest edition of the following manuals and/or documents:

- Connecticut Department of Transportation Specifications for Location Surveys
- Construction Manual
- Municipality Manual
- Information Pamphlet
- All maps, location and descriptions of coordinate values of existing points, locations and elevations of existing bench marks, and any other layout information that is available
- Original construction contract drawings (plans) for the project to be revised in accordance with Paragraph (1)(i).
- Standard Specifications - Form 816
- Public Service Facility Policy
- Project inspection record books and standard State forms
- Preliminary computations and Grade list
- Pamphlet for Monitoring Performance and Payment Requests for Consultants, dated June 1994, and any amendments

The Municipality agrees to furnish any publications of the Municipality and/or the State, requested by the Consulting Engineer, for use in inspection of the project.

**(34) MUNICIPALLY ASSIGNED ADMINISTRATOR**

To assign a Municipal Administrator who will provide general supervision of the Consulting Engineer's activities.

**(35) MUNICIPALLY PROVIDED EQUIPMENT**

Provide space or a field office with office equipment on or near the project which will have adequate space for the Consulting Engineer's staff, and the Municipality's Municipal Administrator, as specified in the Standard Specifications.

(36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY

To advertise, receive bids and award the construction contract, and to conduct a preconstruction meeting for the project.

(37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (a) To perform or arrange for the performance of all off-site shop and mill inspections and laboratory tests and analysis of those classes of material which are normally inspected, tested, and analyzed prior to delivery to the site of the work.
- (b) To perform the so-called Proctor Laboratory Density test to determine the relationship between the moisture content and density of various fill materials to be used on the project in accordance with AASHTO T-180, Method D.
- (c) To arrange for the District or State Laboratory to transport and test all material sampled by the Consulting Engineer under the terms set forth in Paragraph (1) (g) of this Agreement.

(38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE

Notwithstanding the requirements of Section 1, the Municipality and/or the State will provide technical assistance and/or engineering recommendations relative to construction or design-related issues associated with the project.

(39) FINAL INSPECTION

To make final inspection of the construction contract within ten (10) calendar days after the construction work is completed.

**ARTICLES OF MUTUAL AGREEMENT**

**THE MUNICIPALITY AND THE CONSULTING ENGINEER MUTUALLY AGREE:**

(40) PAYMENT

That subject to the limitations stipulated in Paragraph (41) of this Agreement, the Municipality shall pay the Consulting Engineer in the following manner for all work performed in accordance with the terms of this Agreement with the exceptions of those services for which a different method of payment is stipulated:

The Consulting Engineer and subconsultants may bill direct costs for meals, subsistence and transportation, if applicable, in accordance with the latest State Travel Regulations-State Managers limiting amounts. All mileage, including that for rental cars, will be reimbursed at the current mileage rate only. Actual cost shall be: (1) salaries of employees directly chargeable to the project at rates not to exceed those shown in Paragraph (44); and (2) burden, fringe and overhead costs properly allocable to the project. For 2XXX, the tentative percentage for field office operations will be\_\_\_\_%.

This percentage will be revised annually based on a State approved

audit of burden, fringe and overhead costs of the previous years experience. The term "Salaries" as used in this Agreement shall mean the gross wage or payment made to employees before deductions for employee paid taxes and fringe benefits. The final determination of the sum to be paid for actual costs will be made following an audit of the Consulting Engineers records. The certified payroll shall cover salaries computed at straight-time rates. The certified percentage for burden, fringe, and overhead shall be applied only to the "straight-time" portion of overtime pay. No payment shall be made to partners or officials of the firm for those services unless they are engaged in production work in which case compensation will be made at production rates.

(41) MAXIMUM PAYMENT

That the maximum amount which the Municipality shall pay to the Consulting Engineer for all work performed under the terms of this Agreement, excepting work for which payment is provided in Paragraph (43), shall not exceed (\$422,000.00. The total payment for Extra Work shall not exceed(\$42,000.00). The total payment for work performed under this Agreement, including Extra Work shall not exceed (\$464,000.00). The maximum amount will not be revised unless there is a substantial change in the scope or character of the work to be performed by the Consulting Engineer which would justify a revision of this figure, as determined by the Municipality; or if, for any reason, the Consulting Engineer does not or cannot start his work prior to or in sufficient time to meet the construction contractor's schedule of operations, and the Municipality finds it necessary to provide certain inspection and survey services, the limiting amount and fixed fee shall be reduced an equitable amount to reflect the Municipality's expense in connection therewith.

(42) PROGRESS PAYMENTS

That progress payments shall be made to the Consulting Engineer on a monthly basis for all work covered by this Agreement except work for which payment is provided in paragraph (43). Said progress payment to be the sums of the following: (a) the actual costs shown on the voucher for the period, plus (b) eighty-five percent (85%) of the appropriate fixed fee amount for profit stipulated in paragraph (40) divided by the number of monthly periods in the total time allowed for completion of the construction work and closeout period. From the progress payments thus computed each month there shall be deducted all credits, if any, due the Municipality. Prior to the final payment, the Municipality may release such portion or portions of the retainage as it considers to be in its best interest. In no case, however, will the retainage be reduced to less than eighty-five (85%) of the fixed fee amount stipulated in paragraph (40) of the Original Agreement until after completion of the final audit.

The Consulting Engineer may request the substitution of securities for retainage in accordance with Connecticut General Statutes Section 3-112a.

(43) PAYMENT FOR EXTRA WORK

- (a) Extra work approvals associated with increases in costs for:
- an extension of construction contract time.
  - changes or refinements in work assignments, operations or staffing levels.
  - increases in premium overtime or shift differential cost.
  - investigation of claims.
  - escalated burden, fringe, and overhead costs based on audit results.

A fee, established through negotiations, will be paid from extra work funds under Paragraph (41) of this Agreement to the extent that these funds are available. The Consulting Engineer will be paid based on a certified monthly payroll including burden, fringe and overhead. No additional fixed fee for profit associated with payroll increases identified above will be considered unless the work period specified in Paragraph (3)(d) is exceeded and the extra work funds established under Paragraph (41) have been fully utilized. Extra work approvals that will exceed the amount stipulated in Paragraph (41) of this Agreement or the work period specified in Paragraph (3)(d) will be paid for under a supplemental agreement based on a negotiated fee for services.

- (b) Extra work approvals associated with approved design changes that require engineering work at the main or home office of the Consulting Engineer shall be paid on a certified monthly payroll plus the burden, fringe and overhead cost and a fixed fee for profit. Extra work associated with design changes shall be based on a scope of services provided by the Municipality and a negotiated fee for these services. No additional payment will be made for authorized minor design changes that can be made in the field by the Consulting Engineer.
- (c) Extra work approvals for claims investigations assigned to the Consulting Engineer after final payment has been made or investigation that will exceed the calendar days stipulated in Paragraph (3)(d) will be based on a scope of services provided by the Municipality and a negotiated fee for these services. The Consulting Engineer will be paid based on a certified monthly payroll plus burden, fringe and overhead cost and a fixed fee for profit.

(44) MAXIMUM HOURLY RATES

That the following maximum hourly rate for each classification of employee to be used on the project shall be as follows and additional classifications if required must be submitted to the Municipality for prior approval.

Classifications

Maximum Hourly Rates  
Effective through 2024

Certified Payroll  
Actual Hourly

Maximum Hourly  
Rates

Construction Coordinator  
Chief Inspector  
Inspector  
Surveyor  
Rod Man  
Secretary

\*\*\* The Contracting Engineer shall use the following maximum hourly rates until the Department of Transportation Commissioner sends written notification rescinding the wage freeze.

\*\*\*\* The Contracting Engineer may use the above maximum hourly rates prospectively only upon written notification by the Department of Transportation Commissioner that the wage freeze has been rescinded.

The above maximum hourly rates of pay shall be subject to renegotiation should the work required under this Agreement not be completed as stipulated in Paragraph (3)(d). Any adjustment to the maximum hourly rates stated above shall apply only to such services as may be rendered subsequent to the date of renegotiation as stipulated above. Overtime work, when authorized by the Municipality, shall be paid for by the Municipality at "straight-time" rates except when otherwise required by law or regulation or when otherwise approved by the Municipality. The surcharge for burden, fringe and overhead shall be applied only to the "straight-time" portion of any overtime pay.

(45) ACCEPTANCE DATE

That the acceptance date of the work of this Agreement shall be established as the date the Municipality is in receipt of all papers and documents required in this Agreement. Within thirty (30) days of acceptance, the Consulting Engineer shall submit a final payment voucher for monies due him. If the Consulting Engineer fails to submit this voucher within the specified time, the Municipality may process a final payment voucher based on the available information.

(46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF TOWN OF FAIRFIELD

That the attached Certification of Consulting Engineer and Certification of the Town of Fairfield, as set forth in Exhibit A, Schedule 4, (attached herewith)as revised.

(47) FEE ADJUSTMENT

That the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Municipality determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(48) NOTICE BETWEEN PARTIES TO AGREEMENT

That it is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a) - be in writing (hardcopy) addressed to:

(i) When the Municipality is to receive such notice -

(ii) When the Consulting Engineer is to receive such notice -

the person(s) acting herein as signatory for the Consulting Engineer receiving such notice;

**Ronald J. Nault, P.E., President  
Luchs Consulting Engineers, LLC  
89 Colony Street  
Meriden, CT 06451**

b) - be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and

c) - contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "official notice" as used herein, shall be construed to include but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change, revision, addition to or deletion from the document, contract, or agreement in which this "official notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the parties hereto from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

~~(49) REVISIONS IN ORGANIZATION OF CORPORATION USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (49) below DNA~~

~~That the Consulting Engineer shall notify the Municipality in writing when there is a change in its Connecticut Certificate of Registration for the Corporate Practice of Engineering or Land Surveying by a corporation or limited liability company in the State of Connecticut or a change in the individual(s) in charge of the work specified herein. Neither change shall relieve the Consulting Engineer of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.~~

~~(49) REVISIONS IN ORGANIZATION OF PARTNERSHIP USE ONLY IF PARTNERSHIP  
otherwise mark DNA and use (49) above DNA~~

~~That the Municipality, on written notice by the Consulting Engineer of changes in the partnership structure of the organization, may enter into a supplemental agreement with the new partners providing releases are provided from the former partner, or partners, stating that he has been compensated in full or that provision has been made for compensation in full for all work performed under terms of this Agreement and a financial statement is submitted showing that solvency of the partnership is maintained. The death of a partner shall not release the partnership from the performance of this Agreement and the remaining functions must be performed by the surviving partner(s) until the terms of this Agreement are fully executed. The withdrawal of any partner from the partnership shall not relieve him from his liability for performance of this Agreement.~~

~~(50) OWNERSHIP OF DOCUMENTS~~

~~That all products of the work under the terms of this Agreement shall become and remain the property of the Municipality. This shall include all partially completed work in the event that the Agreement is terminated before completion for any reason.~~

- a) The Consulting Engineer shall transfer to the Municipality, as part of the consideration for this Agreement, any and all copyright rights or other proprietary interests which the Consulting Engineer may have in materials ("Work Products") produced by it under the terms of this Agreement; and that the Consulting Engineer shall, whenever so requested by (the Municipality), sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality a letter agreement, in form and content satisfactory to the Municipality, stating that the Consulting Engineer thereby irrevocably transfers to the Municipality all of its copyright and other proprietary rights in the Work Products designated by the Municipality in its related request.
- b) If deemed appropriate by the Municipality in its sole discretion, the Consulting Engineer shall agree that any or all Work Products shall be deemed a work of joint authorship by the Municipality and the Consulting Engineer for copyright purposes, and shall be registered as such with the United States Copyright Office. The Consulting Engineer hereby waives any right to oppose or object to such a claim of joint authorship or to such related copyright

registration.

- c) The Consulting Engineer shall not engage or allow any party ("Other Party") other than itself or the Municipality to contribute directly to the creation of any Work Product unless the Consulting Engineer has first obtained from said Other Party a written agreement ("Secondary Agreement") containing essentially the same terms as Section B above; i.e., the Other Party
  - 1) shall agree to transfer to the Municipality any and all copyright or other proprietary rights said Other Party may have in designated Work Products, or, if the Municipality so requests, shall agree to deem such Work Product a work of joint authorship by the Municipality and by Other Party, and, if appropriate, by the Consulting Engineer also; and
  - 2) shall agree to sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality any letter agreement ("Letter Agreement") of the kind described in Section b) above which the Municipality shall request from it. The Secondary Agreement between the Consulting Engineer and an Other Party shall provide expressly that any such Letter Agreement delivered by the Other Party to the Municipality shall be directly enforceable by the Municipality, and that the execution, delivery, and enforceability of such a Letter Agreement are part of the consideration for the Secondary Agreement.

(51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)

That the Municipality makes no express or implied warranty of any kind with regard to the particular Computer Aided Design and Drafting File(s) provided to the Consulting Engineer under this Agreement, if any, its documentation, or its fitness for any purpose, including but not limited to the implied guarantees of fitness for a particular purpose. The Municipality shall not be held liable for errors contained herein, or for any consequential or incidental damages which may arise in connection with the use, performance, duplication, modification, transfer or distribution of these files or copies thereof.

(52) PAYMENT OF RECOVERABLE COSTS DUE TO THE MUNICIPALITY

The Municipality shall have the right to set off against amounts otherwise due to the Consulting Engineer under this Agreement or under any other agreement or arrangement that the Consulting Engineer has with the Municipality (a) any costs that the Municipality incurs which are due to the Consulting Engineer's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Consulting Engineer to the Municipality. Any sum taken in set-off from the Consulting Engineer shall be deemed to have been paid to the Consulting Engineer for purposes of the Consulting Engineer's payment obligations under Connecticut General Statute Section 49-41c.

(53) JURISDICTION AND FORUM LANGUAGE



This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of laws principles would dictate otherwise. This Agreement shall be deemed to have been made in Fairfield, Connecticut. Nothing herein shall be construed to waive any of the Municipality's immunities.

(54) ~~SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP~~ **DNA**

~~The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Small Business Participation Pilot Program SBPPP as Subcontractors and Material Suppliers or Manufacturers", as set forth in Exhibit A, Schedule 11 (attached herewith) dated May 12, 2010.~~

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

TOWN OF FAIRFIELD

\_\_\_\_\_  
Typed Name:

By \_\_\_\_\_ (Seal)  
Typed Name:

\_\_\_\_\_  
Typed Name:

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

Luchs Consulting Engineers, LLC

\_\_\_\_\_  
Typed Name: Dawn Crandall

By \_\_\_\_\_ (Seal)  
Typed Name: Ronald J. Nault, P.E., President

\_\_\_\_\_  
Typed Name: Paula Kusmit

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

CONNECTICUT CORPORATE ENGINEERING  
PRACTICE -- CERTIFICATE OF  
AUTHORIZATION NO. JPC 0000061

EXHIBIT A  
and Schedules 1 through 11

**THE CONSULTING ENGINEER AGREES:**

**1. GOVERNMENTAL AGENCY EXEMPTION**

That the Consulting Engineer hereby acknowledges and agrees to comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The attached copy of the "Governmental Agency Exemption Certificate", as set forth in Exhibit A, Schedule 5 (attached herewith).

**2. CODE OF ETHICS FOR STATE EMPLOYEES DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 6 (attached herewith).~~

**3. CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:~~

- ~~\_\_\_\_\_ (a) No person hired by the State as a Consulting Engineer or independent contractor shall:~~
- ~~\_\_\_\_\_ (1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;~~
- ~~\_\_\_\_\_ (2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or~~
- ~~\_\_\_\_\_ (3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.~~
- ~~(b) \_\_\_\_\_ No person shall give anything of value to a person hired by the \_\_\_\_\_ State as a Consulting Engineer or independent contractor based on \_\_\_\_\_ an understanding that the actions of the Consulting Engineer or \_\_\_\_\_ independent contractor on behalf of the State would be influenced.~~

#### 4. EXECUTIVE ORDERS

##### A. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Consulting Engineer's request, the Department shall provide a copy of these orders to the Consulting Engineer.

#### 5. NON-DISCRIMINATION

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Consulting Engineer.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations

adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor

shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. CAMPAIGN CONTRIBUTION AND SOLICITATION BAN **DOES NOT APPLY**

~~For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this agreement/contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice set forth in Exhibit A, Schedule 7 (attached herewith).~~

#### 7. PRIVATIZED PUBLIC RECORDS

The following Article is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more. The Department is entitled to receive a copy of records and files related to the performance of the Consulting Engineer under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the Department pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the Department in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

#### 8. OVERSIGHT OF LARGE STATE CONTRACTS DOES NOT APPLY

~~The following Article is applicable to those contracts with an aggregate value of Five Million Dollars (\$5,000,000) or more. If an officer, employee or appointing authority of the Consulting Engineer takes or threatens to take any personnel action against any employee of the Consulting Engineer in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), the Consulting Engineer shall be liable for a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the Department may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.~~

~~The Consulting Engineer shall post a notice of the provisions of this section in a conspicuous place which is readily available for viewing by the employees of the Consulting Engineer.~~

#### 9. CIVIL RIGHTS

As a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Consulting Engineer shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.),

all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances set forth in Exhibit A, Schedule 8 (attached herewith).

#### 10. CERTIFICATION FOR FEDERAL AID CONTRACTS

That the Consulting Engineer certifies, by signing and submitting this Bid, Agreement, Contract, Proposal, to the best of his/her/its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consulting Engineer, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consulting Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. If applicable, the Exhibit A, Schedule 9 (attached herewith), Disclosure Form-LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consulting Engineer also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this certification be included in all subcontracts, sub-subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317456, Newington, CT 06131-7546, to the attention of the project manager.

#### 11. SUSPENSION OR DEBARMENT

That suspended or debarred contractors Consulting Engineers,



suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

- 1) That the signature on the Agreement by the Consulting Engineer shall constitute certification that to the best of its knowledge and belief the Consulting Engineer or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or any position involving the administration of Federal or State funds:
  - a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Has not within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1)b. of this certification; and
  - d. Have not within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the Consulting Engineer is unable to certify to any of the statements in this certification, such Consulting Engineer shall attach an explanation to this Agreement.

The Consulting Engineer agrees to insure that the following certification be included in each Subcontract Agreement, to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

- a. The prospective subcontracts, sub-subcontracts participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.

- b. Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certifications, such prospective participant shall attach an explanation to this proposal.

## 12. AMERICANS WITH DISABILITIES ACT

This clause applies to those Consulting Engineers who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act"), Public Law 101-336, during the term of the Agreement. The Consulting Engineer represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Consulting Engineer to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Consulting Engineer. The Consulting Engineer warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Consulting Engineer to be in compliance with this Act, as the same applies to performance under this Agreement.

## 13. FEDERAL OBLIGATION TO THIRD PARTY

(1) The Purchaser and Consulting Engineer acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consulting Engineer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Consulting Engineer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Consulting Engineer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consulting Engineer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consulting Engineer further acknowledges that if it makes, or causes to be made, a

false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consulting Engineer to the extent the Federal Government deems appropriate.

(2) The Consulting Engineer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consulting Engineer, to the extent the Federal Government deems appropriate.

(3) The Consulting Engineer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### 15. ENERGY CONSERVATION

The Consulting Engineer agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### 16. FLY AMERICA REQUIREMENTS

The Consulting Engineer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consulting Engineer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consulting Engineer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 17. CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS "SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES"

That the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities," as set forth in Exhibit A, Schedule 10 (attached herewith) dated March 3, 2009.

## 18. AMERICAN RECOVERY AND REINVESTMENT ACT

The following Article only applies to projects funded under the American Recovery and Reinvestment Act of 2009.

For the purposes of this Article, "Contractor" means any prime contractor, consulting engineer, or other entity contracting with the State of Connecticut Department of Transportation ("DOT") or a Municipality undertaking a project ("Project") funded under the American Recovery and Reinvestment Act of 2009 ("Act"). Additionally, to the extent that a Municipality is employing its own staff to undertake work on the Project, solely with respect to such work by its staff, the Municipality itself is likewise subject to the requirements herein that are imposed on the Contractor. A Project undertaken by a Municipality is identified herein as a "Municipality-administered Project," and a Project undertaken by DOT is identified herein as a "DOT-administered Project."

(1) The Contractor agrees to accurately and timely record and report, in accordance with the requirements of the Act and additional guidelines, policies and regulations issued or promulgated pursuant to the Act, information regarding jobs or positions created or retained in Connecticut, the United States and outlying areas as a result of funding provided through the Act for the Project, including, but not limited to, the following requirements:

A. The Contractor shall accurately complete and submit to DOT or the Municipality, as applicable, on a monthly basis from commencement through completion of its work on the Project, an employment report using Form FHWA-1589 available at: <http://www.fhwa.dot.gov/economicrecovery/forms/fhwa1589.xls> ("Monthly Employment Report").

B. No later than seven (7) calendar days after the last calendar day of the month being reported ("Seven Day Submission Requirement"), the Contractor shall:

- (i) With respect to DOT-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to DOT by e-mail to: [Theodore.Szymanski@ct.gov](mailto:Theodore.Szymanski@ct.gov), with a copy to [Philip.Scarrozzo@ct.gov](mailto:Philip.Scarrozzo@ct.gov); and also submit a hard copy, to the applicable DOT District office for inclusion in the Project file, signed by an authorized representative of the Contractor;
- (ii) With respect to Municipality-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to the Municipality's designated employee by email or other electronic means as instructed by the Municipality; and
- (iii) Provide a consistent filename for each Monthly Employment Report in the format ContractNumberMonthYear.xls (e.g., #####MAY09.xls);

C. Each of the Contractor's subcontractors and second-tier subcontractors shall submit an employment report using Form FHWA-1589 ("Monthly Subcontractor Employment Report") in Microsoft Excel file format to the Contractor on a monthly basis within sufficient time to enable the

Contractor, in turn, to submit such Monthly Subcontractor Employment Report(s) to DOT or the Municipality, as applicable, by the Contractor's Seven (7) Day Submission Requirement. Failure by the collective subcontractors to timely submit such Monthly Subcontractor Employment Report(s) to the Contractor does not excuse the Contractor's obligation to submit its Monthly Employment Report within the required time.

(2) Receipt of funds pursuant to the Act under this Contract is contingent upon the Contractor meeting the reporting requirements of this Contract and any additional reporting requirements of the Act as may be required by the appropriate federal agency through its issuance of guidelines or promulgation of regulation(s).

a. The Contractor agrees that at any time during the Project, the Federal Highway Administration ("FHWA") and/or DOT, after notice, may change the reporting requirements herein. In that event, the Contractor and its subcontractor(s) and second-tier subcontractor(s) shall comply with such requirements.

b. DOT or the Municipality may take any action that FHWA authorizes for non-compliance with the reporting requirements set forth in Section 2 above.

(3) The Contractor agrees to comply with Sections 1605 and 1606 of the Act and any additional federal guidelines or regulations issued or promulgated thereunder.

(4) The following language is made a part of this Contract and shall be made part of all subcontracts and second tier subcontracts:

A. Access of United States Government Accountability Office, Section 902 of Title IX of Division A of the Act.

Pursuant to Section 902 of Title IX of Division A of the Act, the United States Comptroller General and its representatives may:

(1) examine any records of the Contractor or any of its subcontractors, or any State or local agency administering such Contract, that directly pertains to, and involve transactions relating to, the Contract or Subcontract; and

(2) interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the Contract, regarding such transactions.

Nothing in Section 902 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the United States Comptroller General.

B. Office of the Inspector General's Authority, Section 1515 of Title XV of Division A of the Act.

Pursuant to Section 1515, of Title XV of Division A of the Act, the United States Office of the Inspector General or any of its representatives may:

(1) examine any records of the Contractor or grantee, any of its

subcontractors or subgrantees, or any State or local agency administering such Contract, that pertain to, and involve transactions relating to the Contract, subcontract, grant, or subgrant; and

- (2) interview any officer or employee of the Contractor, grantee, subgrantee or agency regarding such transactions.

Nothing in Section 1515 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the Inspector General.

C. Whistleblower Protections. Section 1553 of Title XV of Division A of the Act prohibits all non-federal recipients of Act funds from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to Act funds; (2) a gross waste of Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Act funds; (4) an abuse of authority related to implementation or use of Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Act funds. The recipient of Act funds must post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the Act.

D. False Claims Act. The recipient of Act funds shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

November 8, 2023

Town of Fairfield  
Engineering Department  
Attn. Bill Hurley, Engineering Manager  
Sullivan Independence Hall  
725 Old Post Road  
Fairfield, CT 06824

Electronic Submission  
to [whurley@fairfieldct.org](mailto:whurley@fairfieldct.org)

Re: RFP for Construction Administration and Inspection Services Project #2023-49  
Phase 2 - East Trunk Interceptor Sewer

Dear Mr. Hurley:

Luchs Consulting Engineers, LLC is pleased to respond to the Town of Fairfield's request for proposal to provide Construction Administration and Inspection Services during Construction and Site Monitoring for the Phase 2 - East Trunk Interceptor Sewer Project.

We have assembled an experienced Team familiar with the specific aspects of this construction as follows:

Ronald Nault, P.E. – Principal-in-Charge, Project Manager  
Mike Bauer, P.E. – Construction Engineer  
Coleman Walsh, NICET IV – Chief Inspector  
Alex Parisi, BSCE – Senior Inspector  
Tyler Young, BSCE - Inspector

Under this Management Plan, Mike Bauer, P.E. with over 8 years of Construction Inspection experience will support Coleman Walsh at Progress Meetings and with technical details. Coleman Walsh will be our Chief Inspector providing primary Inspection of the Sanitary Sewer work including coordination, record-keeping, monitoring of pay items and project close-out. Coleman has over 40 years of construction inspection experience including soldier piles, deep excavation, dewatering, sewer pipe installation and contaminated soils management. Coleman will be supported by Alex Parisi, Senior Inspector with over 15 years of pipeline inspection experience, and Tyler Young, Inspector, when needed. Coleman served in this same "Chief Inspector, Office Engineer and Project Coordinator" role for the Reconstruction of Moose Hill Road in Trumbull recently. Ron Nault, P.E. will act as Project Manager and help coordinate staffing and available for technical questions.

These Construction Phase Administration and Inspection Services will be provided as requested and authorized by the Town Engineer and billed at approved hourly rates for only the hours worked. If other sewer projects run concurrently, there will likely be savings in Inspection costs by staff covering more than one operation when the Construction workload allows.

Per your request we are enclosing herein completed proposal estimate worksheet forms to provide a recommended budget for our Construction Phase Services.

We look forward to assisting the Town of Fairfield with the successful completion of this project. If you have any questions with the enclosed, please do not hesitate to contact me.

Sincerely,  
LUCHS CONSULTING ENGINEERS, LLC.



Ronald J. Nault, P.E.  
President-Project Manager

Enclosures



## BUDGET WORKSHEET

### Construction Administration and Inspection Services

#### Phase 2 - East Trunk Interceptor

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Expected Project Duration = 13 months

| <u>Staff Member</u>                               |   | <u>Estimated Fee</u> |
|---------------------------------------------------|---|----------------------|
| • Chief Inspector                                 |   |                      |
| 13 months x 172 hours/month x \$160/hour          | = | \$357,760            |
| • Construction Manager                            |   |                      |
| 10% of Inspection hours = 224 hours x \$175/hours | = | \$ 39,200            |
| • Senior Inspector (supported when needed)        |   |                      |
| 172 hours x \$145/hour                            | = | <u>\$ 24,940</u>     |
| TOTAL ESTIMATED BUDGET                            | = | \$421,900            |

AGREEMENT  
BETWEEN THE TOWN OF FAIRFIELD  
AND  
Luchs Consulting Engineers, LLC  
FOR  
CONSTRUCTION ENGINEERING & INSPECTION

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NOTE: ANY ITEM STAMPED "DNA" OR "DOES NOT APPLY" IS HEREBY DELETED PRIOR TO THE EXECUTION OF THIS AGREEMENT WITH THE CONCURRENCE OF THE CONSULTING ENGINEER.

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- (22) MAINTENANCE AND AUDIT OF RECORDS
- (23) COMMENCEMENT OF SERVICES
- (24) DIRECT COST ITEMS
- (25) CARE OF MUNICIPALLY-OWNED EQUIPMENT
- (26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS
- (27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT
- (28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
- (29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) **DOES NOT APPLY (DNA)**
- (30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE
- (31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG
- (32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS

**RESPONSIBILITY OF THE MUNICIPALITY**

- (33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY
- (34) MUNICIPALLY ASSIGNED PROJECT ENGINEER
- (35) MUNICIPAL PROVIDED EQUIPMENT
- (36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY
- (37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE
- (39) FINAL INSPECTION

**ARTICLES OF MUTUAL AGREEMENT**

- (40) PAYMENT
- (41) MAXIMUM PAYMENT
- (42) PROGRESS PAYMENTS
- (43) PAYMENT FOR EXTRA WORK
- (44) MAXIMUM HOURLY RATES
- (45) ACCEPTANCE DATE
- (46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF MUNICIPALITY
- (47) FEE ADJUSTMENT
- (48) NOTICE BETWEEN PARTIES TO AGREEMENT
- (49) REVISIONS IN ORGANIZATION
- (50) OWNERSHIP OF DOCUMENTS
- (51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)
- (52) PAYMENT OF RECOVERABLE COSTS DUE THE MUNICIPALITY
- (53) JURISDICTION AND FORUM LANGUAGE
- (54) SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP

## **AGREEMENT**

**THIS AGREEMENT** has been concluded at the Town of Fairfield Connecticut by and between the Town of Fairfield , duly authorized, hereinafter referred to as the Municipality, and Luchs Consulting Engineers, LLC a Corporation qualified to do business in Connecticut and having its office located at 89 Colony Street, Meriden, CT 06451

authorized to practice professional engineering in Connecticut under the provisions of Chapter 391 of the General Statutes of Connecticut, as amended, acting herein by Ronald J. Nault it's President, hereunto duly authorized, hereinafter referred to as the Consulting Engineer.

**WHEREAS**, the Municipality has determined, based on staffing requirements and/or special expertise requirements, that the services of a Consulting Engineer are required to perform construction engineering and inspection on inspection on Phase 2 – East Trunk Interceptor Sewer and;

**WHEREAS**, the Municipality has approved the contracting out for these services and;

**WHEREAS**, the Municipality has the authority to employ such assistance as it may require.

### **NOW, THEREFORE, KNOW YE THAT:**

#### **RESPONSIBILITY OF THE CONSULTING ENGINEER:**

#### **THE CONSULTING ENGINEER AGREES**

##### **(1) SCOPE OF SERVICES:**

To perform construction engineering and inspection, under the general supervision of a Municipal Administrator in conformance with the "Construction Manual - Connecticut Department of Transportation, Bureau of Engineering and Construction, Office of Construction, Version 2.2, January 2011, as amended", hereinafter referred to as the "Construction Manual", and the "Information Pamphlet for Consulting Engineers Performing Construction Inspection", dated August 2008, as amended, and hereinafter referred to as the "Information Pamphlet", and the "Municipality Manual, Connecticut Department of Transportation, Bureau of Engineering and Highway Operations, Office of Construction, Version 1, July 2008", hereinafter referred to as the "Municipality Manual". The Consulting Engineer will perform construction engineering and inspection in accordance with the policies and procedures of the State, as specified in these documents and in accordance with the scope of services listed in this Paragraph, which include, but are not limited to, the following:

#### SURVEY

- (a) All construction survey work with the exception of that work that is included in the construction contract to be accomplished by the Municipality's contractor as directed by the Municipal Administrator;
- (b) The checking of all construction operations and layout staking performed by the Municipality's contractor as directed by the Municipal Administrator;
- (c) All survey, construction staking, and layout work necessary for the accurate installation of fencing by the Municipality's contractor along the highway line, staking of non-access line, or other locations as directed by the Municipal Administrator;
- (d) Provide, through information obtained from the Municipality's Municipal Administrator, all controls for relocations and installations to be made by public utility companies, railroads, and governmental agencies, which have an effect or are affected by construction of the project as directed by the Municipal Administrator;
- (e) All work and measurements necessary for the computation of intermediate and final quantities such as, but not limited to, cross section measurements for borrow banks, rock excavation, structure excavation, excavation of unsuitable material and final cross section measurements along the completed roadway;

#### FIELD INSPECTION

- (f) Inspection of all construction activities performed by the Municipality's contractor, including the observance and reporting of work performed by public utility companies, railroads, and governmental agencies, within the project limits. When the reimbursement to the outside agency is on an actual costs basis, the Consulting Engineer will keep a daily record of man hours, equipment hours, and materials used, salvaged or scrapped in performing the work, on forms CON-40 and CON-41 and certain comparable railroad forms. He shall give sufficient inspection to utility relocation work to ensure conformance to the approved plan of relocation;
- (g) All on-the-job testing and sampling of materials as specified in the "Construction Manual" and "Information Pamphlet". Excepted from testing and sampling are those functions performed by the District Laboratory and/or the State Laboratory and not specifically made a responsibility of the Consulting Engineer. The Consulting Engineer agrees to properly lift and protect the test specimens until transported to the State Laboratory;

- (h) The performance of all necessary field density tests. The nuclear density gauge unit shall contain a full data processor, which holds all calibration constants necessary to compute and directly display wet density, moisture, and dry density either in pounds per cubic foot, or grams per cubic centimeter. The data processor shall compute and display the percent moisture and percent density on dry weight. The Consulting Engineer will be responsible for providing the gauge, calibration, and operation of the nuclear gauge;

#### CONSTRUCTION ENGINEERING

- (i) The technical investigation and/or analysis and recommendation for settlement of monetary or other claims brought against the Municipality and/or the State by Contractor(s) or others;
- (j) The coordination and implementation of all engineering, technical or administrative determinations made by the Municipality and/or the State;
- (k) To receive shop details and construction drawings from the Municipality's contractor and transmit same to the Municipality, the State or others for review and approval. These shop details and construction drawings shall include, but are not limited to, cofferdam details, pile loading tests, false work, and details of all other items required to assure their general compliance with design plans, specifications, and acceptable construction procedures and standards;
- (l) Consulting Engineer to review and provide engineering recommendations related to submittals, working drawings, and technical reviews of the work contemplated by the construction contract;
  - (m) To investigate and facilitate resolution to technical problems or design issues associated with the construction of the project;

#### ADMINISTRATIVE

- (n) To prepare and submit for approval all construction orders and all partial, monthly, and final Municipality's contractor's estimates;
- (o) To revise the original construction contract drawings (plans) to show the facility "as-built," as further defined in Paragraph (18);
- (p) The preparation of correspondence to the Municipality's contractors, fabricators, designers, and others, including reports, memoranda, requests for material tests, forms, and all other documents required for proper inspection of the construction project;

- (q) All other operations which become necessary to properly inspect the work of the construction contractor to determine his compliance with the following documents:

"State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction", Form 816, hereinafter referred to as "Standard Specifications",

Project Special Provisions and all other contract documents and memoranda,

"Public Service Facility Policy and Procedures for State Highways in Connecticut", dated June 1, 1987, hereinafter referred to as "Public Service Facility Policy".

(2) QUALIFICATIONS OF CONSULTING ENGINEER PERSONNEL:

That all personnel employed by the Consulting Engineer shall meet the minimum education, experience, training, and certification requirements for their applicable classification of employment as defined in the current edition of the "Information Pamphlet". In addition, all inspection personnel shall possess one of the following:

1. Registration as a Professional Engineer in Connecticut.
2. Engineer in Training Certification.
3. Bachelor of Science Degree in Civil Engineering or related field or an Associates Degree in Civil Engineering (Structural or Highway technology).
4. NICET Transportation Engineering Technology/Highway Construction certification (Level II or higher).
5. Level I enrollment in the NICET Transportation Engineering Technology/Highway Construction Certification Program. Level I will be used for training purposes only.
6. All Inspection Staff on bridge painting projects shall be certified at the NACE Intermediate Coating Inspection Level. All Resident Engineers or Chief Inspectors on bridge painting projects shall be NACE certified Coating Inspectors with the appropriate years of experience.

The Municipality has the right, during the term of this Agreement, to remove from the project any person or persons employed by the Consulting Engineer, who in the sole opinion of the Municipality has misconducted himself or herself or is incompetent in the performance of their assigned duties, or who neglects or refuses to require compliance with the Plans, Specifications, or Project Special Provisions. Such person or persons shall not be reemployed without the written consent of the Municipality. The Municipality reserves the right to prequalify the Consulting Engineer's supervisory and inspection personnel, determine the size of the inspection force required, and to direct the assignment and the reassignment of inspection personnel at its discretion, as deemed necessary by the Municipality.



(3) WORK PERIOD

- (a) Complete all work stipulated in Paragraphs (1) and (18) of this Agreement within 485 calendar days, commencing from the date stipulated by the Municipality in a formal notice to proceed. A calendar day shall be every day in the week, Saturdays, Sundays, and holidays included.
- (b) The Municipality may extend the allotted time beyond the period specified above when the work has been delayed for reasons beyond the control of the Consulting Engineer. The Consulting Engineer may present to the Municipality, in writing, request for extension of allotted time for completion of the work. The Municipality will evaluate such requests, and if the Municipality determines such requests are based on valid grounds, shall grant such extension of time for completion of the work as the Municipality deems warranted. All requests for extension of time must be made prior to the expiration of calendar days specified in Paragraph (3)(a) above. Decisions made by the Municipality relative to the granting of extension of time shall be final and binding.
- (c) The Consulting Engineer agrees that no charges or claim for damages or additional compensation including lost profit shall be made by the Consulting Engineer unless the allotted additional time constitutes extra work as defined in Paragraph (4) of this Agreement. Delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Municipality may determine, it being understood, however, that the permitting of the Consulting Engineer to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the Municipality of any of its rights herein.
- (d) The Municipality will not consider any proposal by the Consulting Engineer for renegotiation of the maximum payment exclusive of extra work specified in Paragraph (41) of this Agreement unless 485 calendar days have elapsed since the initial formal notice to proceed.

(4) EXTRA WORK

Make any revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or changes in operations performed by the Consulting Engineer as may be ordered by the Municipality or any of its duly authorized representatives at any time during the life of this Agreement. No additional payment will be made for such revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or operations, unless such changes constitute Extra Work.

Extra Work is defined as follows:

- (a) Such additional work as ordered by the Municipality beyond

the scope of this Agreement to the extent that such work will not be reflected in the payment for services specified in Paragraph (40) of this Agreement.

- (b) Such work as shall supersede or revise completed work that has been accepted in writing by the Municipality. Changes such as those to effect refinements in the work or inspection documents and such as those made necessary by errors, omissions, oversight or neglect on the part of the Consulting Engineer, will not be considered Extra Work.

In the event that changes in the Consulting Engineer's work or operations are suggested which, in the opinion of the Consulting Engineer, would result in Extra Work, he shall immediately submit complete documentation of the claim and upon the Municipality's concurrence shall submit an estimate of the cost for the Extra Work and refrain from working on the Extra Work item while the Municipality reviews the claim, or proceed otherwise if specifically directed by the Municipality. If approval is denied, the Consulting Engineer shall continue to process the work without delay and payment will be made according to the terms of this Agreement. No work, other than that for which a claim is being reviewed, shall be delayed pending a decision of the Municipality.

Unless the Consulting Engineer identifies and the Municipality acknowledges Extra Work prior to its performance, the Municipality will not be obligated to consider it as Extra work after the fact.

Extra Work costs shall be segregated by the Consulting Engineer to facilitate audit at a later date by the Municipality and the State or the Federal Highway Administration.

Extra Work that results in a cumulative fee exceeding the amount specified in Paragraph (41) shall be performed and paid for under a supplemental agreement specifically drawn for this work.

(5) ERRORS AND OMISSIONS BY THE CONSULTING ENGINEER

That any amount paid out by the Municipality arising from or resulting from errors, omissions, or failures on the part of the Consulting Engineer to meet professional standards of construction engineering and inspection, will be recovered from the Consulting Engineer by deductions from payments due him under the terms of this Agreement or other legal means. The Consulting Engineer shall be notified by the Municipality of any potential claim prior to the Municipality deducting amounts from payments due, he shall be afforded an opportunity to respond to and defend against such claim or alleged claim in an informal proceeding before the Municipal Administrator or his designee.

(6) RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (6) below ~~DNA~~

Assume full responsibility for the accuracy of all products of its work under this Agreement including any supplements thereto, and shall so indicate by affixing the Connecticut Certificate of Registration Number for the Corporate Practice of Engineering by a corporation or limited

liability company on the Title Sheet(s) of all plans and/or documents, as well as the signature and Connecticut Professional Engineer's Seal of the individual(s) in charge of the work performed under the terms of this Agreement. Each individual listed on the said Connecticut Corporate Certificate of Registration as an engineer or land surveyor for a corporation or limited liability company, or so listed on the subsequently amended Corporate Certificate of Registration, shall be registered as a Professional Engineer or Land Surveyor (whichever is appropriate) in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Examiners for Professional Engineers and Land Surveyors.

With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform Consulting Engineer and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF PARTNERSHIP otherwise~~  
~~mark DNA and use (6) above~~     **DNA**

~~To assume full responsibility for the accuracy of all products of his engineering work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Professional Engineer's Seal on the Title Sheet(s) of all plans, designs, and/or documents so produced. Each Partner who will be performing engineering work under this Agreement shall be registered as a Professional Engineer in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Registration for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.~~

(7) FURNISHING OF TOOLS OF THE TRADE BY CONSULTING ENGINEER

To furnish all tools of the trade and equipment necessary for the satisfactory performance of the services required by this Agreement at no direct cost to the Municipality.

(8) CONSULTING ENGINEER'S INSPECTION FORCE

To furnish an inspection force at the level of and in the numbers established by negotiations for the construction engineering and inspection of this contract. The Resident Engineer/Chief Inspector shall work under the general supervision of the Municipality's Municipal Administrator. All orders to the Municipality's contractor on site will be transmitted by the Consulting Engineer's Resident Engineer/Chief Inspector.

(9) ATTENDANCE AT TRAINING SEMINARS, SCHOOLS, AND/OR MEETINGS

That the Municipality reserves the right, during the term of this Agreement, to require the presence of the Consulting Engineer's personnel at training schools, seminars, or other meetings as may be required.

(10) COOPERATION WITH OTHERS

To cooperate fully with other Consulting Engineers, state personnel, municipal officials, public utility companies, railroads, governmental agencies, and others engaged in surveying, mapping, designing, inspection and construction services, or work on traffic control, lighting, and other facilities within or adjacent to the project; to attend such meetings, discussions and hearings as may be requested by the Municipality; to furnish plans and other data as may be requested from time to time by the Municipality to effectuate this cooperation; and to comply with all orders given by the Municipal Administrator in connection with the work under this Agreement.

(11) PROTECTION OF RECORDS

To cooperate fully with the Municipality and the State and to maintain and protect complete construction records at the field office for review, use, and approval at all times. These records shall be transferred to the custody of the Municipality when the Consulting Engineer has completed his assignment or when requested by the Municipality and final payment to the Consulting Engineer shall be withheld until such transfer has been completed.

(12) INSURANCE

With respect to the operations performed by the Consulting Engineer under the terms of this Agreement and also those performed for the Consulting Engineer by its subcontractors, the Consulting Engineer will be required to carry for the duration of this Agreement, and any supplements thereto, with the Municipality and the State being named as an additional insured party for paragraphs (A) and (B) below, the following minimum insurance coverages at no direct cost to the State or

Municipality. In the event the Consulting Engineer secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (A) and/or (B) below, the Municipality and State of Connecticut shall be named as an additional insured.

A. COMMERCIAL GENERAL LIABILITY

The Consulting Engineer shall carry Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

B. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

C. RAILROAD PROTECTIVE LIABILITY

When the Agreement involves work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by the Consulting Engineer and/or its subcontractor(s), the Consulting Engineer shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Consulting Engineer shall obtain and submit evidence of the minimum coverage indicated above to the Municipality prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the Municipality.

D. VALUABLE PAPERS AND RECORDS

The Consulting Engineer shall secure and maintain a Valuable Papers Insurance Policy at no direct cost to the Municipality, until the work has been completed and accepted by the Municipality. Said Policy will assure the Municipality that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or any other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars (\$50,000) regardless of the physical location of the insured items.

#### E. WORKERS' COMPENSATION

With respect to all operations the Consulting Engineer performs and all those performed for the Consulting Engineer by subcontractors, the Consulting Engineer and subcontractor(s) shall carry Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively.

#### F. PROFESSIONAL LIABILITY INSURANCE

Secure and maintain at no direct cost to the Municipality a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars (\$ 2,000,000). The Consulting Engineer shall obtain the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this contract as the same relates to negligent acts, errors or omissions in the work performed by the Consulting Engineer. The Consulting Engineer may, at his election, obtain a policy containing a maximum Two Hundred Fifty Thousand (\$ 250,000) deductible clause, but if he should obtain a policy containing such a clause the Consulting Engineer shall be liable, as stated above herein, to the extent of the deductible amount. The Consulting Engineer shall continue this liability insurance coverage for a period of three (3) years from the date of completion of Consulting Engineer's work.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Consulting Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Consulting Engineer under this agreement.

Failure of the Consulting Engineer to maintain insurance coverage in accordance with the terms of the agreement shall constitute a violation of the agreement and shall subject the Consulting Engineer to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

#### G. CERTIFICATE OF INSURANCE

The Consulting Engineer agrees to furnish to the Municipality a Certificate of Insurance on the form(s) provided by the Municipality, in conjunction with Items A, B, C, D, and E above, and a "Certificate

of Insurance DOC-001", in conjunction with Item F above, fully executed by an insurance company or companies satisfactory to the Municipality, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

The Consulting Engineer shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the Municipality or the State. In providing said policies, the Consulting Engineer may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this agreement/contract.

(13) RESPONSIBILITY FOR CLAIMS AND LIABILITY

To indemnify and save harmless the Municipality and/or the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors, or omissions in the work performed by the Consulting Engineer and/or any of its subcontractors under this Agreement, including any supplements thereto, or resulting from the nonperformance of the Consulting Engineer and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

It is further understood and agreed by the parties hereto, that the Consulting Engineer shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Municipality and the Consulting Engineer, unless requested to do so by the Municipality. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

(14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS

That the Consulting Engineer shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion, thereof, or of the work provided for herein, or of his right, title, or interest herein, to any person, firm, partnership or corporation without the written consent of the Municipality and then he shall do so only by executing a subcontractor's agreement and shall furnish the Municipality a certified copy of this subcontractor's agreement. Any work subcontracted by the Consulting Engineer will be paid for by the Municipality at the actual costs to the Consulting Engineer with no additions. For breach or violation of the above stipulation, the Municipality shall have the right to annul this Agreement without liability. The Consulting Engineer shall also furnish to the Municipality certification of Public Liability and Property Damage Insurance Coverage, regular Protective Public Liability Insurance Coverage, and Professional Liability Insurance coverage, if applicable, for and in behalf of the Municipality and the State of Connecticut from the subcontractor. Each insurance policy shall state

that the insurance company has a right and duty to defend the insured against any suit seeking damages (or under Workers' Compensation, benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. In general, work that is to be sublet will be limited to that of an unusual or highly specialized nature, or work of relatively short or intermittent duration which can be more efficiently performed by a subcontractor. It is understood that the Municipality is not bound to the subcontractor for suits or other litigation resulting from the work performed by him.

(15) TERMINATION

That the Municipality, by written notice to the Consulting Engineer, may suspend, postpone, abandon, or terminate this Agreement for the convenience of the Municipality, for violation by the Consulting Engineer of any provision contained in this Agreement, or for any failure by the Consulting Engineer to render to the satisfaction of the Municipality the services required under this Agreement, including any failure to make acceptable progress with work required under this Agreement. Such action on the part of the Municipality shall in no event be deemed a breach of contract. Upon receipt of written notification from the Municipality that this Agreement is to be suspended, postponed, abandoned, or terminated, the Consulting Engineer shall immediately cease operations on work required under this Agreement. Upon receipt of written notification that this Agreement is to be abandoned or terminated, the Consulting Engineer shall also immediately assemble all material which is in its possession or custody and which has been prepared, developed, furnished, or obtained under the terms of this Agreement, and shall transmit the same, together with the Consulting Engineer's evaluation of the cost of the work performed, to the Municipality on or before the fifteenth day following the receipt of written notice of abandonment or termination. Said material shall include, but not be limited to, documents, plans, computations, drawings, notes, records, and correspondence. Upon receipt of this material, the Municipality shall make settlement with the Consulting Engineer in one of the following manners:

- (a) If the Municipality terminates this Agreement for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.
- (b) If the Municipality terminates this Agreement because the Consulting Engineer has failed to fulfill its obligations under the Agreement, the Municipality may complete the work required hereunder by contracting with another party or by any other means, and the Consulting Engineer



shall be liable for any additional costs incurred by the Municipality in doing so.

- (c) If the Municipality, after terminating the Consulting Engineer for alleged failure to fulfill its obligations under this Agreement, determines that the Consulting Engineer has not failed to fulfill those obligations, the rights and remedies of the parties shall be the same as if the Municipality had terminated the Agreement for convenience.

In determining the basis for such equitable settlement for items (a), (b), and (c) as indicated above, the Municipality shall take into account any monies owed the Consulting Engineer for work previously performed under this Agreement, less any payments previously made for said work, and the amount of reimbursable expenses incurred by the Consulting Engineer, less any payments previously made, to reimburse the Consulting Engineer for those expenses.

The Consulting Engineer agrees to accept the Municipality's valuation of the work performed under this Agreement, and the Municipality will not be liable for any profit that the Consulting Engineer expected or might have expected to make on portions of the Project work that have not been performed.

If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the Project, the Consulting Engineer may not make a claim against the Municipality in any form or forum for loss of anticipated profit or for any other reason related to the Project or this Agreement.

The rights and remedies of the Municipality under this Article are in addition to any other rights and remedies that the Municipality may possess by law under this Agreement.

Decisions of the Municipality on matters discussed in this Article shall be final and binding.

(16) PROGRESS REPORTS

To submit monthly progress reports, in quadruplicate, by calendar months to the Municipality showing the percentage of construction work performed to date. These progress reports, together with copies of certified monthly payrolls for all approved personnel, and such other supporting data as may be required, shall be subject to examination and approval by the Municipality and the State.

(17) PAYMENT TO THE CONSULTING ENGINEER

To accept payment for all services rendered in connection with this Agreement, in accordance with the sum or sums hereinafter stipulated in Paragraphs (40) and (41) of this Agreement.

(18) SUBMITTAL OF ESTIMATES AND FINAL DOCUMENTS/SUBMISSION OF CERTIFIED STATEMENT

To prepare and submit for approval construction contractor's monthly/semimonthly estimates and a final construction estimate. The final estimate shall be supported by a complete set of all pertinent job records and shall be furnished to the Municipality within the time frame stipulated herein.

To furnish the following documents to the Municipality within sixty (60) calendar days of the completion date of construction as noted on the CON-82.

- (1) (a) Final Estimate, (b) Index of Construction Orders, (c) Records of Daily Cost Plus, (Form CON-9), (d) Receipted Bills Supporting Cost Plus, (e) Final Construction Order, (f) Statement of Credits due the State, if applicable, and (g) Substantiating Evidence, if escalator clause is invoked, (h) Construction Report, (i) Statement of Working Days, (j) Breakdown of Participating and Non-Participating Cost by Project, (k) Substantiation of Payments made to D.B.E.'s or S.B.E.'s and a determination on recommended monetary assessments for failure to meet contract assignment goals for D.B.E.'s or S.B.E.'s work performance and any other required documents.
- (2) When requested by the Municipal Administrator, the complete set of original contract drawings (plans) showing as-built details for the plans, profiles, cross-sections and all diaries, field books, and other data in conformance with the requirements of the Construction Manual. The Consulting Engineer further agrees to submit, upon completion of construction, a statement certified by a professional engineer licensed in the State of Connecticut. This statement shall verify that the project, as built, conforms to the contract plans and/or the contract plans as modified by the construction orders approved by the Municipality and the State in all instances and that work performed and materials furnished comply with the requirements of the plans, specifications, and orders of the Municipality, and that all payments to the construction contractor are in conformance with the specifications.

If it is determined that the documents in (1) and (2) of this Article cannot be furnished within sixty (60) calendar days of the completion date of construction as noted on the CON-82, then by the forty-fifth (45th) day, the Consulting Engineer shall provide the Municipality with a listing of documents/information still required from the Contractor. At that time, a determination will be made by the Municipality on whether the Consulting Engineer will be extended to complete the remaining documents or whether the Municipality will complete the remainder.

If for causes within his control, the Consulting Engineer fails to furnish the Municipality with the documents noted in (1) and (2) of this Article within the allotted time, the Municipality may assess Consulting Engineer:

- a) Liquidated damages in the amount of Two Hundred Forty Dollars

(\$240) per calendar day for each day beyond the stipulated sixty (60) calendar days until submission of the required documents, and

- b) Correction of errors and/or omissions will be made at the Consulting Engineer's own expense.

(19) AGENT FOR SERVICE OF PROCESS

That the Secretary of State of the State of Connecticut (including any successor thereto) is hereby appointed by the Consulting Engineer as its agent for service of process for any action arising out, or as a result, of this Agreement, such appointment to be in effect throughout the life of this Agreement including any supplements hereto, and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

(20) SUBMITTAL OF CERTIFIED PAYROLL

To submit to the Municipality each month two (2) copies of a certified payroll, on a form acceptable to the Municipality, of the Consulting Engineer's own field forces and those of approved subcontractors. These payrolls shall be used as a basis in computing each month's payment. The certification shall be dated, signed, and read as follows: "I (Name of Consulting Engineer or Subcontractor), do hereby certify that during the period covered by this payroll, all personnel shown were working on the project, and their salary, rate of compensation, hours worked, and amount earned, is a true and accurate report". The personnel shown on the certified payroll, their employment and duration of employment, salary or hourly rate, hours of work, including overtime, if any, overtime rate, and all changes in status of any of the beforementioned information, shall have the prior written approval of the Municipality.

(21) COVENANT AGAINST CONTINGENT FEES

The Consulting Engineer agrees and warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consulting Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consulting Engineer, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the payments due the Consulting Engineer, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(22) MAINTENANCE AND AUDIT OF RECORDS

The Consulting Engineer agrees to incorporate the entire Maintenance and Audit of Records article of this Agreement, in all subconsultant agreements.

- (a) Project Accounts

The Consulting Engineer shall maintain an accounting system that is adequate to segregate and accumulate reasonable, allocable costs and maintain accounts and records in accordance with generally accepted accounting principles consistently applied.

(b) Allowable Costs

The authority for determining allowable costs under the Agreement shall be "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2," which is incorporated herein by reference.

(c) Audit and Inspection of Records

The Consulting Engineer shall permit the authorized representatives of the Municipality, the State, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the Consulting Engineer relating to his performance under the Agreement until the expiration of three (3) years after final payment under this Agreement.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation, upon request, a detailed job cost report of all project costs incurred under this Agreement.

The Consulting Engineer further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Municipality, the State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontractor. The term "subcontract" as used in this clause excludes work not exceeding \$25,000.00.

The periods of access and examination described above, for records which relate to (1) appeals for disputes, (2) litigation of the settlement of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by the Municipality, the State, the Comptroller General, or any of their duly authorized representatives, shall continue until final disposition of all such appeals, litigation, claims, or exceptions.

In accordance with Title 23 CFR, Chapter 1, Part 172.7(d), the Connecticut Department of Transportation as recipient or subrecipient of federal-aid highway funds, may share the audit information in complying with the State or subrecipient's acceptance of a Consulting Engineer's overhead rates provided that the Consulting Engineer is given notice of each use and transfer.

(d) Record Retention

The Consulting Engineer agrees that it shall preserve all of its records and accounts concerning the implementation of this Agreement

including, but not limited to, any records, books, or other documents relative to charges, including charges for Extra Work, alleged breaches of agreement, settlement of claims, soils and foundation services, or any other matter involving the Consulting Engineer's or Subcontractor's demand for compensation by the Municipality for a period of not less than three (3) years from the date of the final payment under this Agreement. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

(e) Annual Audit of In-House Unit Cost Rates

The Consulting Engineer agrees to have a CPA perform an audit of any in-house unit cost rate(s) billed by the Consulting Engineer. The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The schedule(s) which detail the computation of the audited unit cost rate(s) must present the individual expenses applicable and the actual usage which is the basis for the unit cost rate(s). The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2". This audit may be submitted with the audit of indirect costs. Failure to submit this audit will result in any costs billed by the Consulting Engineer for in-house charges to be considered ineligible for reimbursement.

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year during the term of this agreement

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of audits of the in-house unit cost rates issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

(f) Annual Audit of Indirect Costs

The Consulting Engineer agrees to prepare a "Schedule of Indirect Costs" from its operations for each fiscal year which the Agreement covers. The schedule shall consist of direct labor costs and indirect costs listed by accounts for home office design and construction engineering/inspection (field) projects, if applicable.

The Consulting Engineer agrees to have this schedule audited by an

independent Certified Public Accountant (CPA). The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year for which the Agreement covers.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of Indirect Cost audits issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in the "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward within thirty (30) days of issuance, a copy of the company's annual financial schedule audit to the Office of External Audits of the Connecticut Department of Transportation.

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

The Consulting Engineer also agrees it shall make arrangements with their Certified Public Accountant to have copies of their working papers forwarded to the Office of External Audits of the Connecticut Department of Transportation when requested.

(23) COMMENCEMENT OF SERVICES

That the Consulting Engineer shall not begin performance under the terms of this Agreement until notified by the Municipality in writing. With written authorization from the Municipality, the Consulting Engineer may commence operations prior to the start of the construction contract.

(24) DIRECT COST ITEMS

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy No. F&A-34, April 21, 2005, Subject: Policy on the Acquisition and Inventory of Equipment Purchased by Consultants".

(25) CARE OF MUNICIPALLY-OWNED EQUIPMENT

That the Consulting Engineer will assume full responsibility for the use and care of all Municipally-owned equipment issued for use on the

Project. This equipment is to be returned to the Municipality upon completion of the Project in good condition. The Consulting Engineer will replace at no cost to the Municipality any Municipally-owned equipment which is lost or damaged except for normal wear and tear, as determined by the Municipality, while in the Consulting Engineer's possession.

(26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS

That while engaged in performing the provisions or terms of this Agreement, the Consulting Engineer will ensure that the following steps will be adhered to concerning claims of injury or damage due to the construction contractor's operations:

- (a) That the Consulting Engineer will advise all claimants to submit the claim in writing to the Municipality, which for the purpose of this Paragraph will be interpreted to mean the Municipal Administrator at the appropriate address.
- (b) That the Consulting Engineer will record for the project file pertinent information concerning claims or potential claims including name, date, time, and nature of the claim or potential claim as these claims/potential claims become apparent.
- (c) That the Consulting Engineer will file a report for the project records if required to do so by the Municipality.

(27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT

That the Consulting Engineer agrees in case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern, and that wherever a blank ( ) or the words "DOES NOT APPLY" appears in all copies of this Agreement, this represents a deletion of a condition which does not apply to this contract.

(28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Disadvantaged Business Enterprises For Federal Funded Projects", as set forth in Exhibit A, Schedule 1 (attached herewith) dated February 26, 2009.

(29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) DOES NOT APPLY

~~The Consulting Engineer shall cooperate with the State in implementing the required contract obligations concerning "Small Contractor" and/or "Small Contractor Minority Business Enterprises" utilization on this Agreement in accordance with Section 32-9e of the Connecticut General Statutes, as revised. The Consulting Engineer shall comply with this provision in accordance with the "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)", as set forth in Exhibit A, Schedule 2 (attached herewith) dated March, 2001.~~

~~The State advises the Consulting Engineer that failure to carry out the requirements set forth in said "Special Provisions, Small Contractor~~

~~And Small Contractor Minority Business Enterprises (Set-Aside)" shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.~~

(30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in the Commissioner's Letter dated October 26, 1988 Re: Prompt Payment to Subcontractor(s), as set forth in Exhibit A, Schedule 3 (attached herewith) as revised.

The Consulting Engineer shall pay the subcontractor for work performed within thirty (30) days after the Consulting Engineer receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work.

For the purpose of this Article satisfactory completion shall have been accomplished when:

(1) The subcontractor has fulfilled the contract requirements of both the Municipality and the subcontract for the subcontracted work, including the submission of all submittals and audit requirements stipulated in Article 22(f), when applicable, and

(2) The work done by the subcontractor has been reviewed and accepted by the Municipality and final approval of the subcontractor's work has been determined and agreed upon.

If the Consulting Engineer determines that a subcontractor's work is not complete, the Consulting Engineer shall notify the subcontractor and the Municipality, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Municipality within twenty-one days of the subcontractor's request for release of retainage.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Consulting Engineer to comply with the provisions of this section will be reflected in the "Consultant Performance Evaluation" for future projects.

(31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG

The Consulting Engineer understands and agrees that a "Connecticut Department of Transportation Subconsultant Payment Log" Form shall be completed quarterly (January, April, July, and October) and furnished to the Municipality for each subcontractor the Consulting Engineer utilizes under this Agreement. Instructions for completing and processing this Form are stipulated on its reverse side. A copy of said form is included herewith.

(32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS



The Consulting Engineer shall comply with all the State and Federal Statutory and Administrative requirements incorporated herein by reference and set forth in Exhibit A attached hereto, and all Schedules attached hereto which are also hereby made a part of this Agreement.

**RESPONSIBILITY OF THE MUNICIPALITY:**

**THE MUNICIPALITY AGREES**

**(33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY**

To furnish to the Consulting Engineer one copy or more as may be required of the latest edition of the following manuals and/or documents:

- Connecticut Department of Transportation Specifications for Location Surveys
- Construction Manual
- Municipality Manual
- Information Pamphlet
- All maps, location and descriptions of coordinate values of existing points, locations and elevations of existing bench marks, and any other layout information that is available
- Original construction contract drawings (plans) for the project to be revised in accordance with Paragraph (1)(i).
- Standard Specifications - Form 816
- Public Service Facility Policy
- Project inspection record books and standard State forms
- Preliminary computations and Grade list
- Pamphlet for Monitoring Performance and Payment Requests for Consultants, dated June 1994, and any amendments

The Municipality agrees to furnish any publications of the Municipality and/or the State, requested by the Consulting Engineer, for use in inspection of the project.

**(34) MUNICIPALLY ASSIGNED ADMINISTRATOR**

To assign a Municipal Administrator who will provide general supervision of the Consulting Engineer's activities.

**(35) MUNICIPALLY PROVIDED EQUIPMENT**

Provide space or a field office with office equipment on or near the project which will have adequate space for the Consulting Engineer's staff, and the Municipality's Municipal Administrator, as specified in the Standard Specifications.

(36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY

To advertise, receive bids and award the construction contract, and to conduct a preconstruction meeting for the project.

(37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (a) To perform or arrange for the performance of all off-site shop and mill inspections and laboratory tests and analysis of those classes of material which are normally inspected, tested, and analyzed prior to delivery to the site of the work.
- (b) To perform the so-called Proctor Laboratory Density test to determine the relationship between the moisture content and density of various fill materials to be used on the project in accordance with AASHTO T-180, Method D.
- (c) To arrange for the District or State Laboratory to transport and test all material sampled by the Consulting Engineer under the terms set forth in Paragraph (1) (g) of this Agreement.

(38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE

Notwithstanding the requirements of Section 1, the Municipality and/or the State will provide technical assistance and/or engineering recommendations relative to construction or design-related issues associated with the project.

(39) FINAL INSPECTION

To make final inspection of the construction contract within ten (10) calendar days after the construction work is completed.

**ARTICLES OF MUTUAL AGREEMENT**

**THE MUNICIPALITY AND THE CONSULTING ENGINEER MUTUALLY AGREE:**

(40) PAYMENT

That subject to the limitations stipulated in Paragraph (41) of this Agreement, the Municipality shall pay the Consulting Engineer in the following manner for all work performed in accordance with the terms of this Agreement with the exceptions of those services for which a different method of payment is stipulated:

The Consulting Engineer and subconsultants may bill direct costs for meals, subsistence and transportation, if applicable, in accordance with the latest State Travel Regulations-State Managers limiting amounts. All mileage, including that for rental cars, will be reimbursed at the current mileage rate only. Actual cost shall be: (1) salaries of employees directly chargeable to the project at rates not to exceed those shown in Paragraph (44); and (2) burden, fringe and overhead costs properly allocable to the project. For 2XXX, the tentative percentage for field office operations will be\_\_\_\_%.

This percentage will be revised annually based on a State approved

audit of burden, fringe and overhead costs of the previous years experience. The term "Salaries" as used in this Agreement shall mean the gross wage or payment made to employees before deductions for employee paid taxes and fringe benefits. The final determination of the sum to be paid for actual costs will be made following an audit of the Consulting Engineers records. The certified payroll shall cover salaries computed at straight-time rates. The certified percentage for burden, fringe, and overhead shall be applied only to the "straight-time" portion of overtime pay. No payment shall be made to partners or officials of the firm for those services unless they are engaged in production work in which case compensation will be made at production rates.

(41) MAXIMUM PAYMENT

That the maximum amount which the Municipality shall pay to the Consulting Engineer for all work performed under the terms of this Agreement, excepting work for which payment is provided in Paragraph (43), shall not exceed (\$422,000.00. The total payment for Extra Work shall not exceed(\$42,000.00). The total payment for work performed under this Agreement, including Extra Work shall not exceed (\$464,000.00). The maximum amount will not be revised unless there is a substantial change in the scope or character of the work to be performed by the Consulting Engineer which would justify a revision of this figure, as determined by the Municipality; or if, for any reason, the Consulting Engineer does not or cannot start his work prior to or in sufficient time to meet the construction contractor's schedule of operations, and the Municipality finds it necessary to provide certain inspection and survey services, the limiting amount and fixed fee shall be reduced an equitable amount to reflect the Municipality's expense in connection therewith.

(42) PROGRESS PAYMENTS

That progress payments shall be made to the Consulting Engineer on a monthly basis for all work covered by this Agreement except work for which payment is provided in paragraph (43). Said progress payment to be the sums of the following: (a) the actual costs shown on the voucher for the period, plus (b) eighty-five percent (85%) of the appropriate fixed fee amount for profit stipulated in paragraph (40) divided by the number of monthly periods in the total time allowed for completion of the construction work and closeout period. From the progress payments thus computed each month there shall be deducted all credits, if any, due the Municipality. Prior to the final payment, the Municipality may release such portion or portions of the retainage as it considers to be in its best interest. In no case, however, will the retainage be reduced to less than eighty-five (85%) of the fixed fee amount stipulated in paragraph (40) of the Original Agreement until after completion of the final audit.

The Consulting Engineer may request the substitution of securities for retainage in accordance with Connecticut General Statutes Section 3-112a.

(43) PAYMENT FOR EXTRA WORK

- (a) Extra work approvals associated with increases in costs for:
- an extension of construction contract time.
  - changes or refinements in work assignments, operations or staffing levels.
  - increases in premium overtime or shift differential cost.
  - investigation of claims.
  - escalated burden, fringe, and overhead costs based on audit results.

A fee, established through negotiations, will be paid from extra work funds under Paragraph (41) of this Agreement to the extent that these funds are available. The Consulting Engineer will be paid based on a certified monthly payroll including burden, fringe and overhead. No additional fixed fee for profit associated with payroll increases identified above will be considered unless the work period specified in Paragraph (3)(d) is exceeded and the extra work funds established under Paragraph (41) have been fully utilized. Extra work approvals that will exceed the amount stipulated in Paragraph (41) of this Agreement or the work period specified in Paragraph (3)(d) will be paid for under a supplemental agreement based on a negotiated fee for services.

- (b) Extra work approvals associated with approved design changes that require engineering work at the main or home office of the Consulting Engineer shall be paid on a certified monthly payroll plus the burden, fringe and overhead cost and a fixed fee for profit. Extra work associated with design changes shall be based on a scope of services provided by the Municipality and a negotiated fee for these services. No additional payment will be made for authorized minor design changes that can be made in the field by the Consulting Engineer.
- (c) Extra work approvals for claims investigations assigned to the Consulting Engineer after final payment has been made or investigation that will exceed the calendar days stipulated in Paragraph (3)(d) will be based on a scope of services provided by the Municipality and a negotiated fee for these services. The Consulting Engineer will be paid based on a certified monthly payroll plus burden, fringe and overhead cost and a fixed fee for profit.

(44) MAXIMUM HOURLY RATES

That the following maximum hourly rate for each classification of employee to be used on the project shall be as follows and additional classifications if required must be submitted to the Municipality for prior approval.

Classifications

Maximum Hourly Rates

~~Effective through 2024~~

|                          | Maximum Hourly<br>Rates |
|--------------------------|-------------------------|
| Construction Manager     | \$175 per hour          |
| Chief Inspector          | \$160 per hour          |
| Inspector                |                         |
| Senior Inspector         | \$145 per hour          |
| Certified Payroll        | Maximum Hourly          |
|                          | Actual Hourly Rates     |
| Construction Coordinator |                         |
| Chief Inspector          |                         |
| Inspector                |                         |
| Surveyor                 |                         |
| Rod Man                  |                         |
| Secretary                |                         |

\*\*\* The Contracting Engineer shall use the following maximum hourly rates until the Department of Transportation Commissioner sends written notification rescinding the wage freeze.

\*\*\*\* The Contracting Engineer may use the above maximum hourly rates prospectively only upon written notification by the Department of Transportation Commissioner that the wage freeze has been rescinded.

The above maximum hourly rates of pay shall be subject to renegotiation should the work required under this Agreement not be completed as stipulated in Paragraph (3)(d). Any adjustment to the maximum hourly rates stated above shall apply only to such services as may be rendered subsequent to the date of renegotiation as stipulated above. Overtime work, when authorized by the Municipality, shall be paid for by the Municipality at "straight-time" rates except when otherwise required by law or regulation or when otherwise approved by the Municipality. The surcharge for burden, fringe and overhead shall be applied only to the "straight-time" portion of any overtime pay.

(45) ACCEPTANCE DATE

That the acceptance date of the work of this Agreement shall be established as the date the Municipality is in receipt of all papers and documents required in this Agreement. Within thirty (30) days of acceptance, the Consulting Engineer shall submit a final payment voucher for monies due him. If the Consulting Engineer fails to submit this voucher within the specified time, the Municipality may process a final payment voucher based on the available information.

(46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF TOWN OF

FAIRFIELD

That the attached Certification of Consulting Engineer and Certification of the Town of Fairfield, as set forth in Exhibit A, Schedule 4, (attached herewith)as revised.

(47) FEE ADJUSTMENT

That the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Municipality determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(48) NOTICE BETWEEN PARTIES TO AGREEMENT

That it is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a) - be in writing (hardcopy) addressed to:

(i) When the Municipality is to receive such notice -

William A. Gerber, First Selectman  
Sullivan Independence Hall  
725 Post Road  
Fairfield, CT 06824

With a copy to:

Philip C. Pires, Esq.  
Town Attorney  
Cohen and Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

(ii) When the Consulting Engineer is to receive such notice -

the person(s) acting herein as signatory for the Consulting Engineer receiving such notice;

**Ronald J. Nault, P.E., President**  
**Luchs Consulting Engineers, LLC**  
**89 Colony Street**  
**Meriden, CT 06451**

b) - be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and

c) - contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "official notice" as used herein, shall be construed to include but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change,

revision, addition to or deletion from the document, contract, or agreement in which this "official notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the parties hereto from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

- (49) REVISIONS IN ORGANIZATION OF CORPORATION USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (49) below ~~DNA~~

That the Consulting Engineer shall notify the Municipality in writing when there is a change in its Connecticut Certificate of Registration for the Corporate Practice of Engineering or Land Surveying by a corporation or limited liability company in the State of Connecticut or a change in the individual(s) in charge of the work specified herein. Neither change shall relieve the Consulting Engineer of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.

- (49) ~~REVISIONS IN ORGANIZATION OF PARTNERSHIP USE ONLY IF PARTNERSHIP~~  
~~otherwise mark DNA and use (49) above~~ **DNA**

~~That the Municipality, on written notice by the Consulting Engineer of changes in the partnership structure of the organization, may enter into a supplemental agreement with the new partners providing releases are provided from the former partner, or partners, stating that he has been compensated in full or that provision has been made for compensation in full for all work performed under terms of this Agreement and a financial statement is submitted showing that solvency of the partnership is maintained. The death of a partner shall not release the partnership from the performance of this Agreement and the remaining functions must be performed by the surviving partner(s) until the terms of this Agreement are fully executed. The withdrawal of any partner from the partnership shall not relieve him from his liability for performance of this Agreement.~~

- (50) OWNERSHIP OF DOCUMENTS

That all products of the work under the terms of this Agreement shall become and remain the property of the Municipality. This shall include all partially completed work in the event that the Agreement is terminated before completion for any reason.

- a) The Consulting Engineer shall transfer to the Municipality, as part of the consideration for this Agreement, any and all copyright rights or other proprietary interests which the Consulting Engineer may have in materials ("Work Products") produced by it under the terms of this Agreement; and that the Consulting Engineer shall, whenever so requested by (the Municipality), sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality a letter agreement, in form and content satisfactory to the



Municipality, stating that the Consulting Engineer thereby irrevocably transfers to the Municipality all of its copyright and other proprietary rights in the Work Products designated by the Municipality in its related request.

- b) If deemed appropriate by the Municipality in its sole discretion, the Consulting Engineer shall agree that any or all Work Products shall be deemed a work of joint authorship by the Municipality and the Consulting Engineer for copyright purposes, and shall be registered as such with the United States Copyright Office. The Consulting Engineer hereby waives any right to oppose or object to such a claim of joint authorship or to such related copyright registration.
- c) The Consulting Engineer shall not engage or allow any party ("Other Party") other than itself or the Municipality to contribute directly to the creation of any Work Product unless the Consulting Engineer has first obtained from said Other Party a written agreement ("Secondary Agreement") containing essentially the same terms as Section B above; i.e., the Other Party
  - 1) shall agree to transfer to the Municipality any and all copyright or other proprietary rights said Other Party may have in designated Work Products, or, if the Municipality so requests, shall agree to deem such Work Product a work of joint authorship by the Municipality and by Other Party, and, if appropriate, by the Consulting Engineer also; and
  - 2) shall agree to sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality any letter agreement ("Letter Agreement") of the kind described in Section b) above which the Municipality shall request from it. The Secondary Agreement between the Consulting Engineer and an Other Party shall provide expressly that any such Letter Agreement delivered by the Other Party to the Municipality shall be directly enforceable by the Municipality, and that the execution, delivery, and enforceability of such a Letter Agreement are part of the consideration for the Secondary Agreement.

(51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)

That the Municipality makes no express or implied warranty of any kind with regard to the particular Computer Aided Design and Drafting File(s) provided to the Consulting Engineer under this Agreement, if any, its documentation, or its fitness for any purpose, including but not limited to the implied guarantees of fitness for a particular purpose. The Municipality shall not be held liable for errors contained herein, or for any consequential or incidental damages which may arise in connection with the use, performance, duplication, modification, transfer or distribution of these files or copies thereof.

(52) PAYMENT OF RECOVERABLE COSTS DUE TO THE MUNICIPALITY

The Municipality shall have the right to set off against amounts otherwise due to the Consulting Engineer under this Agreement or under any other agreement or arrangement that the Consulting Engineer has with the Municipality (a) any costs that the Municipality incurs which are due to the Consulting Engineer's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Consulting Engineer to the Municipality. Any sum taken in set-off from the Consulting Engineer shall be deemed to have been paid to the Consulting Engineer for purposes of the Consulting Engineer's payment obligations under Connecticut General Statute Section 49-41c.

(53) JURISDICTION AND FORUM LANGUAGE

This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of laws principles would dictate otherwise. This Agreement shall be deemed to have been made in Fairfield, Connecticut. Nothing herein shall be construed to waive any of the Municipality's immunities.

(54) ~~SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP~~ DNA

~~The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Small Business Participation Pilot Program SBPPP as Subcontractors and Material Suppliers or Manufacturers", as set forth in Exhibit A, Schedule 11 (attached herewith) dated May 12, 2010.~~

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

TOWN OF FAIRFIELD

\_\_\_\_\_  
Typed Name:

By \_\_\_\_\_ (Seal)  
Typed Name:- William A. Gerber

Its First Selectman

\_\_\_\_\_  
Typed Name:

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

Luchs Consulting Engineers, LLC

\_\_\_\_\_  
Typed Name: Dawn Crandall

By \_\_\_\_\_ (Seal)  
Typed Name: Ronald J. Nault, P.E., President

\_\_\_\_\_  
Typed Name: Paula Kusmit

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

CONNECTICUT CORPORATE ENGINEERING  
PRACTICE -- CERTIFICATE OF  
AUTHORIZATION NO. JPC 0000061

EXHIBIT A  
and Schedules 1 through 11

**THE CONSULTING ENGINEER AGREES:**

**1. GOVERNMENTAL AGENCY EXEMPTION**

That the Consulting Engineer hereby acknowledges and agrees to comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The attached copy of the "Governmental Agency Exemption Certificate", as set forth in Exhibit A, Schedule 5 (attached herewith).

**2. CODE OF ETHICS FOR STATE EMPLOYEES DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 6 (attached herewith).~~

**3. CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:~~

- ~~\_\_\_\_\_ (a) No person hired by the State as a Consulting Engineer or independent contractor shall:~~
- ~~\_\_\_\_\_ (1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;~~
- ~~\_\_\_\_\_ (2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or~~
- ~~\_\_\_\_\_ (3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.~~
- ~~(b) \_\_\_\_\_ No person shall give anything of value to a person hired by the \_\_\_\_\_ State as a Consulting Engineer or independent contractor based on \_\_\_\_\_ an understanding that the actions of the Consulting Engineer or \_\_\_\_\_ independent contractor on behalf of the State would be influenced.~~

#### 4. EXECUTIVE ORDERS

##### A. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Consulting Engineer's request, the Department shall provide a copy of these orders to the Consulting Engineer.

#### 5. NON-DISCRIMINATION

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Consulting Engineer.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations

adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor

shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. CAMPAIGN CONTRIBUTION AND SOLICITATION BAN **DOES NOT APPLY**

~~For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this agreement/contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice set forth in Exhibit A, Schedule 7 (attached herewith).~~

#### 7. PRIVATIZED PUBLIC RECORDS

The following Article is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more. The Department is entitled to receive a copy of records and files related to the performance of the Consulting Engineer under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the Department pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the Department in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

#### 8. OVERSIGHT OF LARGE STATE CONTRACTS DOES NOT APPLY

~~The following Article is applicable to those contracts with an aggregate value of Five Million Dollars (\$5,000,000) or more. If an officer, employee or appointing authority of the Consulting Engineer takes or threatens to take any personnel action against any employee of the Consulting Engineer in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), the Consulting Engineer shall be liable for a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the Department may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.~~

~~The Consulting Engineer shall post a notice of the provisions of this section in a conspicuous place which is readily available for viewing by the employees of the Consulting Engineer.~~

#### 9. CIVIL RIGHTS

As a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Consulting Engineer shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.),



all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances set forth in Exhibit A, Schedule 8 (attached herewith).

#### 10. CERTIFICATION FOR FEDERAL AID CONTRACTS

That the Consulting Engineer certifies, by signing and submitting this Bid, Agreement, Contract, Proposal, to the best of his/her/its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consulting Engineer, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consulting Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. If applicable, the Exhibit A, Schedule 9 (attached herewith), Disclosure Form-LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consulting Engineer also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this certification be included in all subcontracts, sub-subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317456, Newington, CT 06131-7546, to the attention of the project manager.

#### 11. SUSPENSION OR DEBARMENT

That suspended or debarred contractors Consulting Engineers,

suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

- 1) That the signature on the Agreement by the Consulting Engineer shall constitute certification that to the best of its knowledge and belief the Consulting Engineer or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or any position involving the administration of Federal or State funds:
  - a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Has not within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1)b. of this certification; and
  - d. Have not within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the Consulting Engineer is unable to certify to any of the statements in this certification, such Consulting Engineer shall attach an explanation to this Agreement.

The Consulting Engineer agrees to insure that the following certification be included in each Subcontract Agreement, to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

- a. The prospective subcontracts, sub-subcontracts participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.

- b. Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certifications, such prospective participant shall attach an explanation to this proposal.

## 12. AMERICANS WITH DISABILITIES ACT

This clause applies to those Consulting Engineers who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act"), Public Law 101-336, during the term of the Agreement. The Consulting Engineer represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Consulting Engineer to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Consulting Engineer. The Consulting Engineer warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Consulting Engineer to be in compliance with this Act, as the same applies to performance under this Agreement.

## 13. FEDERAL OBLIGATION TO THIRD PARTY

(1) The Purchaser and Consulting Engineer acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consulting Engineer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Consulting Engineer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Consulting Engineer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consulting Engineer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consulting Engineer further acknowledges that if it makes, or causes to be made, a

false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consulting Engineer to the extent the Federal Government deems appropriate.

(2) The Consulting Engineer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consulting Engineer, to the extent the Federal Government deems appropriate.

(3) The Consulting Engineer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### 15. ENERGY CONSERVATION

The Consulting Engineer agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### 16. FLY AMERICA REQUIREMENTS

The Consulting Engineer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consulting Engineer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consulting Engineer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 17. CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS "SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES"

That the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities," as set forth in Exhibit A, Schedule 10 (attached herewith) dated March 3, 2009.

## 18. AMERICAN RECOVERY AND REINVESTMENT ACT

The following Article only applies to projects funded under the American Recovery and Reinvestment Act of 2009.

For the purposes of this Article, "Contractor" means any prime contractor, consulting engineer, or other entity contracting with the State of Connecticut Department of Transportation ("DOT") or a Municipality undertaking a project ("Project") funded under the American Recovery and Reinvestment Act of 2009 ("Act"). Additionally, to the extent that a Municipality is employing its own staff to undertake work on the Project, solely with respect to such work by its staff, the Municipality itself is likewise subject to the requirements herein that are imposed on the Contractor. A Project undertaken by a Municipality is identified herein as a "Municipality-administered Project," and a Project undertaken by DOT is identified herein as a "DOT-administered Project."

(1) The Contractor agrees to accurately and timely record and report, in accordance with the requirements of the Act and additional guidelines, policies and regulations issued or promulgated pursuant to the Act, information regarding jobs or positions created or retained in Connecticut, the United States and outlying areas as a result of funding provided through the Act for the Project, including, but not limited to, the following requirements:

A. The Contractor shall accurately complete and submit to DOT or the Municipality, as applicable, on a monthly basis from commencement through completion of its work on the Project, an employment report using Form FHWA-1589 available at: <http://www.fhwa.dot.gov/economicrecovery/forms/fhwa1589.xls> ("Monthly Employment Report").

B. No later than seven (7) calendar days after the last calendar day of the month being reported ("Seven Day Submission Requirement"), the Contractor shall:

- (i) With respect to DOT-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to DOT by e-mail to: [Theodore.Szymanski@ct.gov](mailto:Theodore.Szymanski@ct.gov), with a copy to [Philip.Scarrozzo@ct.gov](mailto:Philip.Scarrozzo@ct.gov); and also submit a hard copy, to the applicable DOT District office for inclusion in the Project file, signed by an authorized representative of the Contractor;
- (ii) With respect to Municipality-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to the Municipality's designated employee by email or other electronic means as instructed by the Municipality; and
- (iii) Provide a consistent filename for each Monthly Employment Report in the format ContractNumberMonthYear.xls (e.g., #####MAY09.xls);

C. Each of the Contractor's subcontractors and second-tier subcontractors shall submit an employment report using Form FHWA-1589 ("Monthly Subcontractor Employment Report") in Microsoft Excel file format to the Contractor on a monthly basis within sufficient time to enable the

Contractor, in turn, to submit such Monthly Subcontractor Employment Report(s) to DOT or the Municipality, as applicable, by the Contractor's Seven (7) Day Submission Requirement. Failure by the collective subcontractors to timely submit such Monthly Subcontractor Employment Report(s) to the Contractor does not excuse the Contractor's obligation to submit its Monthly Employment Report within the required time.

(2) Receipt of funds pursuant to the Act under this Contract is contingent upon the Contractor meeting the reporting requirements of this Contract and any additional reporting requirements of the Act as may be required by the appropriate federal agency through its issuance of guidelines or promulgation of regulation(s).

a. The Contractor agrees that at any time during the Project, the Federal Highway Administration ("FHWA") and/or DOT, after notice, may change the reporting requirements herein. In that event, the Contractor and its subcontractor(s) and second-tier subcontractor(s) shall comply with such requirements.

b. DOT or the Municipality may take any action that FHWA authorizes for non-compliance with the reporting requirements set forth in Section 2 above.

(3) The Contractor agrees to comply with Sections 1605 and 1606 of the Act and any additional federal guidelines or regulations issued or promulgated thereunder.

(4) The following language is made a part of this Contract and shall be made part of all subcontracts and second tier subcontracts:

A. Access of United States Government Accountability Office, Section 902 of Title IX of Division A of the Act.

Pursuant to Section 902 of Title IX of Division A of the Act, the United States Comptroller General and its representatives may:

(1) examine any records of the Contractor or any of its subcontractors, or any State or local agency administering such Contract, that directly pertains to, and involve transactions relating to, the Contract or Subcontract; and

(2) interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the Contract, regarding such transactions.

Nothing in Section 902 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the United States Comptroller General.

B. Office of the Inspector General's Authority, Section 1515 of Title XV of Division A of the Act.

Pursuant to Section 1515, of Title XV of Division A of the Act, the United States Office of the Inspector General or any of its representatives may:

(1) examine any records of the Contractor or grantee, any of its

subcontractors or subgrantees, or any State or local agency administering such Contract, that pertain to, and involve transactions relating to the Contract, subcontract, grant, or subgrant; and

- (2) interview any officer or employee of the Contractor, grantee, subgrantee or agency regarding such transactions.

Nothing in Section 1515 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the Inspector General.

C. Whistleblower Protections. Section 1553 of Title XV of Division A of the Act prohibits all non-federal recipients of Act funds from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to Act funds; (2) a gross waste of Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Act funds; (4) an abuse of authority related to implementation or use of Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Act funds. The recipient of Act funds must post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the Act.

D. False Claims Act. The recipient of Act funds shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

## **ITEM 8**

### **PROPOSED CONTRACT FOR PHASE 3 – TURNEY CREEK CULVERTS AND TIDE GATES ENGINEERING SERVICES**



AGREEMENT  
BETWEEN THE TOWN OF FAIRFIELD  
AND  
Luchs Consulting Engineers, LLC  
FOR  
CONSTRUCTION ENGINEERING & INSPECTION

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NOTE: ANY ITEM STAMPED "DNA" OR "DOES NOT APPLY" IS HEREBY DELETED PRIOR TO THE EXECUTION OF THIS AGREEMENT WITH THE CONCURRENCE OF THE CONSULTING ENGINEER.

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- (14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS
- (15) TERMINATION
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- (19) AGENT FOR SERVICE OF PROCESS
- (20) SUBMITTAL OF CERTIFIED PAYROLL
- (21) COVENANT AGAINST CONTINGENT FEES
- (22) MAINTENANCE AND AUDIT OF RECORDS
- (23) COMMENCEMENT OF SERVICES
- (24) DIRECT COST ITEMS
- (25) CARE OF MUNICIPALLY-OWNED EQUIPMENT
- (26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS
- (27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT
- (28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
- (29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) **DOES NOT APPLY (DNA)**
- (30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE
- (31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG
- (32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS

#### **RESPONSIBILITY OF THE MUNICIPALITY**

- (33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY
- (34) MUNICIPALLY ASSIGNED PROJECT ENGINEER
- (35) MUNICIPAL PROVIDED EQUIPMENT
- (36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY
- (37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE
- (39) FINAL INSPECTION

**ARTICLES OF MUTUAL AGREEMENT**

- (40) PAYMENT
- (41) MAXIMUM PAYMENT
- (42) PROGRESS PAYMENTS
- (43) PAYMENT FOR EXTRA WORK
- (44) MAXIMUM HOURLY RATES
- (45) ACCEPTANCE DATE
- (46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF MUNICIPALITY
- (47) FEE ADJUSTMENT
- (48) NOTICE BETWEEN PARTIES TO AGREEMENT
- (49) REVISIONS IN ORGANIZATION
- (50) OWNERSHIP OF DOCUMENTS
- (51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)
- (52) PAYMENT OF RECOVERABLE COSTS DUE THE MUNICIPALITY
- (53) JURISDICTION AND FORUM LANGUAGE
- (54) SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP

## **AGREEMENT**

**THIS AGREEMENT** has been concluded at the Town of Fairfield Connecticut by and between the Town of Fairfield , duly authorized, hereinafter referred to as the Municipality, and Luchs Consulting Engineers, LLC a Corporation qualified to do business in Connecticut and having its office located at 89 Colony Street, Meriden, CT 06451

authorized to practice professional engineering in Connecticut under the provisions of Chapter 391 of the General Statutes of Connecticut, as amended, acting herein by Ronald J. Nault it's President, hereunto duly authorized, hereinafter referred to as the Consulting Engineer.

**WHEREAS**, the Municipality has determined, based on staffing requirements and/or special expertise requirements, that the services of a Consulting Engineer are required to perform construction engineering and inspection on inspection on Phase 3 – Turney Creek Culverts and Tide Gates and;

**WHEREAS**, the Municipality has approved the contracting out for these services and;

**WHEREAS**, the Municipality has the authority to employ such assistance as it may require.

### **NOW, THEREFORE, KNOW YE THAT:**

#### **RESPONSIBILITY OF THE CONSULTING ENGINEER:**

#### **THE CONSULTING ENGINEER AGREES**

##### **(1) SCOPE OF SERVICES:**

To perform construction engineering and inspection, under the general supervision of a Municipal Administrator in conformance with the "Construction Manual - Connecticut Department of Transportation, Bureau of Engineering and Construction, Office of Construction, Version 2.2, January 2011, as amended", hereinafter referred to as the "Construction Manual", and the "Information Pamphlet for Consulting Engineers Performing Construction Inspection", dated August 2008, as amended, and hereinafter referred to as the "Information Pamphlet", and the "Municipality Manual, Connecticut Department of Transportation, Bureau of Engineering and Highway Operations, Office of Construction, Version 1, July 2008", hereinafter referred to as the "Municipality Manual". The Consulting Engineer will perform construction engineering and inspection in accordance with the policies and procedures of the State, as specified in these documents and in accordance with the scope of services listed in this Paragraph, which include, but are not limited to,

the following:

SURVEY

- (a) All construction survey work with the exception of that work that is included in the construction contract to be accomplished by the Municipality's contractor as directed by the Municipal Administrator;
- (b) The checking of all construction operations and layout staking performed by the Municipality's contractor as directed by the Municipal Administrator;
- (c) All survey, construction staking, and layout work necessary for the accurate installation of fencing by the Municipality's contractor along the highway line, staking of non-access line, or other locations as directed by the Municipal Administrator;
- (d) Provide, through information obtained from the Municipality's Municipal Administrator, all controls for relocations and installations to be made by public utility companies, railroads, and governmental agencies, which have an effect or are affected by construction of the project as directed by the Municipal Administrator;
- (e) All work and measurements necessary for the computation of intermediate and final quantities such as, but not limited to, cross section measurements for borrow banks, rock excavation, structure excavation, excavation of unsuitable material and final cross section measurements along the completed roadway;

FIELD INSPECTION

- (f) Inspection of all construction activities performed by the Municipality's contractor, including the observance and reporting of work performed by public utility companies, railroads, and governmental agencies, within the project limits. When the reimbursement to the outside agency is on an actual costs basis, the Consulting Engineer will keep a daily record of man hours, equipment hours, and materials used, salvaged or scrapped in performing the work, on forms CON-40 and CON-41 and certain comparable railroad forms. He shall give sufficient inspection to utility relocation work to ensure conformance to the approved plan of relocation;
- (g) All on-the-job testing and sampling of materials as specified in the "Construction Manual" and "Information Pamphlet". Excepted from testing and sampling are those functions performed by the District Laboratory and/or the State Laboratory and not specifically made a responsibility of the Consulting Engineer. The Consulting Engineer agrees to properly lift and protect the test specimens until transported to the State Laboratory;

- (h) The performance of all necessary field density tests. The nuclear density gauge unit shall contain a full data processor, which holds all calibration constants necessary to compute and directly display wet density, moisture, and dry density either in pounds per cubic foot, or grams per cubic centimeter. The data processor shall compute and display the percent moisture and percent density on dry weight. The Consulting Engineer will be responsible for providing the gauge, calibration, and operation of the nuclear gauge;

#### CONSTRUCTION ENGINEERING

- (i) The technical investigation and/or analysis and recommendation for settlement of monetary or other claims brought against the Municipality and/or the State by Contractor(s) or others;
- (j) The coordination and implementation of all engineering, technical or administrative determinations made by the Municipality and/or the State;
- (k) To receive shop details and construction drawings from the Municipality's contractor and transmit same to the Municipality, the State or others for review and approval. These shop details and construction drawings shall include, but are not limited to, cofferdam details, pile loading tests, false work, and details of all other items required to assure their general compliance with design plans, specifications, and acceptable construction procedures and standards;
- (l) Consulting Engineer to review and provide engineering recommendations related to submittals, working drawings, and technical reviews of the work contemplated by the construction contract;
  - (m) To investigate and facilitate resolution to technical problems or design issues associated with the construction of the project;

#### ADMINISTRATIVE

- (n) To prepare and submit for approval all construction orders and all partial, monthly, and final Municipality's contractor's estimates;
- (o) To revise the original construction contract drawings (plans) to show the facility "as-built," as further defined in Paragraph (18);
- (p) The preparation of correspondence to the Municipality's contractors, fabricators, designers, and others, including reports, memoranda, requests for material tests, forms, and all other documents required for proper inspection of the construction project;

- (q) All other operations which become necessary to properly inspect the work of the construction contractor to determine his compliance with the following documents:

"State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction", Form 816, hereinafter referred to as "Standard Specifications",

Project Special Provisions and all other contract documents and memoranda,

"Public Service Facility Policy and Procedures for State Highways in Connecticut", dated June 1, 1987, hereinafter referred to as "Public Service Facility Policy".

(2) QUALIFICATIONS OF CONSULTING ENGINEER PERSONNEL:

That all personnel employed by the Consulting Engineer shall meet the minimum education, experience, training, and certification requirements for their applicable classification of employment as defined in the current edition of the "Information Pamphlet". In addition, all inspection personnel shall possess one of the following:

1. Registration as a Professional Engineer in Connecticut.
2. Engineer in Training Certification.
3. Bachelor of Science Degree in Civil Engineering or related field or an Associates Degree in Civil Engineering (Structural or Highway technology).
4. NICET Transportation Engineering Technology/Highway Construction certification (Level II or higher).
5. Level I enrollment in the NICET Transportation Engineering Technology/Highway Construction Certification Program. Level I will be used for training purposes only.
6. All Inspection Staff on bridge painting projects shall be certified at the NACE Intermediate Coating Inspection Level. All Resident Engineers or Chief Inspectors on bridge painting projects shall be NACE certified Coating Inspectors with the appropriate years of experience.

The Municipality has the right, during the term of this Agreement, to remove from the project any person or persons employed by the Consulting Engineer, who in the sole opinion of the Municipality has misconducted himself or herself or is incompetent in the performance of their assigned duties, or who neglects or refuses to require compliance with the Plans, Specifications, or Project Special Provisions. Such person or persons shall not be reemployed without the written consent of the Municipality. The Municipality reserves the right to prequalify the Consulting Engineer's supervisory and inspection personnel, determine the size of the inspection force required, and to direct the assignment and the reassignment of inspection personnel at its

discretion, as deemed necessary by the Municipality.

(3) WORK PERIOD

- (a) Complete all work stipulated in Paragraphs (1) and (18) of this Agreement within 485 calendar days, commencing from the date stipulated by the Municipality in a formal notice to proceed. A calendar day shall be every day in the week, Saturdays, Sundays, and holidays included.
- (b) The Municipality may extend the allotted time beyond the period specified above when the work has been delayed for reasons beyond the control of the Consulting Engineer. The Consulting Engineer may present to the Municipality, in writing, request for extension of allotted time for completion of the work. The Municipality will evaluate such requests, and if the Municipality determines such requests are based on valid grounds, shall grant such extension of time for completion of the work as the Municipality deems warranted. All requests for extension of time must be made prior to the expiration of calendar days specified in Paragraph (3)(a) above. Decisions made by the Municipality relative to the granting of extension of time shall be final and binding.
- (c) The Consulting Engineer agrees that no charges or claim for damages or additional compensation including lost profit shall be made by the Consulting Engineer unless the allotted additional time constitutes extra work as defined in Paragraph (4) of this Agreement. Delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Municipality may determine, it being understood, however, that the permitting of the Consulting Engineer to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the Municipality of any of its rights herein.
- (d) The Municipality will not consider any proposal by the Consulting Engineer for renegotiation of the maximum payment exclusive of extra work specified in Paragraph (41) of this Agreement unless 485 calendar days have elapsed since the initial formal notice to proceed.

(4) EXTRA WORK

Make any revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or changes in operations performed by the Consulting Engineer as may be ordered by the Municipality or any of its duly authorized representatives at any time during the life of this Agreement. No additional payment will be made for such revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or operations, unless such changes constitute Extra Work.

Extra Work is defined as follows:



- (a) Such additional work as ordered by the Municipality beyond the scope of this Agreement to the extent that such work will not be reflected in the payment for services specified in Paragraph (40) of this Agreement.
- (b) Such work as shall supersede or revise completed work that has been accepted in writing by the Municipality. Changes such as those to effect refinements in the work or inspection documents and such as those made necessary by errors, omissions, oversight or neglect on the part of the Consulting Engineer, will not be considered Extra Work.

In the event that changes in the Consulting Engineer's work or operations are suggested which, in the opinion of the Consulting Engineer, would result in Extra Work, he shall immediately submit complete documentation of the claim and upon the Municipality's concurrence shall submit an estimate of the cost for the Extra Work and refrain from working on the Extra Work item while the Municipality reviews the claim, or proceed otherwise if specifically directed by the Municipality. If approval is denied, the Consulting Engineer shall continue to process the work without delay and payment will be made according to the terms of this Agreement. No work, other than that for which a claim is being reviewed, shall be delayed pending a decision of the Municipality.

Unless the Consulting Engineer identifies and the Municipality acknowledges Extra Work prior to its performance, the Municipality will not be obligated to consider it as Extra work after the fact.

Extra Work costs shall be segregated by the Consulting Engineer to facilitate audit at a later date by the Municipality and the State or the Federal Highway Administration.

Extra Work that results in a cumulative fee exceeding the amount specified in Paragraph (41) shall be performed and paid for under a supplemental agreement specifically drawn for this work.

(5) ERRORS AND OMISSIONS BY THE CONSULTING ENGINEER

That any amount paid out by the Municipality arising from or resulting from errors, omissions, or failures on the part of the Consulting Engineer to meet professional standards of construction engineering and inspection, will be recovered from the Consulting Engineer by deductions from payments due him under the terms of this Agreement or other legal means. The Consulting Engineer shall be notified by the Municipality of any potential claim prior to the Municipality deducting amounts from payments due, he shall be afforded an opportunity to respond to and defend against such claim or alleged claim in an informal proceeding before the Municipal Administrator or his designee.

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF CORPORATION OR LLC~~  
~~otherwise mark DNA and use (6) below~~ **DNA**

~~Assume full responsibility for the accuracy of all products of its work under this Agreement including any supplements thereto, and shall so indicate by affixing the Connecticut Certificate of Registration Number~~

~~for the Corporate Practice of Engineering by a corporation or limited liability company on the Title Sheet(s) of all plans and/or documents, as well as the signature and Connecticut Professional Engineer's Seal of the individual(s) in charge of the work performed under the terms of this Agreement. Each individual listed on the said Connecticut Corporate Certificate of Registration as an engineer or land surveyor for a corporation or limited liability company, or so listed on the subsequently amended Corporate Certificate of Registration, shall be registered as a Professional Engineer or Land Surveyor (whichever is appropriate) in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Examiners for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform Consulting Engineer and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.~~

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF PARTNERSHIP otherwise~~  
~~mark DNA and use (6) above~~     DNA

~~To assume full responsibility for the accuracy of all products of his engineering work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Professional Engineer's Seal on the Title Sheet(s) of all plans, designs, and/or documents so produced. Each Partner who will be performing engineering work under this Agreement shall be registered as a Professional Engineer in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Registration for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other~~

~~documents so produced.~~

(7) FURNISHING OF TOOLS OF THE TRADE BY CONSULTING ENGINEER

To furnish all tools of the trade and equipment necessary for the satisfactory performance of the services required by this Agreement at no direct cost to the Municipality.

(8) CONSULTING ENGINEER'S INSPECTION FORCE

To furnish an inspection force at the level of and in the numbers established by negotiations for the construction engineering and inspection of this contract. The Resident Engineer/Chief Inspector shall work under the general supervision of the Municipality's Municipal Administrator. All orders to the Municipality's contractor on site will be transmitted by the Consulting Engineer's Resident Engineer/Chief Inspector.

(9) ATTENDANCE AT TRAINING SEMINARS, SCHOOLS, AND/OR MEETINGS

That the Municipality reserves the right, during the term of this Agreement, to require the presence of the Consulting Engineer's personnel at training schools, seminars, or other meetings as may be required.

(10) COOPERATION WITH OTHERS

To cooperate fully with other Consulting Engineers, state personnel, municipal officials, public utility companies, railroads, governmental agencies, and others engaged in surveying, mapping, designing, inspection and construction services, or work on traffic control, lighting, and other facilities within or adjacent to the project; to attend such meetings, discussions and hearings as may be requested by the Municipality; to furnish plans and other data as may be requested from time to time by the Municipality to effectuate this cooperation; and to comply with all orders given by the Municipal Administrator in connection with the work under this Agreement.

(11) PROTECTION OF RECORDS

To cooperate fully with the Municipality and the State and to maintain and protect complete construction records at the field office for review, use, and approval at all times. These records shall be transferred to the custody of the Municipality when the Consulting Engineer has completed his assignment or when requested by the Municipality and final payment to the Consulting Engineer shall be withheld until such transfer has been completed.

(12) INSURANCE

With respect to the operations performed by the Consulting Engineer under the terms of this Agreement and also those performed for the Consulting Engineer by its subcontractors, the Consulting Engineer will be required to carry for the duration of this Agreement, and any supplements thereto, with the Municipality and the State being named as an additional insured party for paragraphs (A) and (B) below, the

following minimum insurance coverages at no direct cost to the State or Municipality. In the event the Consulting Engineer secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (A) and/or (B) below, the Municipality and State of Connecticut shall be named as an additional insured.

A. COMMERCIAL GENERAL LIABILITY

The Consulting Engineer shall carry Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

B. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

C. RAILROAD PROTECTIVE LIABILITY

When the Agreement involves work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by the Consulting Engineer and/or its subcontractor(s), the Consulting Engineer shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Consulting Engineer shall obtain and submit evidence of the minimum coverage indicated above to the Municipality prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the Municipality.

D. VALUABLE PAPERS AND RECORDS

The Consulting Engineer shall secure and maintain a Valuable Papers Insurance Policy at no direct cost to the Municipality, until the work has been completed and accepted by the Municipality. Said Policy will assure the Municipality that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or any other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars (\$50,000) regardless of the physical location of the insured items.

E. WORKERS' COMPENSATION

With respect to all operations the Consulting Engineer performs and all those performed for the Consulting Engineer by subcontractors, the Consulting Engineer and subcontractor(s) shall carry Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively.

F. PROFESSIONAL LIABILITY INSURANCE

Secure and maintain at no direct cost to the Municipality a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars (\$ 2,000,000). The Consulting Engineer shall obtain the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this contract as the same relates to negligent acts, errors or omissions in the work performed by the Consulting Engineer. The Consulting Engineer may, at his election, obtain a policy containing a maximum Two Hundred Fifty Thousand (\$ 250,000) deductible clause, but if he should obtain a policy containing such a clause the Consulting Engineer shall be liable, as stated above herein, to the extent of the deductible amount. The Consulting Engineer shall continue this liability insurance coverage for a period of three (3) years from the date of completion of Consulting Engineer's work.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Consulting Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Consulting Engineer under this agreement.

Failure of the Consulting Engineer to maintain insurance coverage in accordance with the terms of the agreement shall constitute a violation of the agreement and shall subject the Consulting Engineer to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

G. CERTIFICATE OF INSURANCE

The Consulting Engineer agrees to furnish to the Municipality a Certificate of Insurance on the form(s) provided by the Municipality,

in conjunction with Items A, B, C, D, and E above, and a "Certificate of Insurance DOC-001", in conjunction with Item F above, fully executed by an insurance company or companies satisfactory to the Municipality, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

The Consulting Engineer shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the Municipality or the State. In providing said policies, the Consulting Engineer may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this agreement/contract.

(13) RESPONSIBILITY FOR CLAIMS AND LIABILITY

To indemnify and save harmless the Municipality and/or the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors, or omissions in the work performed by the Consulting Engineer and/or any of its subcontractors under this Agreement, including any supplements thereto, or resulting from the nonperformance of the Consulting Engineer and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

It is further understood and agreed by the parties hereto, that the Consulting Engineer shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Municipality and the Consulting Engineer, unless requested to do so by the Municipality. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

(14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS

That the Consulting Engineer shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion, thereof, or of the work provided for herein, or of his right, title, or interest herein, to any person, firm, partnership or corporation without the written consent of the Municipality and then he shall do so only by executing a subcontractor's agreement and shall furnish the Municipality a certified copy of this subcontractor's agreement. Any work subcontracted by the Consulting Engineer will be paid for by the Municipality at the actual costs to the Consulting Engineer with no additions. For breach or violation of the above stipulation, the Municipality shall have the right to annul this Agreement without liability. The Consulting Engineer shall also furnish to the Municipality certification of Public Liability and Property Damage Insurance Coverage, regular Protective Public Liability Insurance Coverage, and Professional Liability Insurance coverage, if applicable, for and in behalf of the Municipality and the State of

Connecticut from the subcontractor. Each insurance policy shall state that the insurance company has a right and duty to defend the insured against any suit seeking damages (or under Workers' Compensation, benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. In general, work that is to be sublet will be limited to that of an unusual or highly specialized nature, or work of relatively short or intermittent duration which can be more efficiently performed by a subcontractor. It is understood that the Municipality is not bound to the subcontractor for suits or other litigation resulting from the work performed by him.

(15) TERMINATION

That the Municipality, by written notice to the Consulting Engineer, may suspend, postpone, abandon, or terminate this Agreement for the convenience of the Municipality, for violation by the Consulting Engineer of any provision contained in this Agreement, or for any failure by the Consulting Engineer to render to the satisfaction of the Municipality the services required under this Agreement, including any failure to make acceptable progress with work required under this Agreement. Such action on the part of the Municipality shall in no event be deemed a breach of contract. Upon receipt of written notification from the Municipality that this Agreement is to be suspended, postponed, abandoned, or terminated, the Consulting Engineer shall immediately cease operations on work required under this Agreement. Upon receipt of written notification that this Agreement is to be abandoned or terminated, the Consulting Engineer shall also immediately assemble all material which is in its possession or custody and which has been prepared, developed, furnished, or obtained under the terms of this Agreement, and shall transmit the same, together with the Consulting Engineer's evaluation of the cost of the work performed, to the Municipality on or before the fifteenth day following the receipt of written notice of abandonment or termination. Said material shall include, but not be limited to, documents, plans, computations, drawings, notes, records, and correspondence. Upon receipt of this material, the Municipality shall make settlement with the Consulting Engineer in one of the following manners:

- (a) If the Municipality terminates this Agreement for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.
- (b) If the Municipality terminates this Agreement because the Consulting Engineer has failed to fulfill its obligations under the Agreement, the Municipality may complete the work required hereunder by contracting with another party or by any

other means, and the Consulting Engineer shall be liable for any additional costs incurred by the Municipality in doing so.

- (c) If the Municipality, after terminating the Consulting Engineer for alleged failure to fulfill its obligations under this Agreement, determines that the Consulting Engineer has not failed to fulfill those obligations, the rights and remedies of the parties shall be the same as if the Municipality had terminated the Agreement for convenience.

In determining the basis for such equitable settlement for items (a), (b), and (c) as indicated above, the Municipality shall take into account any monies owed the Consulting Engineer for work previously performed under this Agreement, less any payments previously made for said work, and the amount of reimbursable expenses incurred by the Consulting Engineer, less any payments previously made, to reimburse the Consulting Engineer for those expenses.

The Consulting Engineer agrees to accept the Municipality's valuation of the work performed under this Agreement, and the Municipality will not be liable for any profit that the Consulting Engineer expected or might have expected to make on portions of the Project work that have not been performed.

If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the Project, the Consulting Engineer may not make a claim against the Municipality in any form or forum for loss of anticipated profit or for any other reason related to the Project or this Agreement.

The rights and remedies of the Municipality under this Article are in addition to any other rights and remedies that the Municipality may possess by law under this Agreement.

Decisions of the Municipality on matters discussed in this Article shall be final and binding.

(16) PROGRESS REPORTS

To submit monthly progress reports, in quadruplicate, by calendar months to the Municipality showing the percentage of construction work performed to date. These progress reports, together with copies of certified monthly payrolls for all approved personnel, and such other supporting data as may be required, shall be subject to examination and approval by the Municipality and the State.

(17) PAYMENT TO THE CONSULTING ENGINEER

To accept payment for all services rendered in connection with this Agreement, in accordance with the sum or sums hereinafter stipulated in Paragraphs (40) and (41) of this Agreement.



(18) SUBMITTAL OF ESTIMATES AND FINAL DOCUMENTS/SUBMISSION OF CERTIFIED STATEMENT

To prepare and submit for approval construction contractor's monthly/semimonthly estimates and a final construction estimate. The final estimate shall be supported by a complete set of all pertinent job records and shall be furnished to the Municipality within the time frame stipulated herein.

To furnish the following documents to the Municipality within sixty (60) calendar days of the completion date of construction as noted on the CON-82.

- (1) (a) Final Estimate, (b) Index of Construction Orders, (c) Records of Daily Cost Plus, (Form CON-9), (d) Receipted Bills Supporting Cost Plus, (e) Final Construction Order, (f) Statement of Credits due the State, if applicable, and (g) Substantiating Evidence, if escalator clause is invoked, (h) Construction Report, (i) Statement of Working Days, (j) Breakdown of Participating and Non-Participating Cost by Project, (k) Substantiation of Payments made to D.B.E.'s or S.B.E.'s and a determination on recommended monetary assessments for failure to meet contract assignment goals for D.B.E.'s or S.B.E.'s work performance and any other required documents.
- (2) When requested by the Municipal Administrator, the complete set of original contract drawings (plans) showing as-built details for the plans, profiles, cross-sections and all diaries, field books, and other data in conformance with the requirements of the Construction Manual. The Consulting Engineer further agrees to submit, upon completion of construction, a statement certified by a professional engineer licensed in the State of Connecticut. This statement shall verify that the project, as built, conforms to the contract plans and/or the contract plans as modified by the construction orders approved by the Municipality and the State in all instances and that work performed and materials furnished comply with the requirements of the plans, specifications, and orders of the Municipality, and that all payments to the construction contractor are in conformance with the specifications.

If it is determined that the documents in (1) and (2) of this Article cannot be furnished within sixty (60) calendar days of the completion date of construction as noted on the CON-82, then by the forty-fifth (45th) day, the Consulting Engineer shall provide the Municipality with a listing of documents/information still required from the Contractor. At that time, a determination will be made by the Municipality on whether the Consulting Engineer will be extended to complete the remaining documents or whether the Municipality will complete the remainder.

If for causes within his control, the Consulting Engineer fails to furnish the Municipality with the documents noted in (1) and (2) of this Article within the allotted time, the Municipality may assess Consulting Engineer:

- a) Liquidated damages in the amount of Two Hundred Forty Dollars (\$240) per calendar day for each day beyond the stipulated sixty (60) calendar days until submission of the required documents, and
- b) Correction of errors and/or omissions will be made at the Consulting Engineer's own expense.

(19) AGENT FOR SERVICE OF PROCESS

That the Secretary of State of the State of Connecticut (including any successor thereto) is hereby appointed by the Consulting Engineer as its agent for service of process for any action arising out, or as a result, of this Agreement, such appointment to be in effect throughout the life of this Agreement including any supplements hereto, and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

(20) SUBMITTAL OF CERTIFIED PAYROLL

To submit to the Municipality each month two (2) copies of a certified payroll, on a form acceptable to the Municipality, of the Consulting Engineer's own field forces and those of approved subcontractors. These payrolls shall be used as a basis in computing each month's payment. The certification shall be dated, signed, and read as follows: "I (Name of Consulting Engineer or Subcontractor), do hereby certify that during the period covered by this payroll, all personnel shown were working on the project, and their salary, rate of compensation, hours worked, and amount earned, is a true and accurate report". The personnel shown on the certified payroll, their employment and duration of employment, salary or hourly rate, hours of work, including overtime, if any, overtime rate, and all changes in status of any of the beforementioned information, shall have the prior written approval of the Municipality.

(21) COVENANT AGAINST CONTINGENT FEES

The Consulting Engineer agrees and warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consulting Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consulting Engineer, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the payments due the Consulting Engineer, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(22) MAINTENANCE AND AUDIT OF RECORDS

The Consulting Engineer agrees to incorporate the entire Maintenance and Audit of Records article of this Agreement, in all subconsultant agreements.

- (a) Project Accounts

The Consulting Engineer shall maintain an accounting system that is adequate to segregate and accumulate reasonable, allocable costs and maintain accounts and records in accordance with generally accepted accounting principles consistently applied.

(b) Allowable Costs

The authority for determining allowable costs under the Agreement shall be "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2," which is incorporated herein by reference.

(c) Audit and Inspection of Records

The Consulting Engineer shall permit the authorized representatives of the Municipality, the State, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the Consulting Engineer relating to his performance under the Agreement until the expiration of three (3) years after final payment under this Agreement.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation, upon request, a detailed job cost report of all project costs incurred under this Agreement.

The Consulting Engineer further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Municipality, the State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes work not exceeding \$25,000.00.

The periods of access and examination described above, for records which relate to (1) appeals for disputes, (2) litigation of the settlement of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by the Municipality, the State, the Comptroller General, or any of their duly authorized representatives, shall continue until final disposition of all such appeals, litigation, claims, or exceptions.

In accordance with Title 23 CFR, Chapter 1, Part 172.7(d), the Connecticut Department of Transportation as recipient or subrecipient of federal-aid highway funds, may share the audit information in complying with the State or subrecipient's acceptance of a Consulting Engineer's overhead rates provided that the Consulting Engineer is given notice of each use and transfer.

(d) Record Retention

The Consulting Engineer agrees that it shall preserve all of its

records and accounts concerning the implementation of this Agreement including, but not limited to, any records, books, or other documents relative to charges, including charges for Extra Work, alleged breaches of agreement, settlement of claims, soils and foundation services, or any other matter involving the Consulting Engineer's or Subcontractor's demand for compensation by the Municipality for a period of not less than three (3) years from the date of the final payment under this Agreement. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

(e) Annual Audit of In-House Unit Cost Rates

The Consulting Engineer agrees to have a CPA perform an audit of any in-house unit cost rate(s) billed by the Consulting Engineer. The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The schedule(s) which detail the computation of the audited unit cost rate(s) must present the individual expenses applicable and the actual usage which is the basis for the unit cost rate(s). The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2". This audit may be submitted with the audit of indirect costs. Failure to submit this audit will result in any costs billed by the Consulting Engineer for in-house charges to be considered ineligible for reimbursement.

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year during the term of this agreement

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of audits of the in-house unit cost rates issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

(f) Annual Audit of Indirect Costs

The Consulting Engineer agrees to prepare a "Schedule of Indirect Costs" from its operations for each fiscal year which the Agreement covers. The schedule shall consist of direct labor costs and indirect costs listed by accounts for home office design and construction engineering/inspection (field) projects, if applicable.

The Consulting Engineer agrees to have this schedule audited by an independent Certified Public Accountant (CPA). The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year for which the Agreement covers.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of Indirect Cost audits issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in the "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward within thirty (30) days of issuance, a copy of the company's annual financial schedule audit to the Office of External Audits of the Connecticut Department of Transportation.

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

The Consulting Engineer also agrees it shall make arrangements with their Certified Public Accountant to have copies of their working papers forwarded to the Office of External Audits of the Connecticut Department of Transportation when requested.

(23) COMMENCEMENT OF SERVICES

That the Consulting Engineer shall not begin performance under the terms of this Agreement until notified by the Municipality in writing. With written authorization from the Municipality, the Consulting Engineer may commence operations prior to the start of the construction contract.

(24) DIRECT COST ITEMS

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy No. F&A-34, April 21, 2005, Subject: Policy on the Acquisition and Inventory of Equipment Purchased by Consultants".

(25) CARE OF MUNICIPALLY-OWNED EQUIPMENT

That the Consulting Engineer will assume full responsibility for the

use and care of all Municipally-owned equipment issued for use on the Project. This equipment is to be returned to the Municipality upon completion of the Project in good condition. The Consulting Engineer will replace at no cost to the Municipality any Municipally-owned equipment which is lost or damaged except for normal wear and tear, as determined by the Municipality, while in the Consulting Engineer's possession.

(26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS

That while engaged in performing the provisions or terms of this Agreement, the Consulting Engineer will ensure that the following steps will be adhered to concerning claims of injury or damage due to the construction contractor's operations:

- (a) That the Consulting Engineer will advise all claimants to submit the claim in writing to the Municipality, which for the purpose of this Paragraph will be interpreted to mean the Municipal Administrator at the appropriate address.
- (b) That the Consulting Engineer will record for the project file pertinent information concerning claims or potential claims including name, date, time, and nature of the claim or potential claim as these claims/potential claims become apparent.
- (c) That the Consulting Engineer will file a report for the project records if required to do so by the Municipality.

(27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT

That the Consulting Engineer agrees in case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern, and that wherever a blank ( ) or the words "DOES NOT APPLY" appears in all copies of this Agreement, this represents a deletion of a condition which does not apply to this contract.

(28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Disadvantaged Business Enterprises For Federal Funded Projects", as set forth in Exhibit A, Schedule 1 (attached herewith) dated February 26, 2009.

(29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) DOES NOT APPLY

~~The Consulting Engineer shall cooperate with the State in implementing the required contract obligations concerning "Small Contractor" and/or "Small Contractor Minority Business Enterprises" utilization on this Agreement in accordance with Section 32-9e of the Connecticut General Statutes, as revised. The Consulting Engineer shall comply with this provision in accordance with the "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)", as set forth in Exhibit A, Schedule 2 (attached herewith) dated March, 2001.~~

~~The State advises the Consulting Engineer that failure to carry out the~~

~~requirements set forth in said "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)" shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.~~

(30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in the Commissioner's Letter dated October 26, 1988 Re: Prompt Payment to Subcontractor(s), as set forth in Exhibit A, Schedule 3 (attached herewith) as revised.

The Consulting Engineer shall pay the subcontractor for work performed within thirty (30) days after the Consulting Engineer receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work.

For the purpose of this Article satisfactory completion shall have been accomplished when:

(1) The subcontractor has fulfilled the contract requirements of both the Municipality and the subcontract for the subcontracted work, including the submission of all submittals and audit requirements stipulated in Article 22(f), when applicable, and

(2) The work done by the subcontractor has been reviewed and accepted by the Municipality and final approval of the subcontractor's work has been determined and agreed upon.

If the Consulting Engineer determines that a subcontractor's work is not complete, the Consulting Engineer shall notify the subcontractor and the Municipality, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Municipality within twenty-one days of the subcontractor's request for release of retainage.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Consulting Engineer to comply with the provisions of this section will be reflected in the "Consultant Performance Evaluation" for future projects.

(31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG

The Consulting Engineer understands and agrees that a "Connecticut Department of Transportation Subconsultant Payment Log" Form shall be completed quarterly (January, April, July, and October) and furnished to the Municipality for each subcontractor the Consulting Engineer utilizes under this Agreement. Instructions for completing and processing this Form are stipulated on its reverse side. A copy of said form is included herewith.

(32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS

The Consulting Engineer shall comply with all the State and Federal Statutory and Administrative requirements incorporated herein by reference and set forth in Exhibit A attached hereto, and all Schedules attached hereto which are also hereby made a part of this Agreement.

**RESPONSIBILITY OF THE MUNICIPALITY:**

**THE MUNICIPALITY AGREES**

**(33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY**

To furnish to the Consulting Engineer one copy or more as may be required of the latest edition of the following manuals and/or documents:

- Connecticut Department of Transportation Specifications for Location Surveys
- Construction Manual
- Municipality Manual
- Information Pamphlet
- All maps, location and descriptions of coordinate values of existing points, locations and elevations of existing bench marks, and any other layout information that is available
- Original construction contract drawings (plans) for the project to be revised in accordance with Paragraph (1)(i).
- Standard Specifications - Form 816
- Public Service Facility Policy
- Project inspection record books and standard State forms
- Preliminary computations and Grade list
- Pamphlet for Monitoring Performance and Payment Requests for Consultants, dated June 1994, and any amendments

The Municipality agrees to furnish any publications of the Municipality and/or the State, requested by the Consulting Engineer, for use in inspection of the project.

**(34) MUNICIPALLY ASSIGNED ADMINISTRATOR**

To assign a Municipal Administrator who will provide general supervision of the Consulting Engineer's activities.

**(35) MUNICIPALLY PROVIDED EQUIPMENT**

Provide space or a field office with office equipment on or near the project which will have adequate space for the Consulting Engineer's staff, and the Municipality's Municipal Administrator, as specified in



the Standard Specifications.

(36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY

To advertise, receive bids and award the construction contract, and to conduct a preconstruction meeting for the project.

(37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (a) To perform or arrange for the performance of all off-site shop and mill inspections and laboratory tests and analysis of those classes of material which are normally inspected, tested, and analyzed prior to delivery to the site of the work.
- (b) To perform the so-called Proctor Laboratory Density test to determine the relationship between the moisture content and density of various fill materials to be used on the project in accordance with AASHTO T-180, Method D.
- (c) To arrange for the District or State Laboratory to transport and test all material sampled by the Consulting Engineer under the terms set forth in Paragraph (1) (g) of this Agreement.

(38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE

Notwithstanding the requirements of Section 1, the Municipality and/or the State will provide technical assistance and/or engineering recommendations relative to construction or design-related issues associated with the project.

(39) FINAL INSPECTION

To make final inspection of the construction contract within ten (10) calendar days after the construction work is completed.

**ARTICLES OF MUTUAL AGREEMENT**

**THE MUNICIPALITY AND THE CONSULTING ENGINEER MUTUALLY AGREE:**

(40) PAYMENT

That subject to the limitations stipulated in Paragraph (41) of this Agreement, the Municipality shall pay the Consulting Engineer in the following manner for all work performed in accordance with the terms of this Agreement with the exceptions of those services for which a different method of payment is stipulated:

The Consulting Engineer and subconsultants may bill direct costs for meals, subsistence and transportation, if applicable, in accordance with the latest State Travel Regulations-State Managers limiting amounts. All mileage, including that for rental cars, will be reimbursed at the current mileage rate only. Actual cost shall be: (1) salaries of employees directly chargeable to the project at rates not to exceed those shown in Paragraph (44); and (2) burden, fringe and overhead costs properly allocable to the project. For 2XXX, the tentative percentage for field office operations will be \_\_\_\_%.

This percentage will be revised annually based on a State approved audit of burden, fringe and overhead costs of the previous years experience. The term "Salaries" as used in this Agreement shall mean the gross wage or payment made to employees before deductions for employee paid taxes and fringe benefits. The final determination of the sum to be paid for actual costs will be made following an audit of the Consulting Engineers records. The certified payroll shall cover salaries computed at straight-time rates. The certified percentage for burden, fringe, and overhead shall be applied only to the "straight-time" portion of overtime pay. No payment shall be made to partners or officials of the firm for those services unless they are engaged in production work in which case compensation will be made at production rates.

(41) MAXIMUM PAYMENT

That the maximum amount which the Municipality shall pay to the Consulting Engineer for all work performed under the terms of this Agreement, excepting work for which payment is provided in Paragraph (43), shall not exceed (\$514,000.00. The total payment for Extra Work shall not exceed(\$51,000.00). The total payment for work performed under this Agreement, including Extra Work shall not exceed (\$565,000.00). The maximum amount will not be revised unless there is a substantial change in the scope or character of the work to be performed by the Consulting Engineer which would justify a revision of this figure, as determined by the Municipality; or if, for any reason, the Consulting Engineer does not or cannot start his work prior to or in sufficient time to meet the construction contractor's schedule of operations, and the Municipality finds it necessary to provide certain inspection and survey services, the limiting amount and fixed fee shall be reduced an equitable amount to reflect the Municipality's expense in connection therewith.

(42) PROGRESS PAYMENTS

That progress payments shall be made to the Consulting Engineer on a monthly basis for all work covered by this Agreement except work for which payment is provided in paragraph (43). Said progress payment to be the sums of the following: (a) the actual costs shown on the voucher for the period, plus (b) eighty-five percent (85%) of the appropriate fixed fee amount for profit stipulated in paragraph (40) divided by the number of monthly periods in the total time allowed for completion of the construction work and closeout period. From the progress payments thus computed each month there shall be deducted all credits, if any, due the Municipality. Prior to the final payment, the Municipality may release such portion or portions of the retainage as it considers to be in its best interest. In no case, however, will the retainage be reduced to less than eighty-five (85%) of the fixed fee amount stipulated in paragraph (40) of the Original Agreement until after completion of the final audit.

The Consulting Engineer may request the substitution of securities for retainage in accordance with Connecticut General Statutes Section 3-112a.

(43) PAYMENT FOR EXTRA WORK

- (a) Extra work approvals associated with increases in costs for:
- an extension of construction contract time.
  - changes or refinements in work assignments, operations or staffing levels.
  - increases in premium overtime or shift differential cost.
  - investigation of claims.
  - escalated burden, fringe, and overhead costs based on audit results.

A fee, established through negotiations, will be paid from extra work funds under Paragraph (41) of this Agreement to the extent that these funds are available. The Consulting Engineer will be paid based on a certified monthly payroll including burden, fringe and overhead. No additional fixed fee for profit associated with payroll increases identified above will be considered unless the work period specified in Paragraph (3)(d) is exceeded and the extra work funds established under Paragraph (41) have been fully utilized. Extra work approvals that will exceed the amount stipulated in Paragraph (41) of this Agreement or the work period specified in Paragraph (3)(d) will be paid for under a supplemental agreement based on a negotiated fee for services.

- (b) Extra work approvals associated with approved design changes that require engineering work at the main or home office of the Consulting Engineer shall be paid on a certified monthly payroll plus the burden, fringe and overhead cost and a fixed fee for profit. Extra work associated with design changes shall be based on a scope of services provided by the Municipality and a negotiated fee for these services. No additional payment will be made for authorized minor design changes that can be made in the field by the Consulting Engineer.
- (c) Extra work approvals for claims investigations assigned to the Consulting Engineer after final payment has been made or investigation that will exceed the calendar days stipulated in Paragraph (3)(d) will be based on a scope of services provided by the Municipality and a negotiated fee for these services. The Consulting Engineer will be paid based on a certified monthly payroll plus burden, fringe and overhead cost and a fixed fee for profit.

(44) MAXIMUM HOURLY RATES

That the following maximum hourly rate for each classification of employee to be used on the project shall be as follows and additional classifications if required must be submitted to the Municipality for prior approval.

| <u>Classifications</u>   | <u>Maximum Hourly Rates</u><br><u>Effective through 2024</u> |                                       |
|--------------------------|--------------------------------------------------------------|---------------------------------------|
|                          | <u>Certified Payroll</u><br><u>Actual Hourly</u>             | <u>Maximum Hourly</u><br><u>Rates</u> |
| Construction Coordinator |                                                              |                                       |
| Chief Inspector          |                                                              |                                       |
| Inspector                |                                                              |                                       |
| Surveyor                 |                                                              |                                       |
| Rod Man                  |                                                              |                                       |
| Secretary                |                                                              |                                       |

\*\*\* The Contracting Engineer shall use the following maximum hourly rates until the Department of Transportation Commissioner sends written notification rescinding the wage freeze.

\*\*\*\* The Contracting Engineer may use the above maximum hourly rates prospectively only upon written notification by the Department of Transportation Commissioner that the wage freeze has been rescinded.

The above maximum hourly rates of pay shall be subject to renegotiation should the work required under this Agreement not be completed as stipulated in Paragraph (3)(d). Any adjustment to the maximum hourly rates stated above shall apply only to such services as may be rendered subsequent to the date of renegotiation as stipulated above. Overtime work, when authorized by the Municipality, shall be paid for by the Municipality at "straight-time" rates except when otherwise required by law or regulation or when otherwise approved by the Municipality. The surcharge for burden, fringe and overhead shall be applied only to the "straight-time" portion of any overtime pay.

(45) ACCEPTANCE DATE

That the acceptance date of the work of this Agreement shall be established as the date the Municipality is in receipt of all papers and documents required in this Agreement. Within thirty (30) days of acceptance, the Consulting Engineer shall submit a final payment voucher for monies due him. If the Consulting Engineer fails to submit this voucher within the specified time, the Municipality may process a final payment voucher based on the available information.

(46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF TOWN OF FAIRFIELD

That the attached Certification of Consulting Engineer and Certification of the Town of Fairfield, as set forth in Exhibit A, Schedule 4, (attached herewith) as revised.

(47) FEE ADJUSTMENT

That the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Municipality determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(48) NOTICE BETWEEN PARTIES TO AGREEMENT

That it is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a) - be in writing (hardcopy) addressed to:

(i) When the Municipality is to receive such notice -

(ii) When the Consulting Engineer is to receive such notice -

the person(s) acting herein as signatory for the Consulting Engineer receiving such notice;

**Ronald J. Nault, P.E., President  
Luchs Consulting Engineers, LLC  
89 Colony Street  
Meriden, CT 06451**

b) - be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and

c) - contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "official notice" as used herein, shall be construed to include but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change, revision, addition to or deletion from the document, contract, or agreement in which this "official notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the parties hereto from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

~~(49) REVISIONS IN ORGANIZATION OF CORPORATION USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (49) below DNA~~

~~That the Consulting Engineer shall notify the Municipality in writing when there is a change in its Connecticut Certificate of Registration for the Corporate Practice of Engineering or Land Surveying by a corporation or limited liability company in the State of Connecticut or a change in the individual(s) in charge of the work specified herein. Neither change shall relieve the Consulting Engineer of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.~~

~~(49) REVISIONS IN ORGANIZATION OF PARTNERSHIP USE ONLY IF PARTNERSHIP  
otherwise mark DNA and use (49) above DNA~~

~~That the Municipality, on written notice by the Consulting Engineer of changes in the partnership structure of the organization, may enter into a supplemental agreement with the new partners providing releases are provided from the former partner, or partners, stating that he has been compensated in full or that provision has been made for compensation in full for all work performed under terms of this Agreement and a financial statement is submitted showing that solvency of the partnership is maintained. The death of a partner shall not release the partnership from the performance of this Agreement and the remaining functions must be performed by the surviving partner(s) until the terms of this Agreement are fully executed. The withdrawal of any partner from the partnership shall not relieve him from his liability for performance of this Agreement.~~

(50) OWNERSHIP OF DOCUMENTS

That all products of the work under the terms of this Agreement shall become and remain the property of the Municipality. This shall include all partially completed work in the event that the Agreement is terminated before completion for any reason.

- a) The Consulting Engineer shall transfer to the Municipality, as part of the consideration for this Agreement, any and all copyright rights or other proprietary interests which the Consulting Engineer may have in materials ("Work Products") produced by it under the terms of this Agreement; and that the Consulting Engineer shall, whenever so requested by (the Municipality), sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality a letter agreement, in form and content satisfactory to the Municipality, stating that the Consulting Engineer thereby irrevocably transfers to the Municipality all of its copyright and other proprietary rights in the Work Products designated by the Municipality in its related request.
- b) If deemed appropriate by the Municipality in its sole discretion, the Consulting Engineer shall agree that any or all Work Products shall be deemed a work of joint authorship by the Municipality and the Consulting Engineer for copyright purposes, and shall be registered as such with the United States Copyright Office. The Consulting Engineer hereby waives any right to oppose or object to such a claim of joint authorship or to such related copyright

registration.

- c) The Consulting Engineer shall not engage or allow any party ("Other Party") other than itself or the Municipality to contribute directly to the creation of any Work Product unless the Consulting Engineer has first obtained from said Other Party a written agreement ("Secondary Agreement") containing essentially the same terms as Section B above; i.e., the Other Party
  - 1) shall agree to transfer to the Municipality any and all copyright or other proprietary rights said Other Party may have in designated Work Products, or, if the Municipality so requests, shall agree to deem such Work Product a work of joint authorship by the Municipality and by Other Party, and, if appropriate, by the Consulting Engineer also; and
  - 2) shall agree to sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality any letter agreement ("Letter Agreement") of the kind described in Section b) above which the Municipality shall request from it. The Secondary Agreement between the Consulting Engineer and an Other Party shall provide expressly that any such Letter Agreement delivered by the Other Party to the Municipality shall be directly enforceable by the Municipality, and that the execution, delivery, and enforceability of such a Letter Agreement are part of the consideration for the Secondary Agreement.

(51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)

That the Municipality makes no express or implied warranty of any kind with regard to the particular Computer Aided Design and Drafting File(s) provided to the Consulting Engineer under this Agreement, if any, its documentation, or its fitness for any purpose, including but not limited to the implied guarantees of fitness for a particular purpose. The Municipality shall not be held liable for errors contained herein, or for any consequential or incidental damages which may arise in connection with the use, performance, duplication, modification, transfer or distribution of these files or copies thereof.

(52) PAYMENT OF RECOVERABLE COSTS DUE TO THE MUNICIPALITY

The Municipality shall have the right to set off against amounts otherwise due to the Consulting Engineer under this Agreement or under any other agreement or arrangement that the Consulting Engineer has with the Municipality (a) any costs that the Municipality incurs which are due to the Consulting Engineer's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Consulting Engineer to the Municipality. Any sum taken in set-off from the Consulting Engineer shall be deemed to have been paid to the Consulting Engineer for purposes of the Consulting Engineer's payment obligations under Connecticut General Statute Section 49-41c.

(53) JURISDICTION AND FORUM LANGUAGE

This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of laws principles would dictate otherwise. This Agreement shall be deemed to have been made in Fairfield, Connecticut. Nothing herein shall be construed to waive any of the Municipality's immunities.

(54) ~~SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP~~ **DNA**

~~The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Small Business Participation Pilot Program SBPPP as Subcontractors and Material Suppliers or Manufacturers", as set forth in Exhibit A, Schedule 11 (attached herewith) dated May 12, 2010.~~



IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

TOWN OF FAIRFIELD

\_\_\_\_\_  
Typed Name:

By \_\_\_\_\_ (Seal)  
Typed Name:

\_\_\_\_\_  
Typed Name:

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

Luchs Consulting Engineers, LLC

\_\_\_\_\_  
Typed Name: Dawn Crandall

By \_\_\_\_\_ (Seal)  
Typed Name: Ronald J. Nault, P.E., President

\_\_\_\_\_  
Typed Name: Paula Kusmit

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

CONNECTICUT CORPORATE ENGINEERING  
PRACTICE -- CERTIFICATE OF  
AUTHORIZATION NO. JPC 0000061

EXHIBIT A  
and Schedules 1 through 11

**THE CONSULTING ENGINEER AGREES:**

**1. GOVERNMENTAL AGENCY EXEMPTION**

That the Consulting Engineer hereby acknowledges and agrees to comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The attached copy of the "Governmental Agency Exemption Certificate", as set forth in Exhibit A, Schedule 5 (attached herewith).

**2. CODE OF ETHICS FOR STATE EMPLOYEES DOES NOT APPLY**

~~The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 6 (attached herewith).~~

**3. CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS DOES NOT APPLY**

~~The Consulting Engineer shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:~~

- ~~(a) No person hired by the State as a Consulting Engineer or independent contractor shall:~~
- ~~(1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;~~
  - ~~(2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or~~
  - ~~(3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.~~
- ~~(b) No person shall give anything of value to a person hired by the State as a Consulting Engineer or independent contractor based on an understanding that the actions of the Consulting Engineer or independent contractor on behalf of the State would be influenced.~~

#### 4. EXECUTIVE ORDERS

##### A. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Consulting Engineer's request, the Department shall provide a copy of these orders to the Consulting Engineer.

#### 5. NON-DISCRIMINATION

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Consulting Engineer.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations

adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor

shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. CAMPAIGN CONTRIBUTION AND SOLICITATION BAN **DOES NOT APPLY**

~~For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this agreement/contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice set forth in Exhibit A, Schedule 7 (attached herewith).~~

#### 7. PRIVATIZED PUBLIC RECORDS

The following Article is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more. The Department is entitled to receive a copy of records and files related to the performance of the Consulting Engineer under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the Department pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the Department in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

#### 8. OVERSIGHT OF LARGE STATE CONTRACTS DOES NOT APPLY

~~The following Article is applicable to those contracts with an aggregate value of Five Million Dollars (\$5,000,000) or more. If an officer, employee or appointing authority of the Consulting Engineer takes or threatens to take any personnel action against any employee of the Consulting Engineer in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), the Consulting Engineer shall be liable for a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the Department may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.~~

~~The Consulting Engineer shall post a notice of the provisions of this section in a conspicuous place which is readily available for viewing by the employees of the Consulting Engineer.~~

#### 9. CIVIL RIGHTS

As a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Consulting Engineer shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.),

all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances set forth in Exhibit A, Schedule 8 (attached herewith).

#### 10. CERTIFICATION FOR FEDERAL AID CONTRACTS

That the Consulting Engineer certifies, by signing and submitting this Bid, Agreement, Contract, Proposal, to the best of his/her/its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consulting Engineer, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consulting Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. If applicable, the Exhibit A, Schedule 9 (attached herewith), Disclosure Form-LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consulting Engineer also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this certification be included in all subcontracts, sub-subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317456, Newington, CT 06131-7546, to the attention of the project manager.

#### 11. SUSPENSION OR DEBARMENT

That suspended or debarred contractors Consulting Engineers,

suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

- 1) That the signature on the Agreement by the Consulting Engineer shall constitute certification that to the best of its knowledge and belief the Consulting Engineer or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or any position involving the administration of Federal or State funds:
  - a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Has not within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1)b. of this certification; and
  - d. Have not within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the Consulting Engineer is unable to certify to any of the statements in this certification, such Consulting Engineer shall attach an explanation to this Agreement.

The Consulting Engineer agrees to insure that the following certification be included in each Subcontract Agreement, to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

- a. The prospective subcontracts, sub-subcontracts participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.



- b. Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certifications, such prospective participant shall attach an explanation to this proposal.

## 12. AMERICANS WITH DISABILITIES ACT

This clause applies to those Consulting Engineers who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act"), Public Law 101-336, during the term of the Agreement. The Consulting Engineer represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Consulting Engineer to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Consulting Engineer. The Consulting Engineer warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Consulting Engineer to be in compliance with this Act, as the same applies to performance under this Agreement.

## 13. FEDERAL OBLIGATION TO THIRD PARTY

(1) The Purchaser and Consulting Engineer acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consulting Engineer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Consulting Engineer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Consulting Engineer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consulting Engineer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consulting Engineer further acknowledges that if it makes, or causes to be made, a

false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consulting Engineer to the extent the Federal Government deems appropriate.

(2) The Consulting Engineer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consulting Engineer, to the extent the Federal Government deems appropriate.

(3) The Consulting Engineer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### 15. ENERGY CONSERVATION

The Consulting Engineer agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### 16. FLY AMERICA REQUIREMENTS

The Consulting Engineer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consulting Engineer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consulting Engineer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 17. CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS "SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES"

That the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities," as set forth in Exhibit A, Schedule 10 (attached herewith) dated March 3, 2009.

## 18. AMERICAN RECOVERY AND REINVESTMENT ACT

The following Article only applies to projects funded under the American Recovery and Reinvestment Act of 2009.

For the purposes of this Article, "Contractor" means any prime contractor, consulting engineer, or other entity contracting with the State of Connecticut Department of Transportation ("DOT") or a Municipality undertaking a project ("Project") funded under the American Recovery and Reinvestment Act of 2009 ("Act"). Additionally, to the extent that a Municipality is employing its own staff to undertake work on the Project, solely with respect to such work by its staff, the Municipality itself is likewise subject to the requirements herein that are imposed on the Contractor. A Project undertaken by a Municipality is identified herein as a "Municipality-administered Project," and a Project undertaken by DOT is identified herein as a "DOT-administered Project."

(1) The Contractor agrees to accurately and timely record and report, in accordance with the requirements of the Act and additional guidelines, policies and regulations issued or promulgated pursuant to the Act, information regarding jobs or positions created or retained in Connecticut, the United States and outlying areas as a result of funding provided through the Act for the Project, including, but not limited to, the following requirements:

A. The Contractor shall accurately complete and submit to DOT or the Municipality, as applicable, on a monthly basis from commencement through completion of its work on the Project, an employment report using Form FHWA-1589 available at:<http://www.fhwa.dot.gov/economicrecovery/forms/fhwa1589.xls> ("Monthly Employment Report").

B. No later than seven (7) calendar days after the last calendar day of the month being reported ("Seven Day Submission Requirement"), the Contractor shall:

- (i) With respect to DOT-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to DOT by e-mail to: [Theodore.Szymanski@ct.gov](mailto:Theodore.Szymanski@ct.gov), with a copy to [Philip.Scarrozzo@ct.gov](mailto:Philip.Scarrozzo@ct.gov); and also submit a hard copy, to the applicable DOT District office for inclusion in the Project file, signed by an authorized representative of the Contractor;
- (ii) With respect to Municipality-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to the Municipality's designated employee by email or other electronic means as instructed by the Municipality; and
- (iii) Provide a consistent filename for each Monthly Employment Report in the format ContractNumberMonthYear.xls (e.g., #####MAY09.xls);

C. Each of the Contractor's subcontractors and second-tier subcontractors shall submit an employment report using Form FHWA-1589 ("Monthly Subcontractor Employment Report") in Microsoft Excel file format to the Contractor on a monthly basis within sufficient time to enable the

Contractor, in turn, to submit such Monthly Subcontractor Employment Report(s) to DOT or the Municipality, as applicable, by the Contractor's Seven (7) Day Submission Requirement. Failure by the collective subcontractors to timely submit such Monthly Subcontractor Employment Report(s) to the Contractor does not excuse the Contractor's obligation to submit its Monthly Employment Report within the required time.

(2) Receipt of funds pursuant to the Act under this Contract is contingent upon the Contractor meeting the reporting requirements of this Contract and any additional reporting requirements of the Act as may be required by the appropriate federal agency through its issuance of guidelines or promulgation of regulation(s).

a. The Contractor agrees that at any time during the Project, the Federal Highway Administration ("FHWA") and/or DOT, after notice, may change the reporting requirements herein. In that event, the Contractor and its subcontractor(s) and second-tier subcontractor(s) shall comply with such requirements.

b. DOT or the Municipality may take any action that FHWA authorizes for non-compliance with the reporting requirements set forth in Section 2 above.

(3) The Contractor agrees to comply with Sections 1605 and 1606 of the Act and any additional federal guidelines or regulations issued or promulgated thereunder.

(4) The following language is made a part of this Contract and shall be made part of all subcontracts and second tier subcontracts:

A. Access of United States Government Accountability Office, Section 902 of Title IX of Division A of the Act.

Pursuant to Section 902 of Title IX of Division A of the Act, the United States Comptroller General and its representatives may:

(1) examine any records of the Contractor or any of its subcontractors, or any State or local agency administering such Contract, that directly pertains to, and involve transactions relating to, the Contract or Subcontract; and

(2) interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the Contract, regarding such transactions.

Nothing in Section 902 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the United States Comptroller General.

B. Office of the Inspector General's Authority, Section 1515 of Title XV of Division A of the Act.

Pursuant to Section 1515, of Title XV of Division A of the Act, the United States Office of the Inspector General or any of its representatives may:

(1) examine any records of the Contractor or grantee, any of its

subcontractors or subgrantees, or any State or local agency administering such Contract, that pertain to, and involve transactions relating to the Contract, subcontract, grant, or subgrant; and

- (2) interview any officer or employee of the Contractor, grantee, subgrantee or agency regarding such transactions.

Nothing in Section 1515 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the Inspector General.

C. Whistleblower Protections. Section 1553 of Title XV of Division A of the Act prohibits all non-federal recipients of Act funds from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to Act funds; (2) a gross waste of Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Act funds; (4) an abuse of authority related to implementation or use of Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Act funds. The recipient of Act funds must post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the Act.

D. False Claims Act. The recipient of Act funds shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.



November 8, 2023

Town of Fairfield  
Engineering Department  
Attn. Bill Hurley, Engineering Manager  
Sullivan Independence Hall  
725 Old Post Road  
Fairfield, CT 06824

Electronic Submission  
to [whurley@fairfieldct.org](mailto:whurley@fairfieldct.org)

Re: RFP for Construction Administration and Inspection Services Project #2023-49  
Phase 3 – Turney Creek Culverts and Tide Gates

Dear Mr. Hurley:

Luchs Consulting Engineers, LLC is pleased to respond to the Town of Fairfield's request for proposal to provide Construction Administration and Inspection Services during Construction and Site Monitoring for the Phase 3 – Turney Creek Culverts and Tide Gates Project.

We have assembled an experienced Team familiar with the specific aspects of this construction as follows:

Ronald Nault, P.E. – Principal-in-Charge, Project Manager  
Mike Bauer, P.E. – Construction Engineer  
Coleman Walsh, NICET IV – Chief Inspector  
Alex Parisi, BSCE – Senior Inspector  
Tyler Young, BSCE - Inspector

Under this Management Plan, Mike Bauer, P.E. with over 8 years of Construction Inspection experience will support Coleman Walsh at Progress Meetings and with technical details. Coleman Walsh will be our Chief Inspector providing primary Inspection of the Sanitary Sewer work including coordination, record-keeping, monitoring of pay items and project close-out. Coleman has over 40 years of construction inspection experience including soldier piles, deep excavation, dewatering, sewer pipe installation and contaminated soils management. Coleman will be supported by Alex Parisi, Senior Inspector with over 15 years of pipeline inspection experience, and Tyler Young, Inspector, when needed. Coleman served in this same "Chief Inspector, Office Engineer and Project Coordinator" role for the Reconstruction of Moose Hill Road in Trumbull recently. Ron Nault, P.E. will act as Project Manager and help coordinate staffing and available for technical questions.

These Construction Phase Administration and Inspection Services will be provided as requested and authorized by the Town Engineer and billed at approved hourly rates for only the hours worked. If other sewer projects run concurrently, there will likely be savings in Inspection costs by staff covering more than one operation when the Construction workload allows.

Per your request we are enclosing herein completed proposal estimate worksheet forms to provide a recommended budget for our Construction Phase Services.

We look forward to assisting the Town of Fairfield with the successful completion of this project. If you have any questions with the enclosed, please do not hesitate to contact me.

Sincerely,  
LUCHS CONSULTING ENGINEERS, LLC.



Ronald J. Nault, P.E.  
President-Project Manager

Enclosures

## BUDGET WORKSHEET

### Construction Administration and Inspection Services

#### Phase 3 - Turney Creek Culverts and Tide Gates

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Expected Project Duration = 16 months

| <u>Staff Member</u>                              |   | <u>Estimated Fee</u> |
|--------------------------------------------------|---|----------------------|
| • Chief Inspector                                |   |                      |
| 16 months x 172 hours/month x \$160/hour         | = | \$440,320            |
| • Construction Manager                           |   |                      |
| 10% of Inspection hours = 275 hours x \$175/hour | = | \$ 48,125            |
| • Senior Inspector (support when needed)         |   |                      |
| 172 hours x \$145/hour                           | = | <u>\$ 24,940</u>     |
| TOTAL ESTIMATED BUDGET                           | = | \$513,385            |



AGREEMENT  
BETWEEN THE TOWN OF FAIRFIELD  
AND  
Luchs Consulting Engineers, LLC  
FOR  
CONSTRUCTION ENGINEERING & INSPECTION

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## **AGREEMENT**

**THIS AGREEMENT** has been concluded at the Town of Fairfield Connecticut by and between the Town of Fairfield , duly authorized, hereinafter referred to as the Municipality, and Luchs Consulting Engineers, LLC a Corporation qualified to do business in Connecticut and having its office located at 89 Colony Street, Meriden, CT 06451

authorized to practice professional engineering in Connecticut under the provisions of Chapter 391 of the General Statutes of Connecticut, as amended, acting herein by Ronald J. Nault it's President, hereunto duly authorized, hereinafter referred to as the Consulting Engineer.

**WHEREAS**, the Municipality has determined, based on staffing requirements and/or special expertise requirements, that the services of a Consulting Engineer are required to perform construction engineering and inspection on inspection on Phase 3 – Turney Creek Culverts and Tide Gates and;

**WHEREAS**, the Municipality has approved the contracting out for these services and;

**WHEREAS**, the Municipality has the authority to employ such assistance as it may require.

### **NOW, THEREFORE, KNOW YE THAT:**

#### **RESPONSIBILITY OF THE CONSULTING ENGINEER:**

#### **THE CONSULTING ENGINEER AGREES**

##### **(1) SCOPE OF SERVICES:**

To perform construction engineering and inspection, under the general supervision of a Municipal Administrator in conformance with the "Construction Manual - Connecticut Department of Transportation, Bureau of Engineering and Construction, Office of Construction, Version 2.2, January 2011, as amended", hereinafter referred to as the "Construction Manual", and the "Information Pamphlet for Consulting Engineers Performing Construction Inspection", dated August 2008, as amended, and hereinafter referred to as the "Information Pamphlet", and the "Municipality Manual, Connecticut Department of Transportation, Bureau of Engineering and Highway Operations, Office of Construction, Version 1, July 2008", hereinafter referred to as the "Municipality Manual". The Consulting Engineer will perform construction engineering and inspection in accordance with the policies and procedures of the State, as specified in these documents and in accordance with the scope of services listed in this Paragraph, which include, but are not limited to,

the following:

SURVEY

- (a) All construction survey work with the exception of that work that is included in the construction contract to be accomplished by the Municipality's contractor as directed by the Municipal Administrator;
- (b) The checking of all construction operations and layout staking performed by the Municipality's contractor as directed by the Municipal Administrator;
- (c) All survey, construction staking, and layout work necessary for the accurate installation of fencing by the Municipality's contractor along the highway line, staking of non-access line, or other locations as directed by the Municipal Administrator;
- (d) Provide, through information obtained from the Municipality's Municipal Administrator, all controls for relocations and installations to be made by public utility companies, railroads, and governmental agencies, which have an effect or are affected by construction of the project as directed by the Municipal Administrator;
- (e) All work and measurements necessary for the computation of intermediate and final quantities such as, but not limited to, cross section measurements for borrow banks, rock excavation, structure excavation, excavation of unsuitable material and final cross section measurements along the completed roadway;

FIELD INSPECTION

- (f) Inspection of all construction activities performed by the Municipality's contractor, including the observance and reporting of work performed by public utility companies, railroads, and governmental agencies, within the project limits. When the reimbursement to the outside agency is on an actual costs basis, the Consulting Engineer will keep a daily record of man hours, equipment hours, and materials used, salvaged or scrapped in performing the work, on forms CON-40 and CON-41 and certain comparable railroad forms. He shall give sufficient inspection to utility relocation work to ensure conformance to the approved plan of relocation;
- (g) All on-the-job testing and sampling of materials as specified in the "Construction Manual" and "Information Pamphlet". Excepted from testing and sampling are those functions performed by the District Laboratory and/or the State Laboratory and not specifically made a responsibility of the Consulting Engineer. The Consulting Engineer agrees to properly lift and protect the test specimens until transported to the State Laboratory;

- (h) The performance of all necessary field density tests. The nuclear density gauge unit shall contain a full data processor, which holds all calibration constants necessary to compute and directly display wet density, moisture, and dry density either in pounds per cubic foot, or grams per cubic centimeter. The data processor shall compute and display the percent moisture and percent density on dry weight. The Consulting Engineer will be responsible for providing the gauge, calibration, and operation of the nuclear gauge;

#### CONSTRUCTION ENGINEERING

- (i) The technical investigation and/or analysis and recommendation for settlement of monetary or other claims brought against the Municipality and/or the State by Contractor(s) or others;
- (j) The coordination and implementation of all engineering, technical or administrative determinations made by the Municipality and/or the State;
- (k) To receive shop details and construction drawings from the Municipality's contractor and transmit same to the Municipality, the State or others for review and approval. These shop details and construction drawings shall include, but are not limited to, cofferdam details, pile loading tests, false work, and details of all other items required to assure their general compliance with design plans, specifications, and acceptable construction procedures and standards;
- (l) Consulting Engineer to review and provide engineering recommendations related to submittals, working drawings, and technical reviews of the work contemplated by the construction contract;
  - (m) To investigate and facilitate resolution to technical problems or design issues associated with the construction of the project;

#### ADMINISTRATIVE

- (n) To prepare and submit for approval all construction orders and all partial, monthly, and final Municipality's contractor's estimates;
- (o) To revise the original construction contract drawings (plans) to show the facility "as-built," as further defined in Paragraph (18);
- (p) The preparation of correspondence to the Municipality's contractors, fabricators, designers, and others, including reports, memoranda, requests for material tests, forms, and all other documents required for proper inspection of the construction project;

- (q) All other operations which become necessary to properly inspect the work of the construction contractor to determine his compliance with the following documents:

"State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction", Form 816, hereinafter referred to as "Standard Specifications",

Project Special Provisions and all other contract documents and memoranda,

"Public Service Facility Policy and Procedures for State Highways in Connecticut", dated June 1, 1987, hereinafter referred to as "Public Service Facility Policy".

(2) QUALIFICATIONS OF CONSULTING ENGINEER PERSONNEL:

That all personnel employed by the Consulting Engineer shall meet the minimum education, experience, training, and certification requirements for their applicable classification of employment as defined in the current edition of the "Information Pamphlet". In addition, all inspection personnel shall possess one of the following:

1. Registration as a Professional Engineer in Connecticut.
2. Engineer in Training Certification.
3. Bachelor of Science Degree in Civil Engineering or related field or an Associates Degree in Civil Engineering (Structural or Highway technology).
4. NICET Transportation Engineering Technology/Highway Construction certification (Level II or higher).
5. Level I enrollment in the NICET Transportation Engineering Technology/Highway Construction Certification Program. Level I will be used for training purposes only.
6. All Inspection Staff on bridge painting projects shall be certified at the NACE Intermediate Coating Inspection Level. All Resident Engineers or Chief Inspectors on bridge painting projects shall be NACE certified Coating Inspectors with the appropriate years of experience.

The Municipality has the right, during the term of this Agreement, to remove from the project any person or persons employed by the Consulting Engineer, who in the sole opinion of the Municipality has misconducted himself or herself or is incompetent in the performance of their assigned duties, or who neglects or refuses to require compliance with the Plans, Specifications, or Project Special Provisions. Such person or persons shall not be reemployed without the written consent of the Municipality. The Municipality reserves the right to prequalify the Consulting Engineer's supervisory and inspection personnel, determine the size of the inspection force required, and to direct the assignment and the reassignment of inspection personnel at its

discretion, as deemed necessary by the Municipality.

(3) WORK PERIOD

- (a) Complete all work stipulated in Paragraphs (1) and (18) of this Agreement within 485 calendar days, commencing from the date stipulated by the Municipality in a formal notice to proceed. A calendar day shall be every day in the week, Saturdays, Sundays, and holidays included.
- (b) The Municipality may extend the allotted time beyond the period specified above when the work has been delayed for reasons beyond the control of the Consulting Engineer. The Consulting Engineer may present to the Municipality, in writing, request for extension of allotted time for completion of the work. The Municipality will evaluate such requests, and if the Municipality determines such requests are based on valid grounds, shall grant such extension of time for completion of the work as the Municipality deems warranted. All requests for extension of time must be made prior to the expiration of calendar days specified in Paragraph (3)(a) above. Decisions made by the Municipality relative to the granting of extension of time shall be final and binding.
- (c) The Consulting Engineer agrees that no charges or claim for damages or additional compensation including lost profit shall be made by the Consulting Engineer unless the allotted additional time constitutes extra work as defined in Paragraph (4) of this Agreement. Delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Municipality may determine, it being understood, however, that the permitting of the Consulting Engineer to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the Municipality of any of its rights herein.
- (d) The Municipality will not consider any proposal by the Consulting Engineer for renegotiation of the maximum payment exclusive of extra work specified in Paragraph (41) of this Agreement unless 485 calendar days have elapsed since the initial formal notice to proceed.

(4) EXTRA WORK

Make any revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or changes in operations performed by the Consulting Engineer as may be ordered by the Municipality or any of its duly authorized representatives at any time during the life of this Agreement. No additional payment will be made for such revisions, additions, deletions, modifications, corrections, substitutions, or changes to the work or operations, unless such changes constitute Extra Work.

Extra Work is defined as follows:



- (a) Such additional work as ordered by the Municipality beyond the scope of this Agreement to the extent that such work will not be reflected in the payment for services specified in Paragraph (40) of this Agreement.
- (b) Such work as shall supersede or revise completed work that has been accepted in writing by the Municipality. Changes such as those to effect refinements in the work or inspection documents and such as those made necessary by errors, omissions, oversight or neglect on the part of the Consulting Engineer, will not be considered Extra Work.

In the event that changes in the Consulting Engineer's work or operations are suggested which, in the opinion of the Consulting Engineer, would result in Extra Work, he shall immediately submit complete documentation of the claim and upon the Municipality's concurrence shall submit an estimate of the cost for the Extra Work and refrain from working on the Extra Work item while the Municipality reviews the claim, or proceed otherwise if specifically directed by the Municipality. If approval is denied, the Consulting Engineer shall continue to process the work without delay and payment will be made according to the terms of this Agreement. No work, other than that for which a claim is being reviewed, shall be delayed pending a decision of the Municipality.

Unless the Consulting Engineer identifies and the Municipality acknowledges Extra Work prior to its performance, the Municipality will not be obligated to consider it as Extra work after the fact.

Extra Work costs shall be segregated by the Consulting Engineer to facilitate audit at a later date by the Municipality and the State or the Federal Highway Administration.

Extra Work that results in a cumulative fee exceeding the amount specified in Paragraph (41) shall be performed and paid for under a supplemental agreement specifically drawn for this work.

(5) ERRORS AND OMISSIONS BY THE CONSULTING ENGINEER

That any amount paid out by the Municipality arising from or resulting from errors, omissions, or failures on the part of the Consulting Engineer to meet professional standards of construction engineering and inspection, will be recovered from the Consulting Engineer by deductions from payments due him under the terms of this Agreement or other legal means. The Consulting Engineer shall be notified by the Municipality of any potential claim prior to the Municipality deducting amounts from payments due, he shall be afforded an opportunity to respond to and defend against such claim or alleged claim in an informal proceeding before the Municipal Administrator or his designee.

(6) RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (6) below ~~DNA~~

Assume full responsibility for the accuracy of all products of its work under this Agreement including any supplements thereto, and shall so indicate by affixing the Connecticut Certificate of Registration Number

for the Corporate Practice of Engineering by a corporation or limited liability company on the Title Sheet(s) of all plans and/or documents, as well as the signature and Connecticut Professional Engineer's Seal of the individual(s) in charge of the work performed under the terms of this Agreement. Each individual listed on the said Connecticut Corporate Certificate of Registration as an engineer or land surveyor for a corporation or limited liability company, or so listed on the subsequently amended Corporate Certificate of Registration, shall be registered as a Professional Engineer or Land Surveyor (whichever is appropriate) in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Examiners for Professional Engineers and Land Surveyors.

With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform Consulting Engineer and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other documents so produced.

(6) ~~RESPONSIBILITY FOR ACCURACY OF WORK USE ONLY IF PARTNERSHIP otherwise~~  
~~mark DNA and use (6) above~~     DNA

~~To assume full responsibility for the accuracy of all products of his engineering work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Professional Engineer's Seal on the Title Sheet(s) of all plans, designs, and/or documents so produced. Each Partner who will be performing engineering work under this Agreement shall be registered as a Professional Engineer in Connecticut, throughout the life of this Agreement, including any supplements thereto, all in accordance with existing Statutes of the State of Connecticut and the regulations of the State Board of Registration for Professional Engineers and Land Surveyors.~~

~~With prior written approval of the Municipality, the Consulting Engineer shall retain a Connecticut registered Land Surveyor either as a member of his organization or as an independent subcontractor to perform and accept complete responsibility for all survey operations required under this Agreement, including any supplements thereto, all such performance being in strict conformance to all specifications and requirements established herein. Said Connecticut registered Land Surveyor shall assume full responsibility for the accuracy of all products of his surveying work produced under this Agreement, including any supplements thereto, and shall indicate acceptance of said responsibility by affixing his signature and Connecticut Land Surveyor's Seal to the Title Sheet(s) of all maps, plans, and/or other~~

~~documents so produced.~~

(7) FURNISHING OF TOOLS OF THE TRADE BY CONSULTING ENGINEER

To furnish all tools of the trade and equipment necessary for the satisfactory performance of the services required by this Agreement at no direct cost to the Municipality.

(8) CONSULTING ENGINEER'S INSPECTION FORCE

To furnish an inspection force at the level of and in the numbers established by negotiations for the construction engineering and inspection of this contract. The Resident Engineer/Chief Inspector shall work under the general supervision of the Municipality's Municipal Administrator. All orders to the Municipality's contractor on site will be transmitted by the Consulting Engineer's Resident Engineer/Chief Inspector.

(9) ATTENDANCE AT TRAINING SEMINARS, SCHOOLS, AND/OR MEETINGS

That the Municipality reserves the right, during the term of this Agreement, to require the presence of the Consulting Engineer's personnel at training schools, seminars, or other meetings as may be required.

(10) COOPERATION WITH OTHERS

To cooperate fully with other Consulting Engineers, state personnel, municipal officials, public utility companies, railroads, governmental agencies, and others engaged in surveying, mapping, designing, inspection and construction services, or work on traffic control, lighting, and other facilities within or adjacent to the project; to attend such meetings, discussions and hearings as may be requested by the Municipality; to furnish plans and other data as may be requested from time to time by the Municipality to effectuate this cooperation; and to comply with all orders given by the Municipal Administrator in connection with the work under this Agreement.

(11) PROTECTION OF RECORDS

To cooperate fully with the Municipality and the State and to maintain and protect complete construction records at the field office for review, use, and approval at all times. These records shall be transferred to the custody of the Municipality when the Consulting Engineer has completed his assignment or when requested by the Municipality and final payment to the Consulting Engineer shall be withheld until such transfer has been completed.

(12) INSURANCE

With respect to the operations performed by the Consulting Engineer under the terms of this Agreement and also those performed for the Consulting Engineer by its subcontractors, the Consulting Engineer will be required to carry for the duration of this Agreement, and any supplements thereto, with the Municipality and the State being named as an additional insured party for paragraphs (A) and (B) below, the

following minimum insurance coverages at no direct cost to the State or Municipality. In the event the Consulting Engineer secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (A) and/or (B) below, the Municipality and State of Connecticut shall be named as an additional insured.

A. COMMERCIAL GENERAL LIABILITY

The Consulting Engineer shall carry Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

B. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

C. RAILROAD PROTECTIVE LIABILITY

When the Agreement involves work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by the Consulting Engineer and/or its subcontractor(s), the Consulting Engineer shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Consulting Engineer shall obtain and submit evidence of the minimum coverage indicated above to the Municipality prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the Municipality.

D. VALUABLE PAPERS AND RECORDS

The Consulting Engineer shall secure and maintain a Valuable Papers Insurance Policy at no direct cost to the Municipality, until the work has been completed and accepted by the Municipality. Said Policy will assure the Municipality that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or any other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars (\$50,000) regardless of the physical location of the insured items.

E. WORKERS' COMPENSATION

With respect to all operations the Consulting Engineer performs and all those performed for the Consulting Engineer by subcontractors, the Consulting Engineer and subcontractor(s) shall carry Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively.

F. PROFESSIONAL LIABILITY INSURANCE

Secure and maintain at no direct cost to the Municipality a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars (\$ 2,000,000). The Consulting Engineer shall obtain the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this contract as the same relates to negligent acts, errors or omissions in the work performed by the Consulting Engineer. The Consulting Engineer may, at his election, obtain a policy containing a maximum Two Hundred Fifty Thousand (\$ 250,000) deductible clause, but if he should obtain a policy containing such a clause the Consulting Engineer shall be liable, as stated above herein, to the extent of the deductible amount. The Consulting Engineer shall continue this liability insurance coverage for a period of three (3) years from the date of completion of Consulting Engineer's work.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Consulting Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Consulting Engineer under this agreement.

Failure of the Consulting Engineer to maintain insurance coverage in accordance with the terms of the agreement shall constitute a violation of the agreement and shall subject the Consulting Engineer to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

G. CERTIFICATE OF INSURANCE

The Consulting Engineer agrees to furnish to the Municipality a Certificate of Insurance on the form(s) provided by the Municipality,

in conjunction with Items A, B, C, D, and E above, and a "Certificate of Insurance DOC-001", in conjunction with Item F above, fully executed by an insurance company or companies satisfactory to the Municipality, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

The Consulting Engineer shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the Municipality or the State. In providing said policies, the Consulting Engineer may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this agreement/contract.

(13) RESPONSIBILITY FOR CLAIMS AND LIABILITY

To indemnify and save harmless the Municipality and/or the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors, or omissions in the work performed by the Consulting Engineer and/or any of its subcontractors under this Agreement, including any supplements thereto, or resulting from the nonperformance of the Consulting Engineer and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

It is further understood and agreed by the parties hereto, that the Consulting Engineer shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the Municipality and the Consulting Engineer, unless requested to do so by the Municipality. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

(14) RESTRICTIONS ON SUBLETTING OF AGREEMENT/INSURANCE REQUIREMENT FOR SUBCONTRACTING ENGINEERS

That the Consulting Engineer shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion, thereof, or of the work provided for herein, or of his right, title, or interest herein, to any person, firm, partnership or corporation without the written consent of the Municipality and then he shall do so only by executing a subcontractor's agreement and shall furnish the Municipality a certified copy of this subcontractor's agreement. Any work subcontracted by the Consulting Engineer will be paid for by the Municipality at the actual costs to the Consulting Engineer with no additions. For breach or violation of the above stipulation, the Municipality shall have the right to annul this Agreement without liability. The Consulting Engineer shall also furnish to the Municipality certification of Public Liability and Property Damage Insurance Coverage, regular Protective Public Liability Insurance Coverage, and Professional Liability Insurance coverage, if applicable, for and in behalf of the Municipality and the State of

Connecticut from the subcontractor. Each insurance policy shall state that the insurance company has a right and duty to defend the insured against any suit seeking damages (or under Workers' Compensation, benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. In general, work that is to be sublet will be limited to that of an unusual or highly specialized nature, or work of relatively short or intermittent duration which can be more efficiently performed by a subcontractor. It is understood that the Municipality is not bound to the subcontractor for suits or other litigation resulting from the work performed by him.

(15) TERMINATION

That the Municipality, by written notice to the Consulting Engineer, may suspend, postpone, abandon, or terminate this Agreement for the convenience of the Municipality, for violation by the Consulting Engineer of any provision contained in this Agreement, or for any failure by the Consulting Engineer to render to the satisfaction of the Municipality the services required under this Agreement, including any failure to make acceptable progress with work required under this Agreement. Such action on the part of the Municipality shall in no event be deemed a breach of contract. Upon receipt of written notification from the Municipality that this Agreement is to be suspended, postponed, abandoned, or terminated, the Consulting Engineer shall immediately cease operations on work required under this Agreement. Upon receipt of written notification that this Agreement is to be abandoned or terminated, the Consulting Engineer shall also immediately assemble all material which is in its possession or custody and which has been prepared, developed, furnished, or obtained under the terms of this Agreement, and shall transmit the same, together with the Consulting Engineer's evaluation of the cost of the work performed, to the Municipality on or before the fifteenth day following the receipt of written notice of abandonment or termination. Said material shall include, but not be limited to, documents, plans, computations, drawings, notes, records, and correspondence. Upon receipt of this material, the Municipality shall make settlement with the Consulting Engineer in one of the following manners:

- (a) If the Municipality terminates this Agreement for its convenience, the Municipality shall make an equitable adjustment of the contract price, but in doing so shall include no payment or other consideration for anticipated profit on unperformed services.
- (b) If the Municipality terminates this Agreement because the Consulting Engineer has failed to fulfill its obligations under the Agreement, the Municipality may complete the work required hereunder by contracting with another party or by any

other means, and the Consulting Engineer shall be liable for any additional costs incurred by the Municipality in doing so.

- (c) If the Municipality, after terminating the Consulting Engineer for alleged failure to fulfill its obligations under this Agreement, determines that the Consulting Engineer has not failed to fulfill those obligations, the rights and remedies of the parties shall be the same as if the Municipality had terminated the Agreement for convenience.

In determining the basis for such equitable settlement for items (a), (b), and (c) as indicated above, the Municipality shall take into account any monies owed the Consulting Engineer for work previously performed under this Agreement, less any payments previously made for said work, and the amount of reimbursable expenses incurred by the Consulting Engineer, less any payments previously made, to reimburse the Consulting Engineer for those expenses.

The Consulting Engineer agrees to accept the Municipality's valuation of the work performed under this Agreement, and the Municipality will not be liable for any profit that the Consulting Engineer expected or might have expected to make on portions of the Project work that have not been performed.

If postponement, suspension, abandonment, or termination is ordered by the Municipality because it lacks sufficient funding to complete or proceed with the Project, the Consulting Engineer may not make a claim against the Municipality in any form or forum for loss of anticipated profit or for any other reason related to the Project or this Agreement.

The rights and remedies of the Municipality under this Article are in addition to any other rights and remedies that the Municipality may possess by law under this Agreement.

Decisions of the Municipality on matters discussed in this Article shall be final and binding.

(16) PROGRESS REPORTS

To submit monthly progress reports, in quadruplicate, by calendar months to the Municipality showing the percentage of construction work performed to date. These progress reports, together with copies of certified monthly payrolls for all approved personnel, and such other supporting data as may be required, shall be subject to examination and approval by the Municipality and the State.

(17) PAYMENT TO THE CONSULTING ENGINEER

To accept payment for all services rendered in connection with this Agreement, in accordance with the sum or sums hereinafter stipulated in Paragraphs (40) and (41) of this Agreement.



(18) SUBMITTAL OF ESTIMATES AND FINAL DOCUMENTS/SUBMISSION OF CERTIFIED STATEMENT

To prepare and submit for approval construction contractor's monthly/semimonthly estimates and a final construction estimate. The final estimate shall be supported by a complete set of all pertinent job records and shall be furnished to the Municipality within the time frame stipulated herein.

To furnish the following documents to the Municipality within sixty (60) calendar days of the completion date of construction as noted on the CON-82.

- (1) (a) Final Estimate, (b) Index of Construction Orders, (c) Records of Daily Cost Plus, (Form CON-9), (d) Receipted Bills Supporting Cost Plus, (e) Final Construction Order, (f) Statement of Credits due the State, if applicable, and (g) Substantiating Evidence, if escalator clause is invoked, (h) Construction Report, (i) Statement of Working Days, (j) Breakdown of Participating and Non-Participating Cost by Project, (k) Substantiation of Payments made to D.B.E.'s or S.B.E.'s and a determination on recommended monetary assessments for failure to meet contract assignment goals for D.B.E.'s or S.B.E.'s work performance and any other required documents.
- (2) When requested by the Municipal Administrator, the complete set of original contract drawings (plans) showing as-built details for the plans, profiles, cross-sections and all diaries, field books, and other data in conformance with the requirements of the Construction Manual. The Consulting Engineer further agrees to submit, upon completion of construction, a statement certified by a professional engineer licensed in the State of Connecticut. This statement shall verify that the project, as built, conforms to the contract plans and/or the contract plans as modified by the construction orders approved by the Municipality and the State in all instances and that work performed and materials furnished comply with the requirements of the plans, specifications, and orders of the Municipality, and that all payments to the construction contractor are in conformance with the specifications.

If it is determined that the documents in (1) and (2) of this Article cannot be furnished within sixty (60) calendar days of the completion date of construction as noted on the CON-82, then by the forty-fifth (45th) day, the Consulting Engineer shall provide the Municipality with a listing of documents/information still required from the Contractor. At that time, a determination will be made by the Municipality on whether the Consulting Engineer will be extended to complete the remaining documents or whether the Municipality will complete the remainder.

If for causes within his control, the Consulting Engineer fails to furnish the Municipality with the documents noted in (1) and (2) of this Article within the allotted time, the Municipality may assess Consulting Engineer:

- a) Liquidated damages in the amount of Two Hundred Forty Dollars (\$240) per calendar day for each day beyond the stipulated sixty (60) calendar days until submission of the required documents, and
- b) Correction of errors and/or omissions will be made at the Consulting Engineer's own expense.

(19) AGENT FOR SERVICE OF PROCESS

That the Secretary of State of the State of Connecticut (including any successor thereto) is hereby appointed by the Consulting Engineer as its agent for service of process for any action arising out, or as a result, of this Agreement, such appointment to be in effect throughout the life of this Agreement including any supplements hereto, and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

(20) SUBMITTAL OF CERTIFIED PAYROLL

To submit to the Municipality each month two (2) copies of a certified payroll, on a form acceptable to the Municipality, of the Consulting Engineer's own field forces and those of approved subcontractors. These payrolls shall be used as a basis in computing each month's payment. The certification shall be dated, signed, and read as follows: "I (Name of Consulting Engineer or Subcontractor), do hereby certify that during the period covered by this payroll, all personnel shown were working on the project, and their salary, rate of compensation, hours worked, and amount earned, is a true and accurate report". The personnel shown on the certified payroll, their employment and duration of employment, salary or hourly rate, hours of work, including overtime, if any, overtime rate, and all changes in status of any of the beforementioned information, shall have the prior written approval of the Municipality.

(21) COVENANT AGAINST CONTINGENT FEES

The Consulting Engineer agrees and warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consulting Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consulting Engineer, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the payments due the Consulting Engineer, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(22) MAINTENANCE AND AUDIT OF RECORDS

The Consulting Engineer agrees to incorporate the entire Maintenance and Audit of Records article of this Agreement, in all subconsultant agreements.

- (a) Project Accounts

The Consulting Engineer shall maintain an accounting system that is adequate to segregate and accumulate reasonable, allocable costs and maintain accounts and records in accordance with generally accepted accounting principles consistently applied.

(b) Allowable Costs

The authority for determining allowable costs under the Agreement shall be "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2," which is incorporated herein by reference.

(c) Audit and Inspection of Records

The Consulting Engineer shall permit the authorized representatives of the Municipality, the State, the U.S. Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the Consulting Engineer relating to his performance under the Agreement until the expiration of three (3) years after final payment under this Agreement.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation, upon request, a detailed job cost report of all project costs incurred under this Agreement.

The Consulting Engineer further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Municipality, the State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes work not exceeding \$25,000.00.

The periods of access and examination described above, for records which relate to (1) appeals for disputes, (2) litigation of the settlement of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by the Municipality, the State, the Comptroller General, or any of their duly authorized representatives, shall continue until final disposition of all such appeals, litigation, claims, or exceptions.

In accordance with Title 23 CFR, Chapter 1, Part 172.7(d), the Connecticut Department of Transportation as recipient or subrecipient of federal-aid highway funds, may share the audit information in complying with the State or subrecipient's acceptance of a Consulting Engineer's overhead rates provided that the Consulting Engineer is given notice of each use and transfer.

(d) Record Retention

The Consulting Engineer agrees that it shall preserve all of its

records and accounts concerning the implementation of this Agreement including, but not limited to, any records, books, or other documents relative to charges, including charges for Extra Work, alleged breaches of agreement, settlement of claims, soils and foundation services, or any other matter involving the Consulting Engineer's or Subcontractor's demand for compensation by the Municipality for a period of not less than three (3) years from the date of the final payment under this Agreement. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

(e) Annual Audit of In-House Unit Cost Rates

The Consulting Engineer agrees to have a CPA perform an audit of any in-house unit cost rate(s) billed by the Consulting Engineer. The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The schedule(s) which detail the computation of the audited unit cost rate(s) must present the individual expenses applicable and the actual usage which is the basis for the unit cost rate(s). The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2". This audit may be submitted with the audit of indirect costs. Failure to submit this audit will result in any costs billed by the Consulting Engineer for in-house charges to be considered ineligible for reimbursement.

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year during the term of this agreement

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of audits of the in-house unit cost rates issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

(f) Annual Audit of Indirect Costs

The Consulting Engineer agrees to prepare a "Schedule of Indirect Costs" from its operations for each fiscal year which the Agreement covers. The schedule shall consist of direct labor costs and indirect costs listed by accounts for home office design and construction engineering/inspection (field) projects, if applicable.

The Consulting Engineer agrees to have this schedule audited by an independent Certified Public Accountant (CPA). The audit shall be performed in accordance with Government Auditing Standards promulgated by the Comptroller General of the United States. The audit shall include the CPA's opinion as to whether the statement is fairly presented in accordance with "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward the above audit to the Office of External Audits of the Connecticut Department of Transportation within ninety (90) days following the close of each fiscal year for which the Agreement covers.

The Consulting Engineer agrees to forward to the Office of External Audits of the Connecticut Department of Transportation within thirty (30) days of issuance, copies of Indirect Cost audits issued by other State or Federal Agencies that are performed in accordance with Government Auditing Standards using the criteria for determining acceptable costs contained in the "Title 48, Chapter 1, Federal Acquisition Regulations, Parts 31.0, 31.1 and 31.2".

The Consulting Engineer agrees to forward within thirty (30) days of issuance, a copy of the company's annual financial schedule audit to the Office of External Audits of the Connecticut Department of Transportation.

While it is the intent of the State to rely on the work of the other States, Federal Agencies or independent Certified Public Accountant, the State reserves the right to audit or review any records of the Consulting Engineer, review the working papers of the independent Certified Public Accountant and contact or obtain information from any other State or Federal Agency when in its judgement, the best interests of the State so require.

The Consulting Engineer also agrees it shall make arrangements with their Certified Public Accountant to have copies of their working papers forwarded to the Office of External Audits of the Connecticut Department of Transportation when requested.

(23) COMMENCEMENT OF SERVICES

That the Consulting Engineer shall not begin performance under the terms of this Agreement until notified by the Municipality in writing. With written authorization from the Municipality, the Consulting Engineer may commence operations prior to the start of the construction contract.

(24) DIRECT COST ITEMS

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy No. F&A-34, April 21, 2005, Subject: Policy on the Acquisition and Inventory of Equipment Purchased by Consultants".

(25) CARE OF MUNICIPALLY-OWNED EQUIPMENT

That the Consulting Engineer will assume full responsibility for the

use and care of all Municipally-owned equipment issued for use on the Project. This equipment is to be returned to the Municipality upon completion of the Project in good condition. The Consulting Engineer will replace at no cost to the Municipality any Municipally-owned equipment which is lost or damaged except for normal wear and tear, as determined by the Municipality, while in the Consulting Engineer's possession.

(26) CLAIMS OF INJURIES OR DAMAGE DUE TO THE CONTRACTOR'S OPERATIONS

That while engaged in performing the provisions or terms of this Agreement, the Consulting Engineer will ensure that the following steps will be adhered to concerning claims of injury or damage due to the construction contractor's operations:

- (a) That the Consulting Engineer will advise all claimants to submit the claim in writing to the Municipality, which for the purpose of this Paragraph will be interpreted to mean the Municipal Administrator at the appropriate address.
- (b) That the Consulting Engineer will record for the project file pertinent information concerning claims or potential claims including name, date, time, and nature of the claim or potential claim as these claims/potential claims become apparent.
- (c) That the Consulting Engineer will file a report for the project records if required to do so by the Municipality.

(27) CONFLICTS BETWEEN DOCUMENTS AND AGREEMENT

That the Consulting Engineer agrees in case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern, and that wherever a blank ( ) or the words "DOES NOT APPLY" appears in all copies of this Agreement, this represents a deletion of a condition which does not apply to this contract.

(28) POLICY ON DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Disadvantaged Business Enterprises For Federal Funded Projects", as set forth in Exhibit A, Schedule 1 (attached herewith) dated February 26, 2009.

(29) SMALL CONTRACTOR AND/OR SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE) DOES NOT APPLY

~~The Consulting Engineer shall cooperate with the State in implementing the required contract obligations concerning "Small Contractor" and/or "Small Contractor Minority Business Enterprises" utilization on this Agreement in accordance with Section 32-9e of the Connecticut General Statutes, as revised. The Consulting Engineer shall comply with this provision in accordance with the "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)", as set forth in Exhibit A, Schedule 2 (attached herewith) dated March, 2001.~~

~~The State advises the Consulting Engineer that failure to carry out the~~

~~requirements set forth in said "Special Provisions, Small Contractor And Small Contractor Minority Business Enterprises (Set-Aside)" shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.~~

(30) PROMPT PAYMENT TO SUBCONTRACTOR(S) AND RELEASE OF RETAINAGE

The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in the Commissioner's Letter dated October 26, 1988 Re: Prompt Payment to Subcontractor(s), as set forth in Exhibit A, Schedule 3 (attached herewith) as revised.

The Consulting Engineer shall pay the subcontractor for work performed within thirty (30) days after the Consulting Engineer receives payment for the work performed by the subcontractor. Also, any retained monies on a subcontractor's work shall be paid to the subcontractor within thirty (30) days after satisfactory completion of all of the subcontractor's work.

For the purpose of this Article satisfactory completion shall have been accomplished when:

(1) The subcontractor has fulfilled the contract requirements of both the Municipality and the subcontract for the subcontracted work, including the submission of all submittals and audit requirements stipulated in Article 22(f), when applicable, and

(2) The work done by the subcontractor has been reviewed and accepted by the Municipality and final approval of the subcontractor's work has been determined and agreed upon.

If the Consulting Engineer determines that a subcontractor's work is not complete, the Consulting Engineer shall notify the subcontractor and the Municipality, in writing, of the reasons why the subcontractor's work is not complete. This written notification shall be provided to the subcontractor and the Municipality within twenty-one days of the subcontractor's request for release of retainage.

The above requirements are also applicable to all sub-tier subcontractors and the above provisions shall be made a part of all subcontract agreements.

Failure of the Consulting Engineer to comply with the provisions of this section will be reflected in the "Consultant Performance Evaluation" for future projects.

(31) CONNECTICUT DEPARTMENT OF TRANSPORTATION SUBCONSULTANT PAYMENT LOG

The Consulting Engineer understands and agrees that a "Connecticut Department of Transportation Subconsultant Payment Log" Form shall be completed quarterly (January, April, July, and October) and furnished to the Municipality for each subcontractor the Consulting Engineer utilizes under this Agreement. Instructions for completing and processing this Form are stipulated on its reverse side. A copy of said form is included herewith.

(32) COMPLIANCE WITH MANDATORY STATE/FEDERAL STATUTORY REQUIREMENTS

The Consulting Engineer shall comply with all the State and Federal Statutory and Administrative requirements incorporated herein by reference and set forth in Exhibit A attached hereto, and all Schedules attached hereto which are also hereby made a part of this Agreement.

**RESPONSIBILITY OF THE MUNICIPALITY:**

**THE MUNICIPALITY AGREES**

**(33) DOCUMENTS TO BE PROVIDED BY THE MUNICIPALITY**

To furnish to the Consulting Engineer one copy or more as may be required of the latest edition of the following manuals and/or documents:

- Connecticut Department of Transportation Specifications for Location Surveys
- Construction Manual
- Municipality Manual
- Information Pamphlet
- All maps, location and descriptions of coordinate values of existing points, locations and elevations of existing bench marks, and any other layout information that is available
- Original construction contract drawings (plans) for the project to be revised in accordance with Paragraph (1)(i).
- Standard Specifications - Form 816
- Public Service Facility Policy
- Project inspection record books and standard State forms
- Preliminary computations and Grade list
- Pamphlet for Monitoring Performance and Payment Requests for Consultants, dated June 1994, and any amendments

The Municipality agrees to furnish any publications of the Municipality and/or the State, requested by the Consulting Engineer, for use in inspection of the project.

**(34) MUNICIPALLY ASSIGNED ADMINISTRATOR**

To assign a Municipal Administrator who will provide general supervision of the Consulting Engineer's activities.

**(35) MUNICIPALLY PROVIDED EQUIPMENT**

Provide space or a field office with office equipment on or near the project which will have adequate space for the Consulting Engineer's staff, and the Municipality's Municipal Administrator, as specified in



the Standard Specifications.

(36) ADMINISTRATIVE FUNCTIONS TO BE PERFORMED BY THE MUNICIPALITY

To advertise, receive bids and award the construction contract, and to conduct a preconstruction meeting for the project.

(37) TESTING TO BE ACCOMPLISHED BY THE STATE

- (a) To perform or arrange for the performance of all off-site shop and mill inspections and laboratory tests and analysis of those classes of material which are normally inspected, tested, and analyzed prior to delivery to the site of the work.
- (b) To perform the so-called Proctor Laboratory Density test to determine the relationship between the moisture content and density of various fill materials to be used on the project in accordance with AASHTO T-180, Method D.
- (c) To arrange for the District or State Laboratory to transport and test all material sampled by the Consulting Engineer under the terms set forth in Paragraph (1) (g) of this Agreement.

(38) TECHNICAL ASSISTANCE BY THE MUNICIPALITY AND/OR THE STATE

Notwithstanding the requirements of Section 1, the Municipality and/or the State will provide technical assistance and/or engineering recommendations relative to construction or design-related issues associated with the project.

(39) FINAL INSPECTION

To make final inspection of the construction contract within ten (10) calendar days after the construction work is completed.

**ARTICLES OF MUTUAL AGREEMENT**

**THE MUNICIPALITY AND THE CONSULTING ENGINEER MUTUALLY AGREE:**

(40) PAYMENT

That subject to the limitations stipulated in Paragraph (41) of this Agreement, the Municipality shall pay the Consulting Engineer in the following manner for all work performed in accordance with the terms of this Agreement with the exceptions of those services for which a different method of payment is stipulated:

The Consulting Engineer and subconsultants may bill direct costs for meals, subsistence and transportation, if applicable, in accordance with the latest State Travel Regulations-State Managers limiting amounts. All mileage, including that for rental cars, will be reimbursed at the current mileage rate only. Actual cost shall be: (1) salaries of employees directly chargeable to the project at rates not to exceed those shown in Paragraph (44); and (2) burden, fringe and overhead costs properly allocable to the project. For 2XXX, the tentative percentage for field office operations will be \_\_\_\_%.

This percentage will be revised annually based on a State approved audit of burden, fringe and overhead costs of the previous years experience. The term "Salaries" as used in this Agreement shall mean the gross wage or payment made to employees before deductions for employee paid taxes and fringe benefits. The final determination of the sum to be paid for actual costs will be made following an audit of the Consulting Engineers records. The certified payroll shall cover salaries computed at straight-time rates. The certified percentage for burden, fringe, and overhead shall be applied only to the "straight-time" portion of overtime pay. No payment shall be made to partners or officials of the firm for those services unless they are engaged in production work in which case compensation will be made at production rates.

(41) MAXIMUM PAYMENT

That the maximum amount which the Municipality shall pay to the Consulting Engineer for all work performed under the terms of this Agreement, excepting work for which payment is provided in Paragraph (43), shall not exceed (\$514,000.00. The total payment for Extra Work shall not exceed(\$51,000.00). The total payment for work performed under this Agreement, including Extra Work shall not exceed (\$565,000.00). The maximum amount will not be revised unless there is a substantial change in the scope or character of the work to be performed by the Consulting Engineer which would justify a revision of this figure, as determined by the Municipality; or if, for any reason, the Consulting Engineer does not or cannot start his work prior to or in sufficient time to meet the construction contractor's schedule of operations, and the Municipality finds it necessary to provide certain inspection and survey services, the limiting amount and fixed fee shall be reduced an equitable amount to reflect the Municipality's expense in connection therewith.

(42) PROGRESS PAYMENTS

That progress payments shall be made to the Consulting Engineer on a monthly basis for all work covered by this Agreement except work for which payment is provided in paragraph (43). Said progress payment to be the sums of the following: (a) the actual costs shown on the voucher for the period, plus (b) eighty-five percent (85%) of the appropriate fixed fee amount for profit stipulated in paragraph (40) divided by the number of monthly periods in the total time allowed for completion of the construction work and closeout period. From the progress payments thus computed each month there shall be deducted all credits, if any, due the Municipality. Prior to the final payment, the Municipality may release such portion or portions of the retainage as it considers to be in its best interest. In no case, however, will the retainage be reduced to less than eighty-five (85%) of the fixed fee amount stipulated in paragraph (40) of the Original Agreement until after completion of the final audit.

The Consulting Engineer may request the substitution of securities for retainage in accordance with Connecticut General Statutes Section 3-112a.

(43) PAYMENT FOR EXTRA WORK

- (a) Extra work approvals associated with increases in costs for:
- an extension of construction contract time.
  - changes or refinements in work assignments, operations or staffing levels.
  - increases in premium overtime or shift differential cost.
  - investigation of claims.
  - escalated burden, fringe, and overhead costs based on audit results.

A fee, established through negotiations, will be paid from extra work funds under Paragraph (41) of this Agreement to the extent that these funds are available. The Consulting Engineer will be paid based on a certified monthly payroll including burden, fringe and overhead. No additional fixed fee for profit associated with payroll increases identified above will be considered unless the work period specified in Paragraph (3)(d) is exceeded and the extra work funds established under Paragraph (41) have been fully utilized. Extra work approvals that will exceed the amount stipulated in Paragraph (41) of this Agreement or the work period specified in Paragraph (3)(d) will be paid for under a supplemental agreement based on a negotiated fee for services.

- (b) Extra work approvals associated with approved design changes that require engineering work at the main or home office of the Consulting Engineer shall be paid on a certified monthly payroll plus the burden, fringe and overhead cost and a fixed fee for profit. Extra work associated with design changes shall be based on a scope of services provided by the Municipality and a negotiated fee for these services. No additional payment will be made for authorized minor design changes that can be made in the field by the Consulting Engineer.
- (c) Extra work approvals for claims investigations assigned to the Consulting Engineer after final payment has been made or investigation that will exceed the calendar days stipulated in Paragraph (3)(d) will be based on a scope of services provided by the Municipality and a negotiated fee for these services. The Consulting Engineer will be paid based on a certified monthly payroll plus burden, fringe and overhead cost and a fixed fee for profit.

(44) MAXIMUM HOURLY RATES

That the following maximum hourly rate for each classification of employee to be used on the project shall be as follows and additional classifications if required must be submitted to the Municipality for prior approval.

| <u>Classifications</u>          | <u>Maximum Hourly Rates</u>                    |
|---------------------------------|------------------------------------------------|
|                                 | <u>Maximum Hourly Rates</u>                    |
| Construction Manager            | \$175 per hour                                 |
| Chief Inspector                 | \$160 per hour                                 |
| Inspector                       |                                                |
| Senior Inspector                | \$145 per hour                                 |
| <u>Effective through 2024</u>   |                                                |
|                                 | <u>Certified Payroll</u> <u>Maximum Hourly</u> |
|                                 | <u>Actual Hourly</u> <u>Rates</u>              |
| <u>Construction Coordinator</u> |                                                |
| <u>Chief Inspector</u>          |                                                |
| <u>Inspector</u>                |                                                |
| <u>Surveyor</u>                 |                                                |
| <u>Rod Man</u>                  |                                                |
| <u>Secretary</u>                |                                                |

\*\*\* The Contracting Engineer shall use the following maximum hourly rates until the Department of Transportation Commissioner sends written notification rescinding the wage freeze.

\*\*\*\* The Contracting Engineer may use the above maximum hourly rates prospectively only upon written notification by the Department of Transportation Commissioner that the wage freeze has been rescinded.

The above maximum hourly rates of pay shall be subject to renegotiation should the work required under this Agreement not be completed as stipulated in Paragraph (3)(d). Any adjustment to the maximum hourly rates stated above shall apply only to such services as may be rendered subsequent to the date of renegotiation as stipulated above. Overtime work, when authorized by the Municipality, shall be paid for by the Municipality at "straight-time" rates except when otherwise required by law or regulation or when otherwise approved by the Municipality. The surcharge for burden, fringe and overhead shall be applied only to the "straight-time" portion of any overtime pay.

(45) ACCEPTANCE DATE

That the acceptance date of the work of this Agreement shall be established as the date the Municipality is in receipt of all papers and documents required in this Agreement. Within thirty (30) days of acceptance, the Consulting Engineer shall submit a final payment voucher for monies due him. If the Consulting Engineer fails to submit this voucher within the specified time, the Municipality may process a final payment voucher based on the available information.

(46) CERTIFICATION OF CONSULTING ENGINEER AND CERTIFICATION OF TOWN OF FAIRFIELD

That the attached Certification of Consulting Engineer and Certification of the Town of Fairfield, as set forth in Exhibit A, Schedule 4, (attached herewith)as revised.

(47) FEE ADJUSTMENT

That the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Municipality determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(48) NOTICE BETWEEN PARTIES TO AGREEMENT

That it is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a) - be in writing (hardcopy) addressed to:

(i) When the Municipality is to receive such notice -

\_\_\_\_\_  
William A. Gerber, First Selectman  
Sullivan Independence Hall  
725 Post Road  
Fairfield, CT 06824

With a copy to:

\_\_\_\_\_  
Philip C. Pires, Esq.  
Town Attorney  
Cohen and Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

(ii) When the Consulting Engineer is to receive such notice -

the person(s) acting herein as signatory for the Consulting Engineer receiving such notice;

**Ronald J. Nault, P.E., President**  
**Luchs Consulting Engineers, LLC**  
**89 Colony Street**  
**Meriden, CT 06451**

b) - be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and

c) - contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "official notice" as used herein, shall be construed to include but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change,

revision, addition to or deletion from the document, contract, or agreement in which this "official notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the parties hereto from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

- (49) REVISIONS IN ORGANIZATION OF CORPORATION USE ONLY IF CORPORATION OR LLC  
otherwise mark DNA and use (49) below ~~DNA~~

That the Consulting Engineer shall notify the Municipality in writing when there is a change in its Connecticut Certificate of Registration for the Corporate Practice of Engineering or Land Surveying by a corporation or limited liability company in the State of Connecticut or a change in the individual(s) in charge of the work specified herein. Neither change shall relieve the Consulting Engineer of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.

- (49) ~~REVISIONS IN ORGANIZATION OF PARTNERSHIP USE ONLY IF PARTNERSHIP~~  
~~otherwise mark DNA and use (49) above~~ **DNA**

~~That the Municipality, on written notice by the Consulting Engineer of changes in the partnership structure of the organization, may enter into a supplemental agreement with the new partners providing releases are provided from the former partner, or partners, stating that he has been compensated in full or that provision has been made for compensation in full for all work performed under terms of this Agreement and a financial statement is submitted showing that solvency of the partnership is maintained. The death of a partner shall not release the partnership from the performance of this Agreement and the remaining functions must be performed by the surviving partner(s) until the terms of this Agreement are fully executed. The withdrawal of any partner from the partnership shall not relieve him from his liability for performance of this Agreement.~~

- (50) OWNERSHIP OF DOCUMENTS

That all products of the work under the terms of this Agreement shall become and remain the property of the Municipality. This shall include all partially completed work in the event that the Agreement is terminated before completion for any reason.

- a) The Consulting Engineer shall transfer to the Municipality, as part of the consideration for this Agreement, any and all copyright rights or other proprietary interests which the Consulting Engineer may have in materials ("Work Products") produced by it under the terms of this Agreement; and that the Consulting Engineer shall, whenever so requested by (the Municipality), sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality a letter agreement, in form and content satisfactory to the

Municipality, stating that the Consulting Engineer thereby irrevocably transfers to the Municipality all of its copyright and other proprietary rights in the Work Products designated by the Municipality in its related request.

- b) If deemed appropriate by the Municipality in its sole discretion, the Consulting Engineer shall agree that any or all Work Products shall be deemed a work of joint authorship by the Municipality and the Consulting Engineer for copyright purposes, and shall be registered as such with the United States Copyright Office. The Consulting Engineer hereby waives any right to oppose or object to such a claim of joint authorship or to such related copyright registration.
- c) The Consulting Engineer shall not engage or allow any party ("Other Party") other than itself or the Municipality to contribute directly to the creation of any Work Product unless the Consulting Engineer has first obtained from said Other Party a written agreement ("Secondary Agreement") containing essentially the same terms as Section B above; i.e., the Other Party
  - 1) shall agree to transfer to the Municipality any and all copyright or other proprietary rights said Other Party may have in designated Work Products, or, if the Municipality so requests, shall agree to deem such Work Product a work of joint authorship by the Municipality and by Other Party, and, if appropriate, by the Consulting Engineer also; and
  - 2) shall agree to sign (with proper notarization or other lawful acknowledgment of its signature) and deliver to the Municipality any letter agreement ("Letter Agreement") of the kind described in Section b) above which the Municipality shall request from it. The Secondary Agreement between the Consulting Engineer and an Other Party shall provide expressly that any such Letter Agreement delivered by the Other Party to the Municipality shall be directly enforceable by the Municipality, and that the execution, delivery, and enforceability of such a Letter Agreement are part of the consideration for the Secondary Agreement.

(51) USE OF COMPUTER AIDED DESIGN AND DRAFTING FILE(S)

That the Municipality makes no express or implied warranty of any kind with regard to the particular Computer Aided Design and Drafting File(s) provided to the Consulting Engineer under this Agreement, if any, its documentation, or its fitness for any purpose, including but not limited to the implied guarantees of fitness for a particular purpose. The Municipality shall not be held liable for errors contained herein, or for any consequential or incidental damages which may arise in connection with the use, performance, duplication, modification, transfer or distribution of these files or copies thereof.

(52) PAYMENT OF RECOVERABLE COSTS DUE TO THE MUNICIPALITY



The Municipality shall have the right to set off against amounts otherwise due to the Consulting Engineer under this Agreement or under any other agreement or arrangement that the Consulting Engineer has with the Municipality (a) any costs that the Municipality incurs which are due to the Consulting Engineer's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Consulting Engineer to the Municipality. Any sum taken in set-off from the Consulting Engineer shall be deemed to have been paid to the Consulting Engineer for purposes of the Consulting Engineer's payment obligations under Connecticut General Statute Section 49-41c.

(53) JURISDICTION AND FORUM LANGUAGE

This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of laws principles would dictate otherwise. This Agreement shall be deemed to have been made in Fairfield, Connecticut. Nothing herein shall be construed to waive any of the Municipality's immunities.

(54) ~~SMALL BUSINESS PARTICIPATION PILOT PROGRAM-SBPPP~~ DNA

~~The Contracting Engineer shall comply with this provision in accordance with the "Special Provisions Small Business Participation Pilot Program SBPPP as Subcontractors and Material Suppliers or Manufacturers", as set forth in Exhibit A, Schedule 11 (attached herewith) dated May 12, 2010.~~

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

TOWN OF FAIRFIELD

\_\_\_\_\_  
Typed Name:

By \_\_\_\_\_ (Seal)  
Typed Name:- William A. Gerber

Its First Selectman

\_\_\_\_\_  
Typed Name:

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

Luchs Consulting Engineers, LLC

\_\_\_\_\_  
Typed Name: Dawn Crandall

By \_\_\_\_\_ (Seal)  
Typed Name: Ronald J. Nault, P.E., President

\_\_\_\_\_  
Typed Name: Paula Kusmit

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

CONNECTICUT CORPORATE ENGINEERING  
PRACTICE -- CERTIFICATE OF  
AUTHORIZATION NO. JPC 0000061

EXHIBIT A  
and Schedules 1 through 11

**THE CONSULTING ENGINEER AGREES:**

**1. GOVERNMENTAL AGENCY EXEMPTION**

That the Consulting Engineer hereby acknowledges and agrees to comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The attached copy of the "Governmental Agency Exemption Certificate", as set forth in Exhibit A, Schedule 5 (attached herewith).

**2. CODE OF ETHICS FOR STATE EMPLOYEES DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 6 (attached herewith).~~

**3. CODE OF ETHICS FOR PUBLIC OFFICIALS AND LOBBYISTS DOES NOT APPLY**

~~\_\_\_\_\_ The Consulting Engineer shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:~~

- ~~\_\_\_\_\_ (a) No person hired by the State as a Consulting Engineer or independent contractor shall:~~
- ~~\_\_\_\_\_ (1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;~~
- ~~\_\_\_\_\_ (2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or~~
- ~~\_\_\_\_\_ (3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.~~
- ~~(b) \_\_\_\_\_ No person shall give anything of value to a person hired by the \_\_\_\_\_ State as a Consulting Engineer or independent contractor based on \_\_\_\_\_ an understanding that the actions of the Consulting Engineer or \_\_\_\_\_ independent contractor on behalf of the State would be influenced.~~

#### 4. EXECUTIVE ORDERS

##### A. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Consulting Engineer's request, the Department shall provide a copy of these orders to the Consulting Engineer.

#### 5. NON-DISCRIMINATION

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Consulting Engineer.

(a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations

adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

(b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

(d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(f) The contractor shall include the provisions of section (a) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor

shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

6. CAMPAIGN CONTRIBUTION AND SOLICITATION BAN DOES NOT APPLY

~~For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this agreement/contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice set forth in Exhibit A, Schedule 7 (attached herewith).~~

#### 7. PRIVATIZED PUBLIC RECORDS

The following Article is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more. The Department is entitled to receive a copy of records and files related to the performance of the Consulting Engineer under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the Department pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the Department in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

#### 8. OVERSIGHT OF LARGE STATE CONTRACTS DOES NOT APPLY

~~The following Article is applicable to those contracts with an aggregate value of Five Million Dollars (\$5,000,000) or more. If an officer, employee or appointing authority of the Consulting Engineer takes or threatens to take any personnel action against any employee of the Consulting Engineer in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), the Consulting Engineer shall be liable for a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the Department may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.~~

~~The Consulting Engineer shall post a notice of the provisions of this section in a conspicuous place which is readily available for viewing by the employees of the Consulting Engineer.~~

#### 9. CIVIL RIGHTS

As a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Consulting Engineer shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.),

all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances set forth in Exhibit A, Schedule 8 (attached herewith).

#### 10. CERTIFICATION FOR FEDERAL AID CONTRACTS

That the Consulting Engineer certifies, by signing and submitting this Bid, Agreement, Contract, Proposal, to the best of his/her/its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consulting Engineer, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consulting Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. If applicable, the Exhibit A, Schedule 9 (attached herewith), Disclosure Form-LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consulting Engineer also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this certification be included in all subcontracts, sub-subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317456, Newington, CT 06131-7546, to the attention of the project manager.

#### 11. SUSPENSION OR DEBARMENT

That suspended or debarred contractors Consulting Engineers,



suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

- 1) That the signature on the Agreement by the Consulting Engineer shall constitute certification that to the best of its knowledge and belief the Consulting Engineer or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor or any position involving the administration of Federal or State funds:
  - a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Has not within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1)b. of this certification; and
  - d. Have not within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the Consulting Engineer is unable to certify to any of the statements in this certification, such Consulting Engineer shall attach an explanation to this Agreement.

The Consulting Engineer agrees to insure that the following certification be included in each Subcontract Agreement, to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

- a. The prospective subcontracts, sub-subcontracts participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any Federal department or agency.

- b. Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certifications, such prospective participant shall attach an explanation to this proposal.

## 12. AMERICANS WITH DISABILITIES ACT

This clause applies to those Consulting Engineers who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act"), Public Law 101-336, during the term of the Agreement. The Consulting Engineer represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Consulting Engineer to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Consulting Engineer. The Consulting Engineer warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Consulting Engineer to be in compliance with this Act, as the same applies to performance under this Agreement.

## 13. FEDERAL OBLIGATION TO THIRD PARTY

(1) The Purchaser and Consulting Engineer acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consulting Engineer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Consulting Engineer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

(1) The Consulting Engineer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consulting Engineer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consulting Engineer further acknowledges that if it makes, or causes to be made, a

false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consulting Engineer to the extent the Federal Government deems appropriate.

(2) The Consulting Engineer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consulting Engineer, to the extent the Federal Government deems appropriate.

(3) The Consulting Engineer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### 15. ENERGY CONSERVATION

The Consulting Engineer agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### 16. FLY AMERICA REQUIREMENTS

The Consulting Engineer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consulting Engineer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consulting Engineer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 17. CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS "SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES"

That the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities," as set forth in Exhibit A, Schedule 10 (attached herewith) dated March 3, 2009.

## 18. AMERICAN RECOVERY AND REINVESTMENT ACT

The following Article only applies to projects funded under the American Recovery and Reinvestment Act of 2009.

For the purposes of this Article, "Contractor" means any prime contractor, consulting engineer, or other entity contracting with the State of Connecticut Department of Transportation ("DOT") or a Municipality undertaking a project ("Project") funded under the American Recovery and Reinvestment Act of 2009 ("Act"). Additionally, to the extent that a Municipality is employing its own staff to undertake work on the Project, solely with respect to such work by its staff, the Municipality itself is likewise subject to the requirements herein that are imposed on the Contractor. A Project undertaken by a Municipality is identified herein as a "Municipality-administered Project," and a Project undertaken by DOT is identified herein as a "DOT-administered Project."

(1) The Contractor agrees to accurately and timely record and report, in accordance with the requirements of the Act and additional guidelines, policies and regulations issued or promulgated pursuant to the Act, information regarding jobs or positions created or retained in Connecticut, the United States and outlying areas as a result of funding provided through the Act for the Project, including, but not limited to, the following requirements:

A. The Contractor shall accurately complete and submit to DOT or the Municipality, as applicable, on a monthly basis from commencement through completion of its work on the Project, an employment report using Form FHWA-1589 available at: <http://www.fhwa.dot.gov/economicrecovery/forms/fhwa1589.xls> ("Monthly Employment Report").

B. No later than seven (7) calendar days after the last calendar day of the month being reported ("Seven Day Submission Requirement"), the Contractor shall:

- (i) With respect to DOT-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to DOT by e-mail to: [Theodore.Szymanski@ct.gov](mailto:Theodore.Szymanski@ct.gov), with a copy to [Philip.Scarrozzo@ct.gov](mailto:Philip.Scarrozzo@ct.gov); and also submit a hard copy, to the applicable DOT District office for inclusion in the Project file, signed by an authorized representative of the Contractor;
- (ii) With respect to Municipality-administered Projects, submit the completed Monthly Employment Report in Microsoft Excel file format to the Municipality's designated employee by email or other electronic means as instructed by the Municipality; and
- (iii) Provide a consistent filename for each Monthly Employment Report in the format ContractNumberMonthYear.xls (e.g., #####MAY09.xls);

C. Each of the Contractor's subcontractors and second-tier subcontractors shall submit an employment report using Form FHWA-1589 ("Monthly Subcontractor Employment Report") in Microsoft Excel file format to the Contractor on a monthly basis within sufficient time to enable the

Contractor, in turn, to submit such Monthly Subcontractor Employment Report(s) to DOT or the Municipality, as applicable, by the Contractor's Seven (7) Day Submission Requirement. Failure by the collective subcontractors to timely submit such Monthly Subcontractor Employment Report(s) to the Contractor does not excuse the Contractor's obligation to submit its Monthly Employment Report within the required time.

(2) Receipt of funds pursuant to the Act under this Contract is contingent upon the Contractor meeting the reporting requirements of this Contract and any additional reporting requirements of the Act as may be required by the appropriate federal agency through its issuance of guidelines or promulgation of regulation(s).

a. The Contractor agrees that at any time during the Project, the Federal Highway Administration ("FHWA") and/or DOT, after notice, may change the reporting requirements herein. In that event, the Contractor and its subcontractor(s) and second-tier subcontractor(s) shall comply with such requirements.

b. DOT or the Municipality may take any action that FHWA authorizes for non-compliance with the reporting requirements set forth in Section 2 above.

(3) The Contractor agrees to comply with Sections 1605 and 1606 of the Act and any additional federal guidelines or regulations issued or promulgated thereunder.

(4) The following language is made a part of this Contract and shall be made part of all subcontracts and second tier subcontracts:

A. Access of United States Government Accountability Office, Section 902 of Title IX of Division A of the Act.

Pursuant to Section 902 of Title IX of Division A of the Act, the United States Comptroller General and its representatives may:

(1) examine any records of the Contractor or any of its subcontractors, or any State or local agency administering such Contract, that directly pertains to, and involve transactions relating to, the Contract or Subcontract; and

(2) interview any officer or employee of the Contractor or any of its subcontractors, or of any State or local government agency administering the Contract, regarding such transactions.

Nothing in Section 902 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the United States Comptroller General.

B. Office of the Inspector General's Authority, Section 1515 of Title XV of Division A of the Act.

Pursuant to Section 1515, of Title XV of Division A of the Act, the United States Office of the Inspector General or any of its representatives may:

(1) examine any records of the Contractor or grantee, any of its

subcontractors or subgrantees, or any State or local agency administering such Contract, that pertain to, and involve transactions relating to the Contract, subcontract, grant, or subgrant; and

- (2) interview any officer or employee of the Contractor, grantee, subgrantee or agency regarding such transactions.

Nothing in Section 1515 shall be interpreted to limit or restrict in any way any other statutory or regulatory authority of the Inspector General.

C. Whistleblower Protections. Section 1553 of Title XV of Division A of the Act prohibits all non-federal recipients of Act funds from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to Act funds; (2) a gross waste of Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Act funds; (4) an abuse of authority related to implementation or use of Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Act funds. The recipient of Act funds must post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the Act.

D. False Claims Act. The recipient of Act funds shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

**ITEM 9**

**RIVERFIELD ELEMENTARY SCHOOL LIBRARY MEDIA CENTER  
RTU REPLACEMENT PROJECT**

## Salvatore Morabito

Director of Construction & Energy Services

# Memo :

**To:** Angelus Papageorge

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**CC:**

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**Date:** 12/7/2023

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**Re:** HVAC IAQ Grant Application – Round 2

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As requested, we will be applying to the state's HVAC IAQ Grant program for reimbursement for the RTU Replacement at Riverfield Elementary School. The physical work on this project was done this past summer in tandem with the roof replacement project.

Even though we are applying for a grant on work that is already completed, the state's application process still requires that we submit an Education Specification for the project along with the 'Three Resolutions' document. I will prepare an Educational Specification for this project for the Board's approval. I will also reach out to Jen Carpenter and Betsy Brown to ask to have the 'Three Resolutions' be added to the agendas of the B.O.S. and the R.T.M.

These documents are a requirement of the Office of School Construction Grants and are just a formality. If there are any questions regarding the grant application or the grant process, please let me know.



## **ITEM 10**

### **PHASE I AC UPGRADE PROJECT**

20 YEAR

A RESOLUTION AMENDING AND RESTATING A RESOLUTION ENTITLED “A RESOLUTION APPROPRIATING \$22,701,443 FOR THE COSTS ASSOCIATED WITH PHASE I OF THE AIR CONDITIONING UPGRADE PROJECT AT VARIOUS SCHOOLS, AUTHORIZING GRANTS TO REIMBURSE \$1,116,320 OF SUCH APPROPRIATION AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE THE REMAINING PORTION OF SUCH APPROPRIATION” TO INCREASE THE APPROPRIATION BY \$16,402,557 TO \$39,104,000 AND THE BOND AUTHORIZATION FROM \$21,585,123 TO \$37,987,680

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WHEREAS, on May 23, 2022, the Representative Town Meeting (“RTM”) of the Town of Fairfield, Connecticut (the “Town”) approved a resolution for an air conditioning upgrade project (the “Project”) entitled: “A RESOLUTION APPROPRIATING \$22,701,443 FOR THE COSTS ASSOCIATED WITH PHASE I OF THE AIR CONDITIONING UPGRADE PROJECT AT VARIOUS SCHOOLS, AUTHORIZING GRANTS TO REIMBURSE \$1,116,320 OF SUCH APPROPRIATION AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE THE REMAINING PORTION OF SUCH APPROPRIATION” (the “Resolution”); and

WHEREAS, the Resolution included: i) an authorization to appropriate funds in the total amount of \$22,701,443, ii) an authorization to issue bonds in the amount of \$21,585,123 to fund the Project; and iii) an authorization to reimburse the balance of the appropriation in the amount of \$1,116,320 with grant funds (the “Grant Funds”); and

WHEREAS, due to overall increased costs of the Project, the cost of the Project will be \$16,402,557 more than originally anticipated for a total cost of \$39,104,000; and

WHEREAS, the Town seeks to: i) increase the total appropriation for the Project from \$22,701,443 to \$39,104,000 (the “Amended Appropriation”), ii) increase the bond authorization for the Project from \$21,585,123 to \$37,987,680 (the “Amended Bond Authorization”); and iii) authorize the Grant Funds to reimburse the balance of the appropriation (the “Grant Authorization”); and

WHEREAS, it is necessary for the Town to amend and restate the Resolution to reflect the Amended Appropriation, the Amended Bond Authorization and the Grant Authorization; and

NOW THEREFORE, BE IT RESOLVED, that the Resolution is hereby amended and restated to provide as follows:

1. As recommended by the Board of Selectmen and the Board of Finance, the Town of Fairfield appropriates Thirty-Nine Million One Hundred Four Thousand and 00/100 (\$39,104,000) Dollars to fund Phase I of the Air Conditioning Upgrade Project at North Stratfield Elementary School, Osborn Hill Elementary School and Fairfield Woods

Middle School, for costs associated with completing the air-conditioning systems, including, but not limited to, planning, equipment, installation, including all alterations, repairs and improvements in connection therewith, as well as, all administrative, financing, legal, contingency and other soft costs related thereto (the "Project").

2. The First Selectman is hereby authorized and directed to negotiate and accept the terms of federal grants received by the Town and the Town's Board of Education through the American Rescue Plan Act, as previously approved by the Town boards, in the amount of One Million One Hundred Sixteen Thousand Three Hundred Twenty and 00/100 (\$1,116,320) Dollars to fund a portion of the Project (collectively, the "Grants"). The First Selectman is also hereby authorized to enter into, on behalf of the Town, agreements for the Grants or other document memorializing the terms of the Grants and to take all action necessary or reasonably required to carry out, give effect and consummate such Grants including executing on behalf of the Town such documents, agreements, contracts and certificates as deemed to be necessary or advisable by the First Selectman.
3. As recommended by the Board of Finance and the Board of Selectmen, the Town shall borrow a sum not to exceed Thirty-Seven Million Nine Hundred Eighty-Seven Thousand Six Hundred Eighty and 00/100 (\$37,987,680) Dollars and issue bonds for such indebtedness under its corporate name and seal and upon the full faith and credit of the Town in an amount not to exceed said sum for the purpose of financing the portion of the appropriation for the Project not paid for by the Grants.
4. The Board of Selectmen, the Treasurer and the Chief Fiscal Officer of the Town are hereby appointed a committee (the "Committee") with full power and authority to cause said bonds to be sold, issued and delivered; to determine their form and terms, including provisions for redemption prior to maturity; to determine the aggregate principal amount thereof within the amount hereby authorized and the denominations and maturities thereof; to fix the time of issue of each series thereof and the rate or rates of interest thereon as herein provided; to determine whether the interest rate on any series will be fixed or variable and to determine the method by which the variable rate will be determined, the terms of conversion, if any, from one interest rate mode to another or from fixed to variable; to set whatever other terms of the bonds they deem necessary, desirable or appropriate; to designate the bank or trust company to certify the issuance thereof and to act as transfer agent, paying agent and as registrar for the bonds, and to designate bond counsel. The Committee shall have all appropriate powers under the Connecticut General Statutes, as amended (the "Statutes") including Chapter 748 (Registered Public Obligations Act), and Chapter 109 (Municipal Bond Issues) to issue, sell and deliver the bonds and, further, shall have full power and authority to do all that is required under the Internal Revenue Code of 1986, as amended, and under rules of the Securities and Exchange Commission, and other applicable laws and regulations of the United States, to provide for issuance of the bonds in tax exempt form and to meet all requirements which are or may become necessary in and subsequent to the issuance and delivery of the bonds in order that the interest on the bonds be and remain exempt from

Federal income taxes, including, without limitation, to covenant and agree to restriction on investment yield of bond proceeds, rebate of arbitrage earnings, expenditure of proceeds within required time limitations, the filing of information reports as and when required, and the execution of Continuing Disclosure Agreements for the benefit of the holders of the bonds and notes.

5. The First Selectman and Treasurer or Chief Fiscal Officer, on behalf of the Town, shall execute and deliver such bond purchase agreements, reimbursement agreements, line of credit agreement, credit facilities, remarketing agreement, standby marketing agreements, bond purchase agreement, standby bond purchase agreements, and any other commercially necessary or appropriate agreements which the Committee determines are necessary, appropriate or desirable in connection with or incidental to the sale and issuance of bonds, and if the Committee determines that it is necessary, appropriate, or desirable, the obligations under such agreements shall be secured by the Town's full faith and credit.
6. The First Selectman and Treasurer or Chief Fiscal Officer shall execute on the Town's behalf such interest rate swap agreements or similar agreements related to the bonds for the purpose of managing interest rate risk which the Committee determines are necessary, appropriate or desirable in connection with or incidental to the carrying or selling and issuance of the bonds, and if the Committee determines that it is necessary, appropriate or desirable, the obligations under such interest rate swap agreements shall be secured by the Town's full faith and credit.
7. The bonds may be designated "Public Improvement Bonds of the Town of Fairfield," series of the year of their issuance and may be issued in one or more series, and may be consolidated as part of the same issue with other bonds of the Town; shall be in serial form maturing in not more than twenty (20) annual installments of principal, the first installment to mature not later than three (3) years from the date of issue and the last installment to mature not later than twenty (20) years from the date of issuance or as otherwise provided by statute. The bonds may be sold at an aggregate sales price of not less than par and accrued interest at public sale upon invitation for bids to the responsible bidder submitting the bid resulting in the lowest true interest cost to the Town, provided that nothing herein shall prevent the Town from rejecting all bids submitted in response to any one invitation for bids and the right to so reject all bids is hereby reserved, and further provided that the Committee may sell the bonds on a negotiated basis, as provided by statute. Interest on the bonds shall be payable semi- annually or annually. The bonds shall be signed on behalf of the Town by at least a majority of the Board of Selectmen and the Treasurer, and shall bear the seal of the Town. The signing, sealing and certification of the bonds may be by facsimile as provided by statute.
8. The Committee is further authorized to make temporary borrowings as authorized by the Statutes and to issue temporary notes of the Town in anticipation of the receipt of proceeds from the sale of the bonds to be issued pursuant to this resolution or in

anticipation of the receipt of the Grants. Such notes shall be issued and renewed at such time and with such maturities, requirements and limitations as provided by the Statutes. Notes evidencing such borrowings shall be signed by the First Selectman and Treasurer or the Chief Fiscal Officer, have the seal of the Town affixed, which signing and sealing may be by facsimile as provided by statute, be certified by and payable at a bank or trust company incorporated under the laws of this or any other state, or of the United States, be approved as to their legality by bond counsel, and may be consolidated with the issuance of other Town bond anticipation notes. The Committee shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the Statutes and shall have all powers and authority as set forth above in connection with the issuance of bonds and especially with respect to compliance with the requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder in order to obtain and maintain issuance of the notes in tax exempt form.

9. Pursuant to Section 1.150-2, as amended, of the Federal Income Tax Regulations the Town hereby declares its official intent to reimburse expenditures (if any) paid for the Project from its General or Capital Funds, such reimbursement to be made from the proceeds of the sale of bonds and notes authorized herein and in accordance with the time limitations and other requirements of said regulations.
10. The First Selectman, the Chief Fiscal Officer and Town Treasurer are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to the Municipal Securities Rulemaking Board (the "MSRB") and to provide notices to the MSRB of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.
11. The Committee is hereby authorized to take all action necessary and proper for the sale, issuance and delivery of the bonds and notes in accordance with the provisions of the Statutes and the laws of the United States.
12. The First Selectman or other proper Town official is authorized to apply for and accept any available State or Federal grant, in addition to the Grants as defined in paragraph 2 herein, in aid of the financing of the Project, and to take all action necessary and proper in connection therewith. Any such grants or contribution received prior to the issuance of the Bonds authorized herein shall be applied to the costs of the Project or to pay at maturity the principal of any outstanding bond anticipation notes issued pursuant this resolution and shall reduce the amount of the Bonds that can be issued pursuant to this resolution. If such grants and contributions are received after the issuance of the Bonds, they shall be applied to pay the principal on the Bonds or as otherwise authorized by the Board of Selectmen, Board of Finance and Representative Town Meeting provided such application does not adversely affect the tax-exempt status of the Bonds or the Town's receipt of such grant or contribution.

# Town of Fairfield

## HVAC IAQ - North Stratfield - Fairfield Woods - Osborn Hill

### Summary of Total Project Budgets

Date: **November 20, 2023**

\$(000) except \$/GSF

|      |                                         | North Stratfield   | Fairfield Woods    | Osborn Hill       | Total              |
|------|-----------------------------------------|--------------------|--------------------|-------------------|--------------------|
|      | HVAC Upgrades                           |                    |                    |                   |                    |
|      | Square footage                          | 47,920             | 77,515             | 32,886            |                    |
| I.   | Building Construction                   | \$ 9,804.7         | \$ 15,484.8        | \$ 7,596.5        | \$ 32,886.0        |
| II.  | Related Construction                    | w/ construction    | w/ construction    | w/ construction   |                    |
| III. | Escalation                              | w/ construction    | w/ construction    | w/ construction   |                    |
|      | <b>Total Construction - Gilbane</b>     | <b>\$ 9,804.7</b>  | <b>\$ 15,484.8</b> | <b>\$ 7,596.5</b> | <b>\$ 32,886.0</b> |
| IV.  | Furniture, Fixtures & Equipment (FF&E)  | \$ 50.0            | \$ 60.0            | \$ 40.0           | \$ 150.0           |
| V.   | Fees and Expenses                       | \$ 875.0           | \$ 985.3           | \$ 691.7          | \$ 2,552.1         |
| VI.  | Contingency                             | \$ 830.6           | \$ 1,291.0         | \$ 644.3          | \$ 2,765.9         |
| VII. | Hazardous Materials Abatement Allowance | \$ 250.0           | \$ 250.0           | \$ 250.0          | \$ 750.0           |
|      | <b>Total Project</b>                    | <b>\$ 11,810.4</b> | <b>\$ 18,071.2</b> | <b>\$ 9,222.5</b> | <b>\$ 39,104.0</b> |
|      | Allocated / Available Funding           | \$ 9,404.8         | \$ 7,344.0         | \$ 5,952.6        | \$ 22,701.4        |
|      | <b>Variance</b>                         | <b>\$ 2,405.5</b>  | <b>\$ 10,727.2</b> | <b>\$ 3,269.9</b> | <b>\$ 16,402.6</b> |

Notes:

1. Financing and Bond Costs are included, based on 52K/11M
2. Construction Budget based on Gilbane Building Company Construction Documents Estimate
3. Allocated/Available funding approved at May 23, 2022 RTM Meeting

DRAFT BUDGET

# PROJECT BUDGET



Project Leaders

## Town of Fairfield North Stratfield - HVAC Upgrades

### Total Project Budget

Date: **November 20, 2023**

| Project Budget<br>11/20/2023                              |                   |
|-----------------------------------------------------------|-------------------|
| \$(000) except \$/GSF                                     |                   |
| New Construction GSF                                      |                   |
| Renovation GSF                                            |                   |
| <b>Total GSF</b>                                          | <b>47,920</b>     |
| New Construction \$/GSF - Current                         | \$ -              |
| Renovation \$/GSF - Current                               | \$ -              |
| New Construction \$/GSF - Escalated                       | \$ -              |
| Renovation \$/GSF - Escalated                             | \$ -              |
| Total Construction w/ site \$/GSF                         | \$ 204.61         |
| <b>Total Project \$/GSF</b>                               | <b>\$ 241.24</b>  |
| <b>I. Building Construction</b>                           |                   |
| A. New Building Construction                              | \$ 9,804.7        |
| B. Existing Building Renovations                          | \$ -              |
| C. Other Construction                                     |                   |
| <b>Total Building Construction</b>                        | <b>9,804.7</b>    |
| <b>II. Related Construction</b>                           |                   |
| A. Sitework                                               | w/ construction   |
| 1 Earthwork / Site Prep                                   | -                 |
| 2 Exterior Improvements                                   |                   |
| a. Paving - Asphalt / Concrete / Other                    | -                 |
| b. Sidewalks / Paths                                      | -                 |
| c. Wetlands Mitigation                                    | -                 |
| d. Landscape & Planting                                   | -                 |
| e. Athletic / Recreational Surfaces                       | -                 |
| f. Fencing / Gates                                        | -                 |
| g. Retaining Walls                                        | -                 |
| h. Misc Site Improvements                                 | -                 |
| B. Site Utility Systems                                   |                   |
| 1 Water & Wells                                           | -                 |
| a. Fire Protection                                        | -                 |
| 2 Sanitary Sewage                                         | -                 |
| 3 Storm Drainage                                          | -                 |
| 4 Gas                                                     | -                 |
| 5 Steam                                                   | -                 |
| 6 Chilled Water                                           | -                 |
| 7 Electric                                                | -                 |
| 8 Data & Communications                                   | -                 |
| 9 Site Lighting                                           | -                 |
| <b>Total Site Construction</b>                            | -                 |
| C. Building Demolition                                    | -                 |
| D. Hazardous Materials Removal                            | -                 |
| E. Sustainable Elements                                   |                   |
| 1 Solar Panels / PV Array                                 | -                 |
| 2 Wind Power Generation                                   | -                 |
| 3 Geothermal Wells                                        | -                 |
| 4 Rain Garden                                             | -                 |
| 5 Waste Water Treatment Plants                            | -                 |
| F. GC / CM Mark-ups                                       | w/ construction   |
| <b>Total Related Construction</b>                         | -                 |
| <b>Subtotal Construction - Current \$</b>                 | <b>9,804.7</b>    |
| <b>III. Escalation (2024 Construction)</b>                | w/ construction   |
| <b>Total Construction - Escalated</b>                     | <b>\$ 9,804.7</b> |
| <b>IV. Furniture, Fixtures &amp; Equipment (FF&amp;E)</b> |                   |
| A. Loose Furnishings                                      | -                 |
| B. Program Related Equipment                              | -                 |
| C. Data / Telecomm Equipment                              | 10.0              |
| 1. Cabling / Wall Jack / Devices                          | w/ construction   |
| D. Audio/Visual Equipment                                 | 40.0              |
| E. Security Equipment                                     | -                 |
| 1. Cabling / Wall Jack / Devices                          | w/ construction   |
| F. Specialty Signage                                      | -                 |
| <b>Total FF &amp; E</b>                                   | <b>\$ 50.0</b>    |

# PROJECT BUDGET



Project Leaders

## Town of Fairfield North Stratfield - HVAC Upgrades

### Total Project Budget

Date: **November 20, 2023**

| \$ (000) except \$/GSF                   |  | Project Budget<br>11/20/2023 |
|------------------------------------------|--|------------------------------|
| <b>V. Fees and Expenses</b>              |  |                              |
| <b>A. Fees</b>                           |  |                              |
| 1 Existing Conditions & Space Program    |  | -                            |
| 2 Architect                              |  | 339.6                        |
| a Civil Engineering                      |  | w/ architect                 |
| b Landscape Architect                    |  | w/ architect                 |
| c Structural Engineering                 |  | w/ architect                 |
| d MEP/FP Engineering                     |  | w/ architect                 |
| e Interior / Furniture Designer          |  | w/ architect                 |
| f Lighting Consultant                    |  | w/ architect                 |
| g Acoustical Consultant                  |  | w/ architect                 |
| h Signage Consultant                     |  | w/ architect                 |
| i LEED Designer                          |  | w/ architect                 |
| j Referendum Services                    |  | w/ architect                 |
| k Code Consultant                        |  | w/ architect                 |
| l Designer's Cost Estimator              |  | w/ architect                 |
| 3 Special Consultants                    |  |                              |
| a Haz. Mat. Consultant                   |  | 100.0                        |
| b Audio / Visual                         |  | w/ architect                 |
| c Technology / Security Systems Design   |  | w/ architect                 |
| d Geo-Tech Engineering                   |  | -                            |
| e Traffic Engineer                       |  | -                            |
| f Ecologist / Soil Sample                |  | -                            |
| g Peer Reviews                           |  | -                            |
| h Green Building Consultant              |  | w/ architect                 |
| i Storm Water Monitoring                 |  | -                            |
| 4 Project Management                     |  | 116.9                        |
| 5 Building Commissioning                 |  | 49.0                         |
| 6 Owner's Cost Estimator                 |  | -                            |
| 7 CM Preconstruction Fee                 |  | 34.5                         |
| 8 Owner's Legal Fees                     |  | 5.0                          |
| 9 Site Survey                            |  | -                            |
| 10 Utility Assessment                    |  | 25.0                         |
| Sub-total Fees                           |  | 670.0                        |
| <b>B. Expenses</b>                       |  |                              |
| 1 Owner's Insurance                      |  | 14.7                         |
| 2 Permits                                |  | 2.5                          |
| a. Building                              |  | w/ Construction              |
| b. Town / Site                           |  | -                            |
| 3 Printing                               |  | 1.5                          |
| 4 Construction Utilities Use             |  | w/ Construction              |
| 5 Site Borings                           |  | -                            |
| 6 Materials Testing                      |  | 10.0                         |
| 7 Special Inspections                    |  | 5.0                          |
| 8 Consultant Reimbursables               |  | 5.0                          |
| 9 Moving / Relocation                    |  | 75.0                         |
| 10 Temporary Space / Operations          |  | -                            |
| 11 Advertising                           |  | 2.0                          |
| 12 Physical Plant Expenses               |  | 20.0                         |
| 13 Misc. Expenses                        |  | 25.0                         |
| 14 Financing Costs / Bond Origination    |  | 44.3                         |
| 15 Site Acquisition                      |  | -                            |
| a. Real Estate Fees                      |  | -                            |
| b. Closing Costs                         |  | -                            |
| Sub-total Expenses                       |  | 205.0                        |
| <b>Total Fees and Expenses</b>           |  | <b>875.0</b>                 |
| <b>V. Contingency</b>                    |  |                              |
| A. Construction                          |  | 294.1                        |
| B. Owner's Project                       |  | 536.5                        |
| <b>Total Contingency</b>                 |  | <b>830.6</b>                 |
| <b>Total Project</b>                     |  | <b>\$ 11,560.4</b>           |
| Construction Cost vs. Total Project Cost |  | 85%                          |
| Soft Cost vs. Total Project Cost         |  | 15%                          |



# PROJECT BUDGET



Project Leaders

## Town of Fairfield Fairfield Woods - HVAC Upgrades

### Total Project Budget

Date: **November 20, 2023**

| Project Budget<br>11/20/2023                              |                    |
|-----------------------------------------------------------|--------------------|
| \$(000) except \$/GSF                                     |                    |
| New Construction GSF                                      |                    |
| Renovation GSF                                            |                    |
| <b>Total GSF</b>                                          | <b>77,515</b>      |
| New Construction \$/GSF - Current                         | \$ -               |
| Renovation \$/GSF - Current                               | \$ -               |
| New Construction \$/GSF - Escalated                       | \$ -               |
| Renovation \$/GSF - Escalated                             | \$ -               |
| Total Construction w/ site \$/GSF                         | \$ 199.77          |
| <b>Total Project \$/GSF</b>                               | <b>\$ 229.91</b>   |
| <b>I. Building Construction</b>                           |                    |
| A. New Building Construction                              | \$ 15,484.8        |
| B. Existing Building Renovations                          | \$ -               |
| C. Other Construction                                     |                    |
| <b>Total Building Construction</b>                        | <b>15,484.8</b>    |
| <b>II. Related Construction</b>                           |                    |
| A. Sitework                                               | w/ construction    |
| 1 Earthwork / Site Prep                                   | -                  |
| 2 Exterior Improvements                                   |                    |
| a. Paving - Asphalt / Concrete / Other                    | -                  |
| b. Sidewalks / Paths                                      | -                  |
| c. Wetlands Mitigation                                    | -                  |
| d. Landscape & Planting                                   | -                  |
| e. Athletic / Recreational Surfaces                       | -                  |
| f. Fencing / Gates                                        | -                  |
| g. Retaining Walls                                        | -                  |
| h. Misc Site Improvements                                 | -                  |
| B. Site Utility Systems                                   |                    |
| 1 Water & Wells                                           | -                  |
| a. Fire Protection                                        | -                  |
| 2 Sanitary Sewage                                         | -                  |
| 3 Storm Drainage                                          | -                  |
| 4 Gas                                                     | -                  |
| 5 Steam                                                   | -                  |
| 6 Chilled Water                                           | -                  |
| 7 Electric                                                | -                  |
| 8 Data & Communications                                   | -                  |
| 9 Site Lighting                                           | -                  |
| <b>Total Site Construction</b>                            | -                  |
| C. Building Demolition                                    | -                  |
| D. Hazardous Materials Removal                            | -                  |
| E. Sustainable Elements                                   |                    |
| 1 Solar Panels / PV Array                                 | -                  |
| 2 Wind Power Generation                                   | -                  |
| 3 Geothermal Wells                                        | -                  |
| 4 Rain Garden                                             | -                  |
| 5 Waste Water Treatment Plants                            | -                  |
| F. GC / CM Mark-ups                                       | w/ construction    |
| <b>Total Related Construction</b>                         | -                  |
| <b>Subtotal Construction - Current \$</b>                 | <b>15,484.8</b>    |
| <b>III. Escalation (2024 Construction)</b>                | w/ construction    |
| <b>Total Construction - Escalated</b>                     | <b>\$ 15,484.8</b> |
| <b>IV. Furniture, Fixtures &amp; Equipment (FF&amp;E)</b> |                    |
| A. Loose Furnishings                                      | -                  |
| B. Program Related Equipment                              | -                  |
| C. Data / Telecomm Equipment                              | 10.0               |
| 1. Cabling / Wall Jack / Devices                          | w/ construction    |
| D. Audio/Visual Equipment                                 | 50.0               |
| E. Security Equipment                                     | -                  |
| 1. Cabling / Wall Jack / Devices                          | w/ construction    |
| F. Specialty Signage                                      | -                  |
| <b>Total FF &amp; E</b>                                   | <b>\$ 60.0</b>     |

# PROJECT BUDGET



Project Leaders

## Town of Fairfield Fairfield Woods - HVAC Upgrades

### Total Project Budget

Date: **November 20, 2023**

| \$ (000) except \$/GSF                 |  | Project Budget<br>11/20/2023 |
|----------------------------------------|--|------------------------------|
| <b>V. Fees and Expenses</b>            |  |                              |
| <b>A. Fees</b>                         |  |                              |
| 1 Existing Conditions & Space Program  |  | -                            |
| 2 Architect                            |  | 317.5                        |
| a Civil Engineering                    |  | w/ architect                 |
| b Landscape Architect                  |  | w/ architect                 |
| c Structural Engineering               |  | w/ architect                 |
| d MEP/FP Engineering                   |  | w/ architect                 |
| e Interior / Furniture Designer        |  | w/ architect                 |
| f Lighting Consultant                  |  | w/ architect                 |
| g Acoustical Consultant                |  | w/ architect                 |
| h Signage Consultant                   |  | w/ architect                 |
| i LEED Designer                        |  | w/ architect                 |
| j Referendum Services                  |  | w/ architect                 |
| k Code Consultant                      |  | w/ architect                 |
| l Designer's Cost Estimator            |  | w/ architect                 |
| 3 Special Consultants                  |  |                              |
| a Haz. Mat. Consultant                 |  | 100.0                        |
| b Audio / Visual                       |  | w/ architect                 |
| c Technology / Security Systems Design |  | w/ architect                 |
| d Geo-Tech Engineering                 |  | -                            |
| e Traffic Engineer                     |  | -                            |
| f Ecologist / Soil Sample              |  | -                            |
| g Peer Reviews                         |  | -                            |
| h Green Building Consultant            |  | w/ architect                 |
| i Storm Water Monitoring               |  | -                            |
| 4 Project Management                   |  | 171.5                        |
| 5 Building Commissioning               |  | 77.4                         |
| 6 Owner's Cost Estimator               |  | -                            |
| 7 CM Preconstruction Fee               |  | 50.5                         |
| 8 Owner's Legal Fees                   |  | 5.0                          |
| 9 Site Survey                          |  | -                            |
| 10 Utility Assessment                  |  | 25.0                         |
| Sub-total Fees                         |  | 746.9                        |
| <b>B. Expenses</b>                     |  |                              |
| 1 Owner's Insurance                    |  | 23.2                         |
| 2 Permits                              |  | 4.0                          |
| a. Building                            |  | w/ Construction              |
| b. Town / Site                         |  | -                            |
| 3 Printing                             |  | 1.5                          |
| 4 Construction Utilities Use           |  | w/ Construction              |
| 5 Site Borings                         |  | -                            |
| 6 Materials Testing                    |  | 10.0                         |
| 7 Special Inspections                  |  | 5.0                          |
| 8 Consultant Reimbursables             |  | 5.0                          |
| 9 Moving / Relocation                  |  | 75.0                         |
| 10 Temporary Space / Operations        |  | -                            |
| 11 Advertising                         |  | 2.0                          |
| 12 Physical Plant Expenses             |  | 20.0                         |
| 13 Misc. Expenses                      |  | 25.0                         |
| 14 Financing Costs / Bond Origination  |  | 67.7                         |
| 15 Site Acquisition                    |  | -                            |
| a. Real Estate Fees                    |  | -                            |
| b. Closing Costs                       |  | -                            |
| Sub-total Expenses                     |  | 238.4                        |
| <b>Total Fees and Expenses</b>         |  | <b>985.3</b>                 |
| <b>V. Contingency</b>                  |  |                              |
| A. Construction                        |  | 464.5                        |
| B. Owner's Project                     |  | 826.5                        |
| <b>Total Contingency</b>               |  | <b>1,291.0</b>               |
| <b>Total Project</b>                   |  | <b>\$ 17,821.2</b>           |

Construction Cost vs. Total Project Cost  
Soft Cost vs. Total Project Cost

87%  
13%

# PROJECT BUDGET



Project Leaders

## Town of Fairfield Osborn Hill - HVAC Upgrades

### Total Project Budget

Date: **November 20, 2023**

| Project Budget<br>11/20/2023                              |                   |
|-----------------------------------------------------------|-------------------|
| \$(000) except \$/GSF                                     |                   |
| New Construction GSF                                      |                   |
| Renovation GSF                                            |                   |
| <b>Total GSF</b>                                          | <b>32,886</b>     |
| New Construction \$/GSF - Current                         | \$ -              |
| Renovation \$/GSF - Current                               | \$ -              |
| New Construction \$/GSF - Escalated                       | \$ -              |
| Renovation \$/GSF - Escalated                             | \$ -              |
| Total Construction w/ site \$/GSF                         | \$ 230.99         |
| <b>Total Project \$/GSF</b>                               | <b>\$ 272.84</b>  |
| <b>I. Building Construction</b>                           |                   |
| A. New Building Construction                              | \$ 7,596.5        |
| B. Existing Building Renovations                          | \$ -              |
| C. Other Construction                                     |                   |
| <b>Total Building Construction</b>                        | <b>7,596.5</b>    |
| <b>II. Related Construction</b>                           |                   |
| A. Sitework                                               | w/ construction   |
| 1 Earthwork / Site Prep                                   | -                 |
| 2 Exterior Improvements                                   |                   |
| a. Paving - Asphalt / Concrete / Other                    | -                 |
| b. Sidewalks / Paths                                      | -                 |
| c. Wetlands Mitigation                                    | -                 |
| d. Landscape & Planting                                   | -                 |
| e. Athletic / Recreational Surfaces                       | -                 |
| f. Fencing / Gates                                        | -                 |
| g. Retaining Walls                                        | -                 |
| h. Misc Site Improvements                                 | -                 |
| B. Site Utility Systems                                   |                   |
| 1 Water & Wells                                           | -                 |
| a. Fire Protection                                        | -                 |
| 2 Sanitary Sewage                                         | -                 |
| 3 Storm Drainage                                          | -                 |
| 4 Gas                                                     | -                 |
| 5 Steam                                                   | -                 |
| 6 Chilled Water                                           | -                 |
| 7 Electric                                                | -                 |
| 8 Data & Communications                                   | -                 |
| 9 Site Lighting                                           | -                 |
| <b>Total Site Construction</b>                            | -                 |
| C. Building Demolition                                    | -                 |
| D. Hazardous Materials Removal                            | -                 |
| E. Sustainable Elements                                   |                   |
| 1 Solar Panels / PV Array                                 | -                 |
| 2 Wind Power Generation                                   | -                 |
| 3 Geothermal Wells                                        | -                 |
| 4 Rain Garden                                             | -                 |
| 5 Waste Water Treatment Plants                            | -                 |
| F. GC / CM Mark-ups                                       | w/ construction   |
| <b>Total Related Construction</b>                         | -                 |
| <b>Subtotal Construction - Current \$</b>                 | <b>7,596.5</b>    |
| <b>III. Escalation (2024 Construction)</b>                | w/ construction   |
| <b>Total Construction - Escalated</b>                     | <b>\$ 7,596.5</b> |
| <b>IV. Furniture, Fixtures &amp; Equipment (FF&amp;E)</b> |                   |
| A. Loose Furnishings                                      | -                 |
| B. Program Related Equipment                              | -                 |
| C. Data / Telecomm Equipment                              | 10.0              |
| 1. Cabling / Wall Jack / Devices                          | w/ construction   |
| D. Audio/Visual Equipment                                 | 30.0              |
| E. Security Equipment                                     | -                 |
| 1. Cabling / Wall Jack / Devices                          | w/ construction   |
| F. Specialty Signage                                      | -                 |
| <b>Total FF &amp; E</b>                                   | <b>\$ 40.0</b>    |

# PROJECT BUDGET



Project Leaders

## Town of Fairfield Osborn Hill - HVAC Upgrades

### Total Project Budget

Date: **November 20, 2023**

| \$(000) except \$/GSF                  |                 | Project Budget<br>11/20/2023 |
|----------------------------------------|-----------------|------------------------------|
| <b>V. Fees and Expenses</b>            |                 |                              |
| <b>A. Fees</b>                         |                 |                              |
| 1 Existing Conditions & Space Program  |                 | -                            |
| 2 Architect                            |                 | 241.3                        |
| a Civil Engineering                    | w/ architect    |                              |
| b Landscape Architect                  | w/ architect    |                              |
| c Structural Engineering               | w/ architect    |                              |
| d MEP/FP Engineering                   | w/ architect    |                              |
| e Interior / Furniture Designer        | w/ architect    |                              |
| f Lighting Consultant                  | w/ architect    |                              |
| g Acoustical Consultant                | w/ architect    |                              |
| h Signage Consultant                   | w/ architect    |                              |
| i LEED Designer                        | w/ architect    |                              |
| j Referendum Services                  | w/ architect    |                              |
| k Code Consultant                      | w/ architect    |                              |
| l Designer's Cost Estimator            | w/ architect    |                              |
| 3 Special Consultants                  |                 |                              |
| a Haz. Mat. Consultant                 |                 | 100.0                        |
| b Audio / Visual                       | w/ architect    |                              |
| c Technology / Security Systems Design | w/ architect    |                              |
| d Geo-Tech Engineering                 |                 | -                            |
| e Traffic Engineer                     |                 | -                            |
| f Ecologist / Soil Sample              |                 | -                            |
| g Peer Reviews                         |                 | -                            |
| h Green Building Consultant            | w/ architect    |                              |
| i Storm Water Monitoring               |                 | -                            |
| 4 Project Management                   |                 | 70.3                         |
| 5 Building Commissioning               |                 | 38.0                         |
| 6 Owner's Cost Estimator               |                 | -                            |
| 7 CM Preconstruction Fee               |                 | 20.7                         |
| 8 Owner's Legal Fees                   |                 | 5.0                          |
| 9 Site Survey                          |                 | -                            |
| 10 Utility Assessment                  |                 | 25.0                         |
| Sub-total Fees                         |                 | 500.3                        |
| <b>B. Expenses</b>                     |                 |                              |
| 1 Owner's Insurance                    |                 | 11.4                         |
| 2 Permits                              |                 | 2.0                          |
| a. Building                            | w/ Construction |                              |
| b. Town / Site                         |                 | -                            |
| 3 Printing                             |                 | 1.5                          |
| 4 Construction Utilities Use           | w/ Construction |                              |
| 5 Site Borings                         |                 | -                            |
| 6 Materials Testing                    |                 | 10.0                         |
| 7 Special Inspections                  |                 | 5.0                          |
| 8 Consultant Reimbursables             |                 | 5.0                          |
| 9 Moving / Relocation                  |                 | 75.0                         |
| 10 Temporary Space / Operations        |                 | -                            |
| 11 Advertising                         |                 | 2.0                          |
| 12 Physical Plant Expenses             |                 | 20.0                         |
| 13 Misc. Expenses                      |                 | 25.0                         |
| 14 Financing Costs / Bond Origination  |                 | 34.6                         |
| 15 Site Acquisition                    |                 | -                            |
| a. Real Estate Fees                    |                 | -                            |
| b. Closing Costs                       |                 | -                            |
| Sub-total Expenses                     |                 | 191.4                        |
| <b>Total Fees and Expenses</b>         |                 | 691.7                        |
| <b>V. Contingency</b>                  |                 |                              |
| A. Construction                        |                 | 227.9                        |
| B. Owner's Project                     |                 | 416.4                        |
| <b>Total Contingency</b>               |                 | 644.3                        |
| <b>Total Project</b>                   |                 | \$ 8,972.5                   |

Construction Cost vs. Total Project Cost  
Soft Cost vs. Total Project Cost

85%  
15%

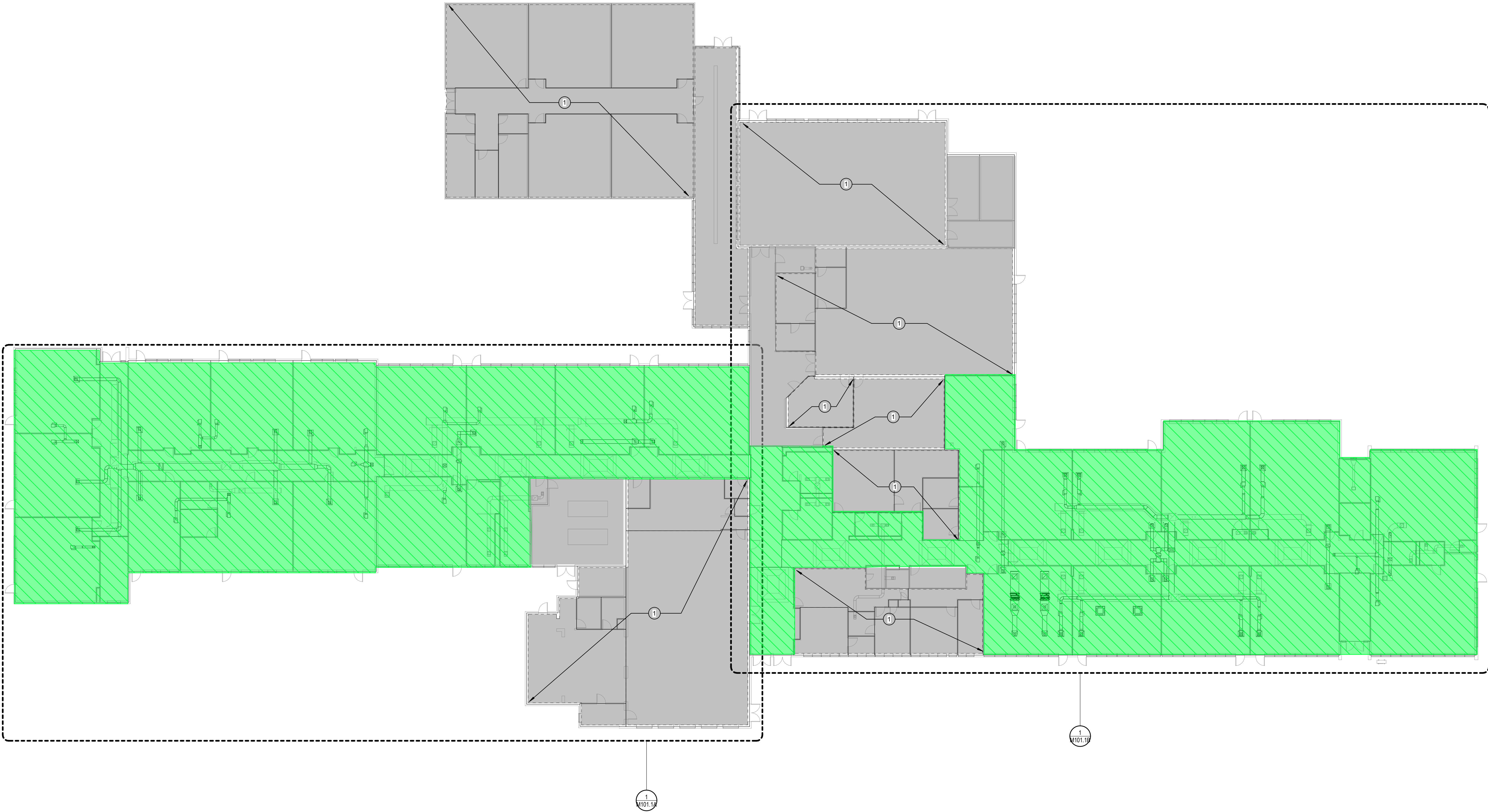
**North Stratfield, Osborn Hill & Fairfield Woods HVAC Upgrades  
SD to CD Estimate Variance Summary**

| Trade Summary                          |                                      | North Stratfield Elementary School HVAC Upgrades |                    |                       | Fairfield Woods Middle School HVAC Upgrades |                     |                       | Osborn Hill Elementary School HVAC Upgrades |                    |                       | Total Costs         |                     |                       | Variance Notes                                                                            |
|----------------------------------------|--------------------------------------|--------------------------------------------------|--------------------|-----------------------|---------------------------------------------|---------------------|-----------------------|---------------------------------------------|--------------------|-----------------------|---------------------|---------------------|-----------------------|-------------------------------------------------------------------------------------------|
| Design Phase:                          |                                      | SD                                               | CD                 | Variance              | SD                                          | CD                  | Variance              | SD                                          | CD                 | Variance              | SD                  | CD                  | Overall Variance      |                                                                                           |
| Work Area GSF:                         |                                      | 54,544                                           | 47,920             | -6,624                | 80,044                                      | 77,515              | -2,529                | 32,846                                      | 32,886             | 40                    | 167,434             | 158,321             | -9,113                |                                                                                           |
| MF                                     | Description                          | Subtotal                                         | Subtotal           | Subtotal              | Subtotal                                    | Subtotal            | Subtotal              | Subtotal                                    | Subtotal           | Subtotal              | Subtotal            | Subtotal            | Subtotal              |                                                                                           |
| 01                                     | Site Services                        | \$379,875                                        | \$377,615          | (\$2,259.97)          | \$545,383                                   | \$595,686           | \$50,302.94           | \$227,432                                   | \$256,210          | \$28,778.03           | \$1,152,690         | \$1,229,511         | \$76,821.00           | Revised per schedule & scope changes                                                      |
| 02                                     | Existing Conditions                  | \$291,266                                        | \$284,274          | (\$6,992.00)          | \$519,343                                   | \$447,461           | (\$71,882.00)         | \$280,615                                   | \$269,026          | (\$11,589.00)         | \$1,091,224         | \$1,000,761         | (\$90,463.00)         | Overall area demolition assumption reductions                                             |
| 03                                     | Concrete                             | \$26,108                                         | \$73,528           | \$47,420.00           | \$54,964                                    | \$49,792            | (\$5,172.00)          | \$23,679                                    | \$72,421           | \$48,742.00           | \$104,751           | \$195,741           | \$90,990.00           | Increased due to feeder routes and repairs required at new electrical rooms               |
| 04                                     | Masonry                              | \$79,000                                         | \$59,477           | (\$19,523.00)         | \$142,500                                   | \$138,367           | (\$4,133.00)          | \$84,500                                    | \$62,202           | (\$22,298.00)         | \$306,000           | \$260,046           | (\$45,954.00)         | Added misc. metals allowances for supporting rooftop infrastructure (conduit, duct, pipe) |
| 05                                     | Metals                               | \$152,846                                        | \$156,419          | \$3,573.00            | \$224,304                                   | \$275,711           | \$51,407.00           | \$92,044                                    | \$158,322          | \$66,278.92           | \$469,194           | \$590,452           | \$121,258.92          | Added casework modifications for condensate pipe discharge                                |
| 06                                     | Wood, Plastics, & Composites         | \$27,272                                         | \$37,960           | \$10,688.00           | \$40,022                                    | \$41,758            | \$1,735.50            | \$16,423                                    | \$21,443           | \$5,020.00            | \$83,717            | \$101,161           | \$17,443.50           | Additional rooftop supports requiring flashing/patching                                   |
| 07                                     | Thermal & Moisture Protection        | \$135,000                                        | \$36,920           | (\$98,080.00)         | \$216,000                                   | \$296,629           | \$80,628.75           | \$100,000                                   | \$221,332          | \$121,331.50          | \$451,000           | \$554,880           | \$103,880.25          | Additional doors to access new electrical rooms                                           |
| 08                                     | Openings                             | \$5,500                                          | \$11,000           | \$5,500.00            | \$5,500                                     | \$18,500            | \$13,000.00           | \$5,500                                     | \$11,000           | \$5,500.00            | \$16,500            | \$40,500            | \$24,000.00           | Ceiling demolition & replace assumption reductions                                        |
| 09                                     | Finishes                             | \$871,346                                        | \$681,568          | (\$189,777.65)        | \$1,278,712                                 | \$947,477           | (\$331,234.99)        | \$524,717                                   | \$522,114          | (\$2,602.65)          | \$2,674,775         | \$2,151,160         | (\$523,615.29)        | Toilet partitions requiring replacement for ductwork installation                         |
| 10                                     | Specialties                          | \$0                                              | \$350              | \$350.00              | \$0                                         | \$62,350            | \$62,350.00           | \$0                                         | \$350              | \$350.00              | \$0                 | \$63,050            | \$63,050.00           |                                                                                           |
| 11                                     | Equipment                            | \$27,272                                         | \$23,960           | (\$3,312.00)          | \$40,022                                    | \$50,000            | \$9,978.00            | \$16,423                                    | \$16,443           | \$20.00               | \$83,717            | \$90,403            | \$6,686.00            |                                                                                           |
| 12                                     | Furnishings                          | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| 13                                     | Special Construction                 | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| 14                                     | Conveying Systems                    | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| 21                                     | Fire Suppression                     | \$201,084                                        | \$177,900          | (\$23,184.00)         | \$300,094                                   | \$288,643           | (\$11,451.50)         | \$121,091                                   | \$121,231          | \$140.00              | \$622,269           | \$587,774           | (\$34,495.50)         | Gas piping roof length increases compared to SD \$/SF alw.                                |
| 22                                     | Plumbing                             | \$70,750                                         | \$115,236          | \$44,486.00           | \$113,828                                   | \$162,044           | \$48,216.00           | \$42,606                                    | \$69,260           | \$26,654.00           | \$227,184           | \$346,540           | \$119,356.00          | Vendor quotes and quantity surveys vs. SD \$/SF alw.                                      |
| 23                                     | Heating, Ventilating & AC            | \$3,334,279                                      | \$3,447,998        | \$113,719.00          | \$4,608,946                                 | \$4,846,592         | \$237,645.50          | \$1,970,515                                 | \$2,311,441        | \$340,926.00          | \$9,913,740         | \$10,606,031        | \$692,290.50          | Vendor quotes and quantity surveys vs. SD \$/SF alw.                                      |
| 26/27/28                               | Electrical, Communications, Security | \$1,483,927                                      | \$1,727,292        | \$243,364.50          | \$2,877,192                                 | \$3,201,861         | \$324,669.41          | \$1,045,279                                 | \$1,411,358        | \$366,078.56          | \$5,406,398         | \$6,340,510         | \$934,112.47          | Additional site demo & repairs based on feeder routes                                     |
| 31/32/33                               | Site Construction                    | \$122,500                                        | \$136,750          | \$14,250.00           | \$156,000                                   | \$182,375           | \$26,375.00           | \$73,750                                    | \$169,120          | \$95,370.00           | \$352,250           | \$488,245           | \$135,995.00          |                                                                                           |
| <b>Total Trade Cost</b>                |                                      | <b>\$7,208,025</b>                               | <b>\$7,348,247</b> | <b>\$140,221.88</b>   | <b>\$11,122,810</b>                         | <b>\$11,605,245</b> | <b>\$482,434.61</b>   | <b>\$4,624,573</b>                          | <b>\$5,693,273</b> | <b>\$1,068,699.36</b> | <b>\$22,955,409</b> | <b>\$24,646,764</b> | <b>\$1,691,355.85</b> |                                                                                           |
| Design / Estimating Contingency        |                                      | \$1,081,204                                      | \$551,119          | (\$530,085.23)        | \$1,668,422                                 | \$870,393           | (\$798,028.16)        | \$693,686                                   | \$426,995          | (\$266,690.56)        | \$3,443,311         | \$1,848,507         | (\$1,594,803.95)      | Design contingency reduction                                                              |
| Escalation                             |                                      | \$391,526                                        | \$315,975          | (\$75,550.95)         | \$604,169                                   | \$499,026           | (\$105,143.38)        | \$251,198                                   | \$244,811          | (\$6,386.89)          | \$1,246,892         | \$1,059,811         | (\$187,081.22)        | Affected by trade costs and design contingency reduction                                  |
| CM Contingency                         |                                      | \$310,845                                        | \$294,142          | (\$16,703.15)         | \$477,287                                   | \$464,544           | (\$12,743.34)         | \$198,193                                   | \$227,895          | \$29,702.05           | \$986,325           | \$986,581           | \$255.56              | Affected by trade costs and design contingency reduction                                  |
| CM P&P Bond (.65%)                     |                                      | \$67,350                                         | \$63,731           | (\$3,619.02)          | \$103,412                                   | \$100,651           | (\$2,761.06)          | \$42,942                                    | \$49,377           | \$6,435.44            | \$213,704           | \$213,759           | \$55.37               | Affected by trade costs and design contingency reduction                                  |
| General Liability (.997%)              |                                      | \$103,304                                        | \$97,753           | (\$5,551.01)          | \$158,619                                   | \$154,384           | (\$4,235.04)          | \$65,866                                    | \$75,737           | \$9,870.98            | \$327,789           | \$327,874           | \$84.93               | Affected by trade costs and design contingency reduction                                  |
| General Conditions - Studied           |                                      | \$738,778                                        | \$685,686          | (\$53,091.87)         | \$1,084,166                                 | \$1,082,919         | (\$1,247.07)          | \$444,887                                   | \$531,256          | \$86,368.94           | \$2,267,830         | \$2,299,860         | \$32,030.00           | Revised per schedule & scope changes                                                      |
| Field Office Support - Studied         |                                      | \$205,742                                        | \$208,519          | \$2,777.11            | \$301,929                                   | \$329,319           | \$27,389.80           | \$123,896                                   | \$161,557          | \$37,660.08           | \$631,568           | \$699,395           | \$67,827.00           | Revised per schedule & scope changes                                                      |
| Preconstruction Services - Studied     |                                      | \$34,433                                         | \$31,514           | (\$2,919.34)          | \$50,531                                    | \$49,770            | (\$760.80)            | \$20,736                                    | \$24,416           | \$3,680.14            | \$105,700           | \$105,700           | \$0.00                |                                                                                           |
| CM Fee (2.1%)                          |                                      | \$217,591                                        | \$205,899          | (\$11,692.21)         | \$334,101                                   | \$325,181           | (\$8,920.33)          | \$138,735                                   | \$159,526          | \$20,791.43           | \$690,428           | \$690,606           | \$178.89              | Affected by trade costs and design contingency reduction                                  |
| Building Permit - By Owner             |                                      | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| State Education Fee (\$5.26/\$1000)    |                                      | \$2,694                                          | \$2,136            | (\$558.00)            | \$4,136                                     | \$3,373             | (\$763.08)            | \$1,718                                     | \$1,655            | (\$62.75)             | \$8,548             | \$7,164             | (\$1,383.83)          | Affected by trade costs and design contingency reduction                                  |
| Builders Risk Insurance - Not Included |                                      | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| <b>Total Construction Cost</b>         |                                      | <b>\$10,361,491</b>                              | <b>\$9,804,719</b> | <b>(\$556,771.80)</b> | <b>\$15,909,582</b>                         | <b>\$15,484,805</b> | <b>(\$424,777.83)</b> | <b>\$6,606,430</b>                          | <b>\$7,596,498</b> | <b>\$990,068.23</b>   | <b>\$32,877,503</b> | <b>\$32,886,022</b> | <b>\$8,518.60</b>     |                                                                                           |

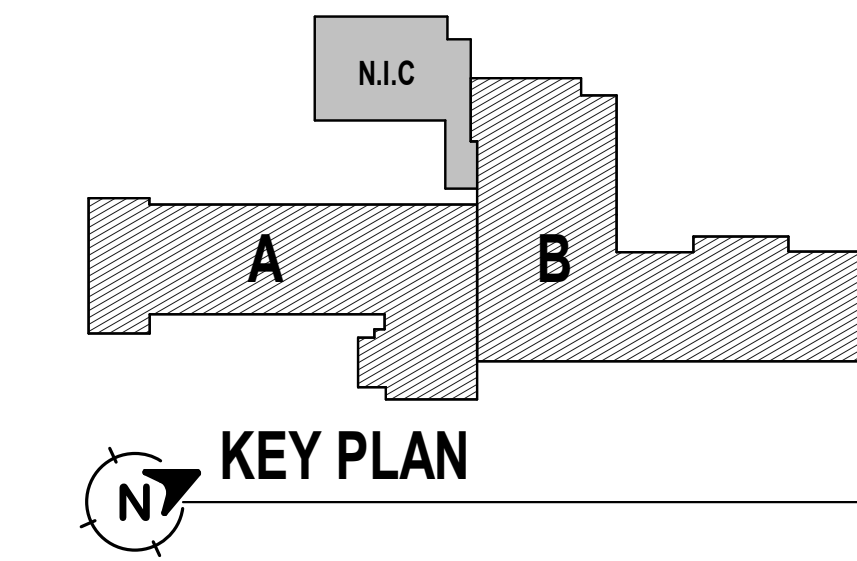


OSBORN HILL

SCOPE OF NEW HVAC WORK



1 OVERALL FIRST FLOOR MECHANICAL DUCTWORK PLAN  
1/16" = 1'-0"  
0 8' 16' 32'  
Scale: 1/16" = 1'-0"



| REVISIONS   |           | DESCRIPTION |
|-------------|-----------|-------------|
| NO          | DATE      |             |
| Designed    | RF/EX     |             |
| Drawn       | EX        |             |
| Reviewed    | J/RP      |             |
| Project No. | 2303053   |             |
| Date        | 4/26/2023 |             |
| Issued for: | PROGRESS  |             |

Title:  
OVERALL FIRST FLOOR  
MECHANICAL DUCTWORK  
PLAN

Sheet No.  
M101.1



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MECHANICAL GENERAL NOTES:

- ALL COMBINATION FIRE/SMOKE AND FIRE DAMPERS SHALL BE PROVIDED WITH DUCT ACCESS DOORS OF ADEQUATE SIZE TO PROVIDE SERVICE AND MAINTENANCE. WHERE THE DAMPERS ARE IN INACCESSIBLE LOCATIONS, COORDINATE THE LOCATIONS OF THE DAMPERS AND THEIR RESPECTIVE DUCT ACCESS DOORS WITH THE GENERAL CONTRACTOR TO PROVIDE ACCESS DOORS IN FINISHED SURFACES - MIN. 18"x18". WHERE THE CONSTRUCTION ASSEMBLY HAS A FIRE RATING, THE ACCESS DOORS SHALL BE RATED TO MATCH.
- PROVIDE CABLE OPERATED VOLUME DAMPERS (COV) AT ALL LOCATIONS WHERE THE DAMPER IS LOCATED BEHIND AN INACCESSIBLE ASSEMBLY. THE MECHANICAL CONTRACTOR SHALL COORDINATE THE LOCATION OF THE OPERATORS TO ALLOW FOR CONVENIENT OPERATION. INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- ALL SIDEWALL VENT TERMINATIONS SHALL BE NO LESS THAN 3 FEET FROM ALL OPERABLE BUILDING OPENINGS. VERIFY DISTANCE IN FIELD. COORDINATE ALL SIDEWALL VENT LOCATIONS WITH ARCHITECT'S ELEVATIONS.
- PROVIDE NECESSARY LOW VOLTAGE WIRING, POWER SUPPLIES TO CONTROLLER, & TRANSFORMERS TO SUPPLY POWER TO THE REMOTE SENSORS AS REQUIRED BY MANUFACTURER.
- MOUNT THERMOSTATS AT 60" AFF. ALLOW FOR A LOOP OF EXTRA WIRING TO ALLOW THE MOVEMENT OF THE THERMOSTAT TO 48" AFF FOR FUTURE.
- ALL DUCTWORK SHALL BE RUN IN BETWEEN THE JOISTS (BJ) OR THROUGH THE JOISTS (TJ). COORDINATE ALL DUCTWORK WITH THE PIPING OF DIV. 21 & DIV. 22 AND THE ELEC. CONDUITS OF DIV. 26.
- UPON ALL VERTICAL AH UNITS SHALL BE SECURED TO THE FINISHED WALL SURFACE. PROVIDE NEOPRENE TYPE BUSHINGS AT ALL MOUNTING POINTS. MOUNT UNITS IN ACCORDANCE WITH THE UNIT MANUFACTURER'S WRITTEN INSTALLATION INSTRUCTIONS AND RECOMMENDATIONS.

MECHANICAL KEY NOTES:

(NOT ALL KEY NOTES APPEAR ON ALL SHEETS)

- PITCH CD 1/4" PER FOOT IN DIRECTION OF FLOW. SIZE AS FOLLOWS:  
3/4" UP TO 2 TONS, 1" UP TO 5 TONS, 1-1/4" UP TO 30 TONS. WHERE PITCH IS LESS THAN ABOVE, INCREASE THE ABOVE VALUES ONE PIPE SIZE. PROVIDE INSULATION WHERE VAPOR BARRIER. REFER TO SPECS. FOR ADDITIONAL INFORMATION.

RUN THE CONDENSATE DOWN TO A FLOOR DRAIN, MOP SINK OR INDIRECT SANITARY CONNECTION (REFER TO PLAN FOR DEVICE). RUN PIPING EXPOSED AND SECURE TO THE WALL. INSULATE PIPING CONSISTENT WITH PIPING CONVEYING FLUIDS THAT ARE BELOW AMBIENT TEMPERATURE. PROVIDE WITH A CONTINUOUS VAPOR BARRIER. REFER TO SPECIFICATIONS FOR ADDITIONAL INFORMATION. TERMINATE DRAIN OVER THE DEVICE AND MAINTAIN A MINIMUM 1" AIR GAP PER CODE.

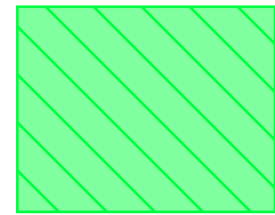
RUN THE CONDENSATE DOWN TO APPROX. 6" AFG AND RUN TO ATMOSPHERE. TERMINATE DISCHARGE WITH A 45° ELB ANGLED DOWNWARD AND SPILL TO GRADE. RUN INDOOR PIPING EXPOSED AND SECURE TO THE WALL. INSULATE PIPING CONSISTENT WITH PIPING CONVEYING FLUIDS THAT ARE BELOW AMBIENT TEMPERATURE. PROVIDE WITH A CONTINUOUS VAPOR BARRIER. REFER TO SPECIFICATIONS FOR ADDITIONAL INFORMATION.

THE MECHANICAL CONTRACTOR SHALL SIZE ALL REFRIGERANT (I.E. SUCTION, LIQUID, HOT GAS, ETC.) LINES IN STRICT ACCORDANCE WITH MANUFACTURER'S INSTALLATION INSTRUCTIONS AND RECOMMENDATIONS. INSULATE ALL PIPING. REFER TO SPECS FOR ADDITIONAL INFO.

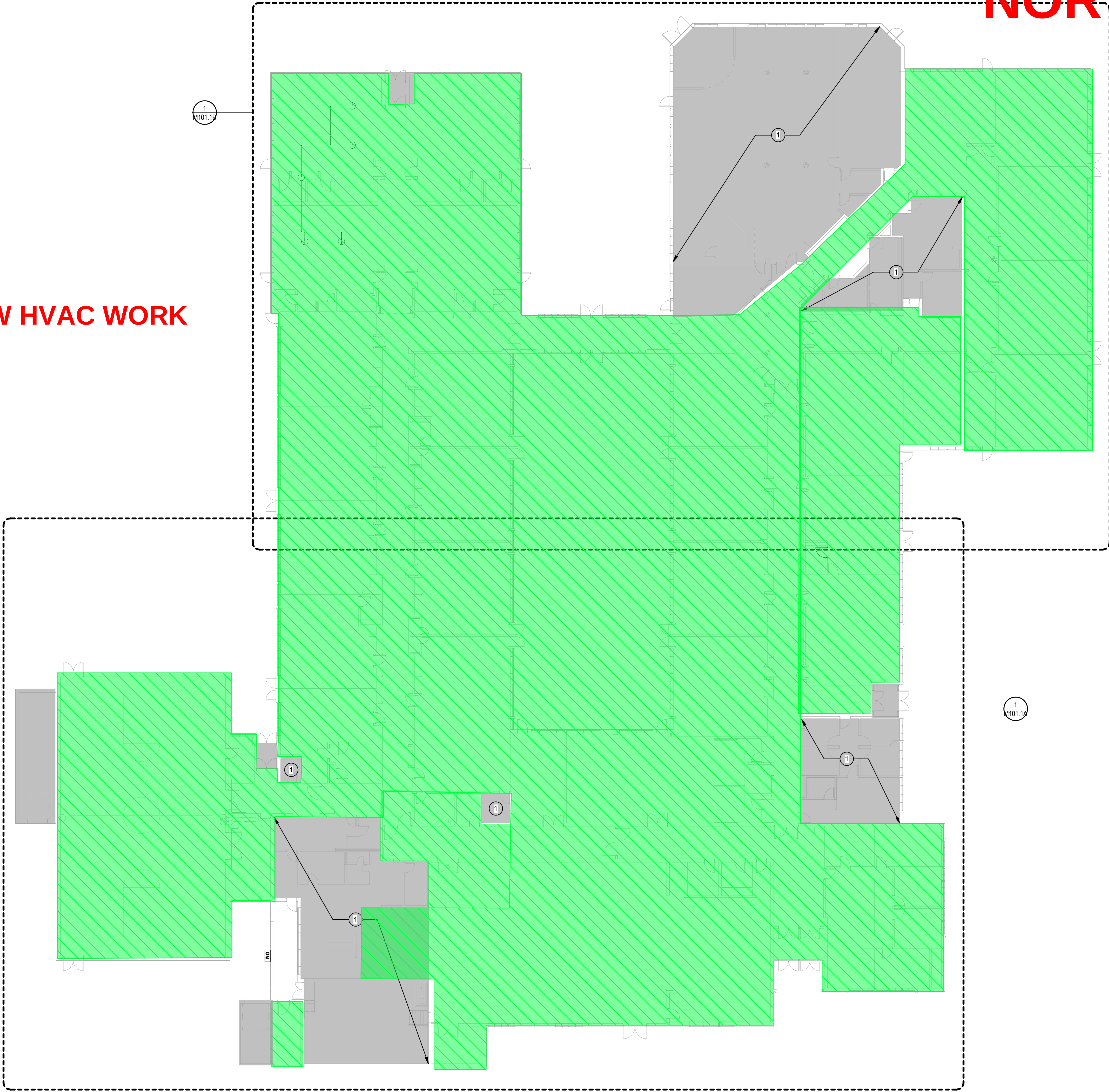
SUSPEND EQUIPMENT ON GALV. THREADED STEEL WITH SPRING TYPE VIBRATION ISOLATORS. LOCATE RISERS AT ALL UNIT MOUNTING LOCATIONS IN ACCORDANCE WITH THE MANUF. WRITTEN INSTALLATION INSTRUCTIONS. ALL SUPPORTS SHALL BE SECURELY CONNECTED TO THE BUILDING STRUCTURAL STEEL. PROVIDE ADDITIONAL MISC. GALV. STEEL SUPPORTS TO ACCOMMODATE INSTALLATION AS REQUIRED. REFER TO DETAIL ON THE M-SERIES DWGS.

EXHAUST FAN MOUNTED ON ROOF ON A 18" HIGH PRE-FAB. ALUMINUM CURB. REFER TO DETAIL ON THE M-SERIES DWGS.

MOUNT INDOOR AC UNIT HIGH ON THE WALL IN STRICT ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. PROVIDE A DRAIN PAN BENEATH



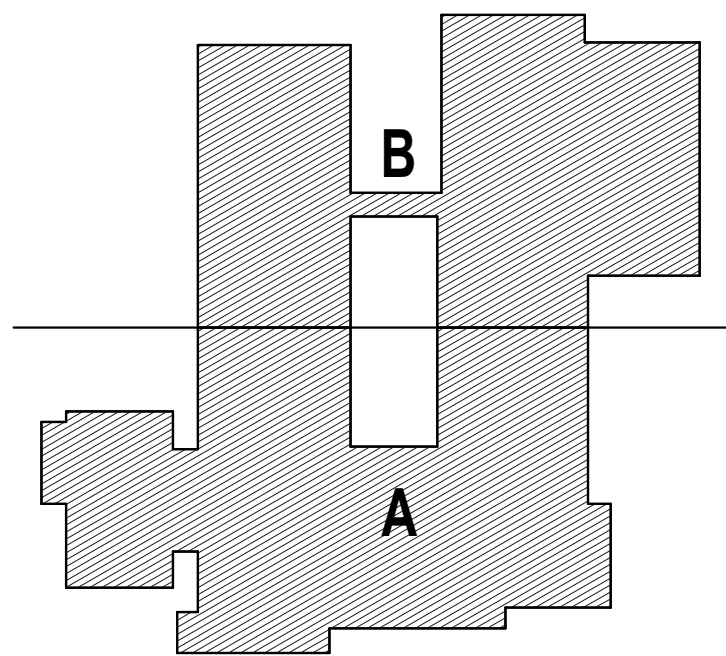
SCOPE OF NEW HVAC WORK



1 OVERALL FIRST FLOOR MECHANICAL DUCTWORK PLAN

1/16" = 1'-0"  
0 8' 16' 32'  
Scale: 1/16" = 1'-0"

KEY PLAN



KEY PLAN

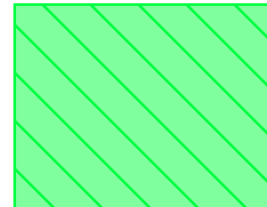
NORTH STRATFIELD



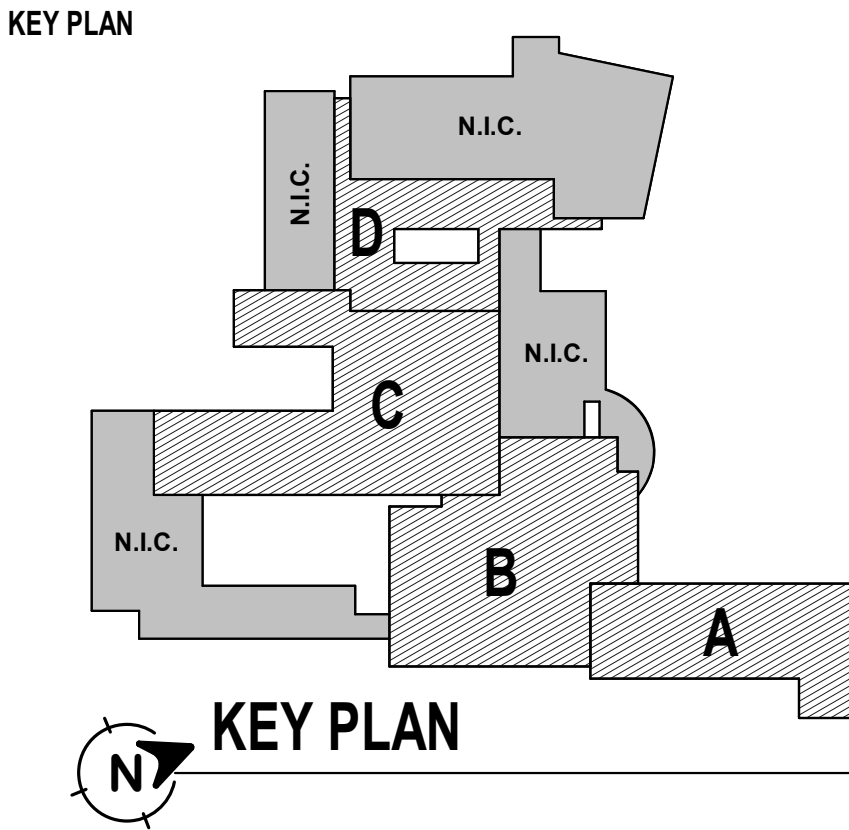
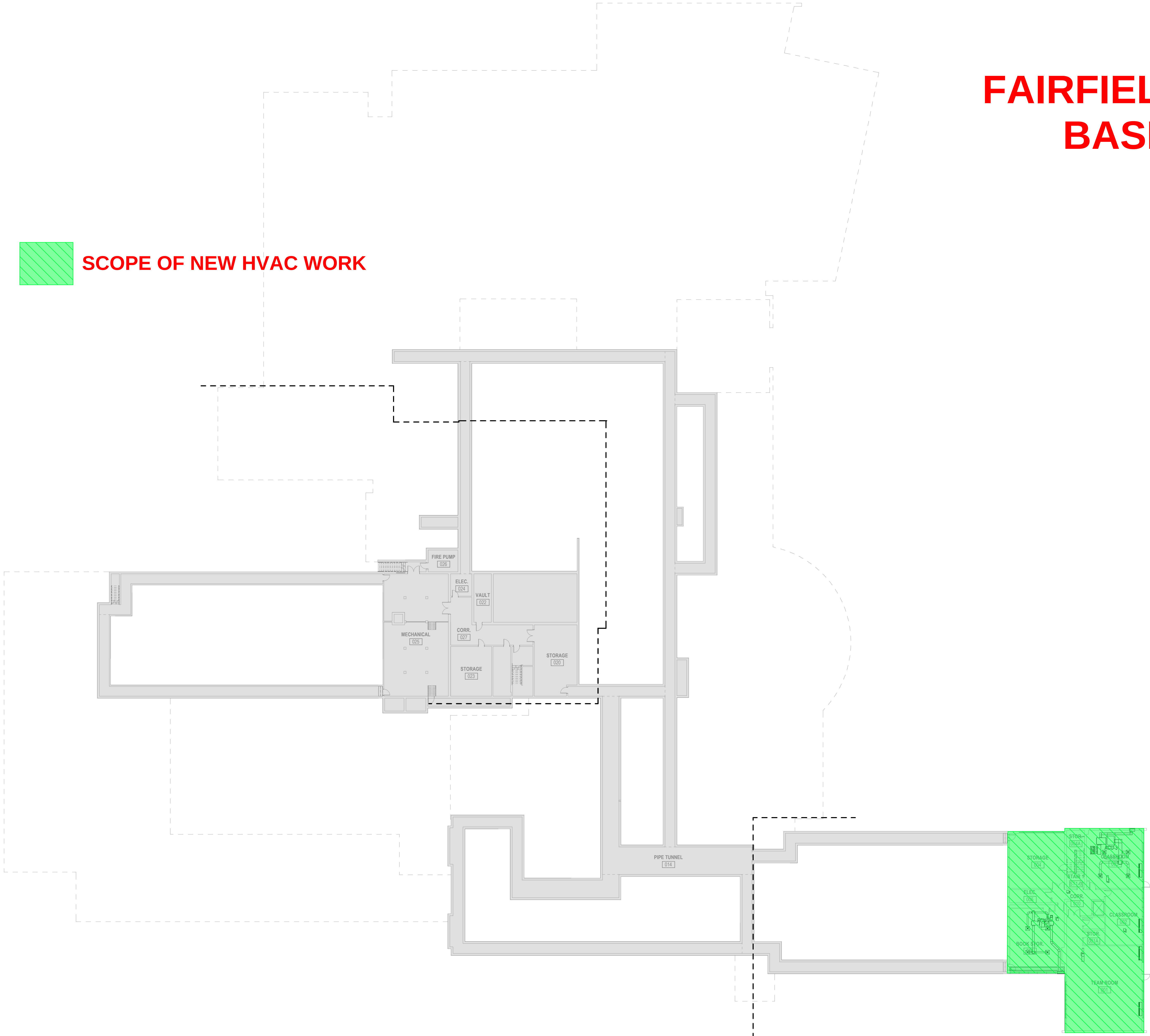
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1 OVERALL BASEMENT MECHANICAL DUCTWORK PLAN  
1" = 20'-0"



SCOPE OF NEW HVAC WORK



FAIRFIELD WOODS  
BASEMENT



355 Research Parkway  
Meriden, CT 06460  
(203) 635-3400  
(203) 630-2915 Fax

FAIRFIELD WOODS MIDDLE SCHOOL  
1115 FAIRFIELD WOODS ROAD  
FAIRFIELD, CT 06825

| REVISIONS    | NO | DATE | DESCRIPTION |
|--------------|----|------|-------------|
| Designed:    |    |      | PRA         |
| Drawn:       |    |      | PRA         |
| Reviewed:    |    |      | JVP         |
| Project No.: |    |      | 200055      |
| Date:        |    |      | 4/26/2023   |
| Issued for:  |    |      | PROGRESS    |

Title:  
OVERALL BASEMENT  
MECHANICAL DUCTWORK  
PLAN

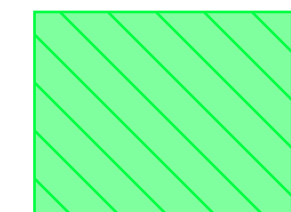
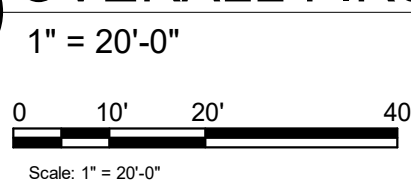
Sheet No.:

M101.0

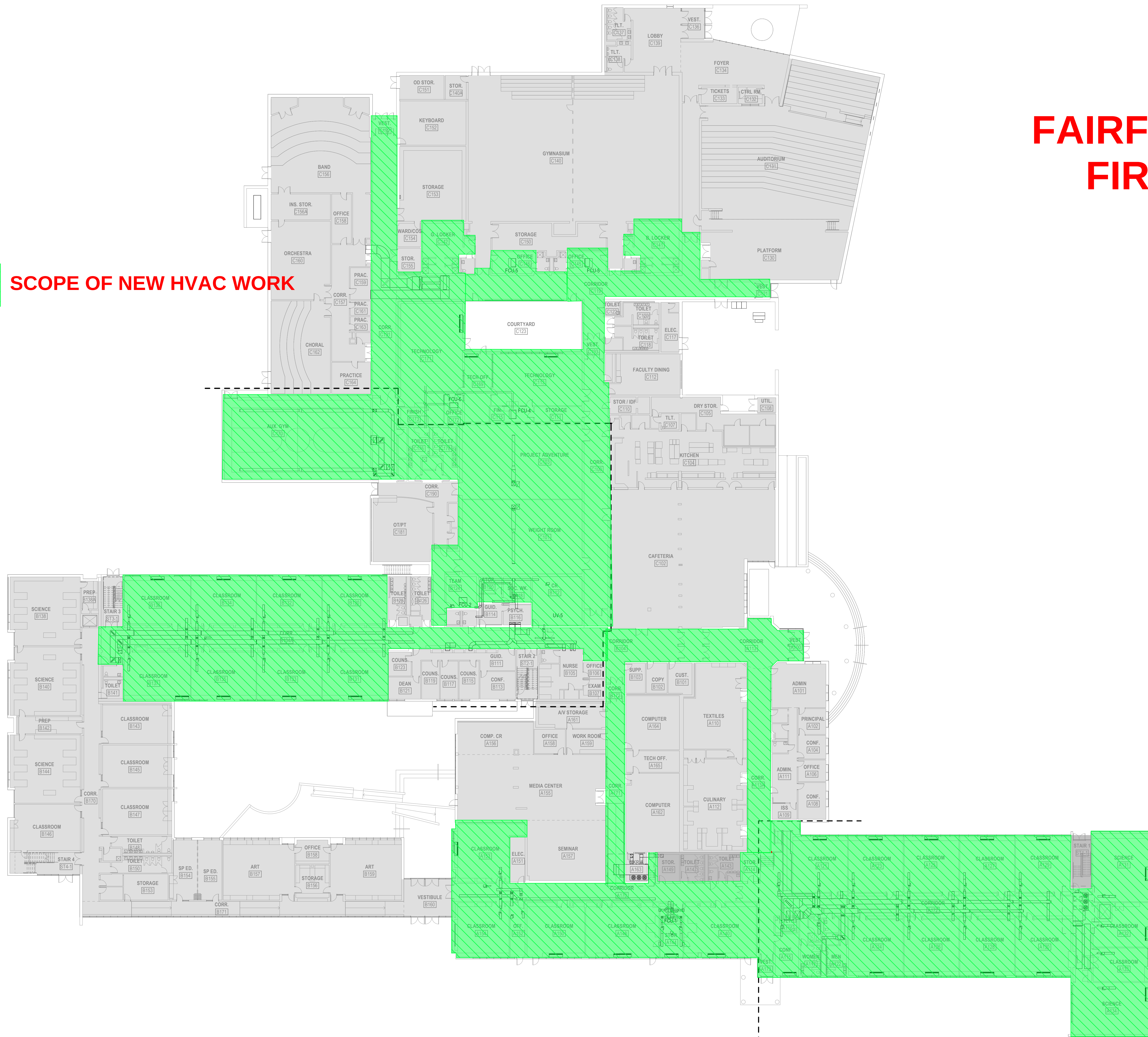


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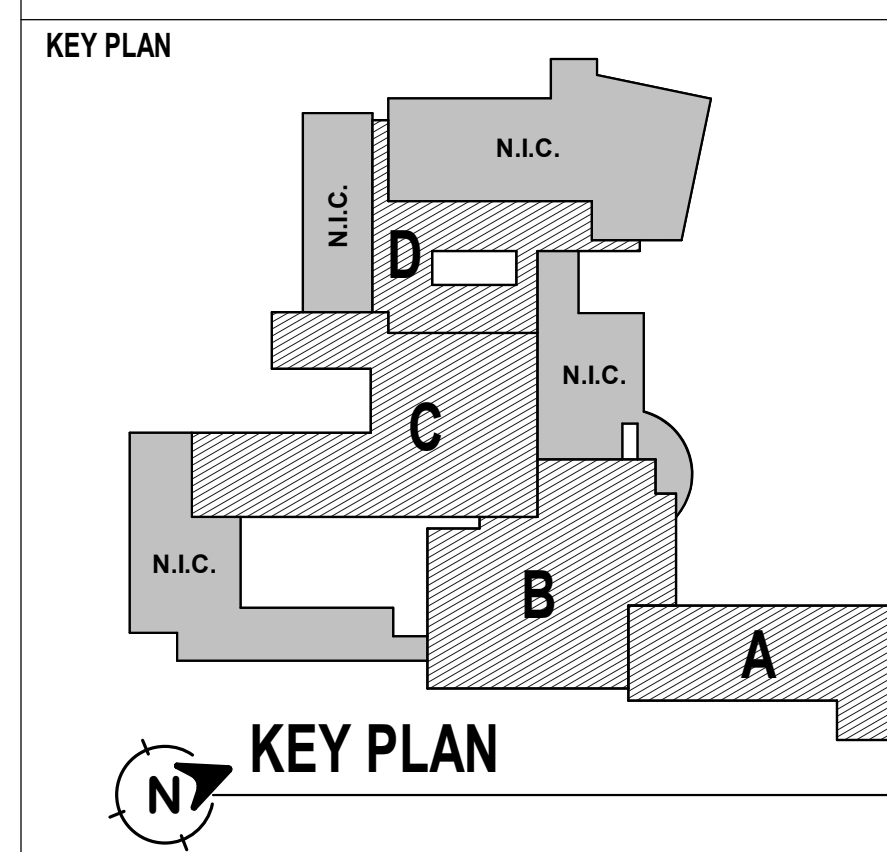
1 OVERALL FIRST FLOOR MECHANICAL DUCTWORK PLAN



SCOPE OF NEW HVAC WORK



# FAIRFIELD WOODS FIRST FLOOR



| REVISIONS | DESCRIPTION | NO | DATE |
|-----------|-------------|----|------|
|-----------|-------------|----|------|

Designed: PRA  
Drawn: PRA  
Reviewed: JWP  
Project No.: 230053  
Date: 4/26/2023  
Issued for: PROGRESS

Title:  
OVERALL FIRST FLOOR  
MECHANICAL DUCTWORK  
PLAN

Sheet No.

M101.1



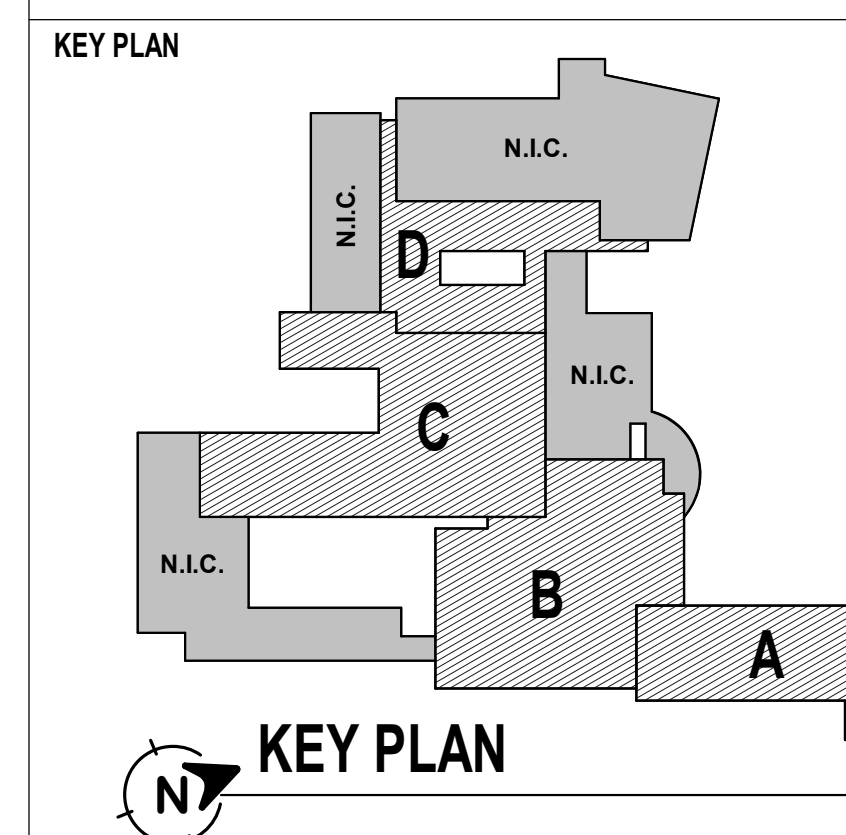
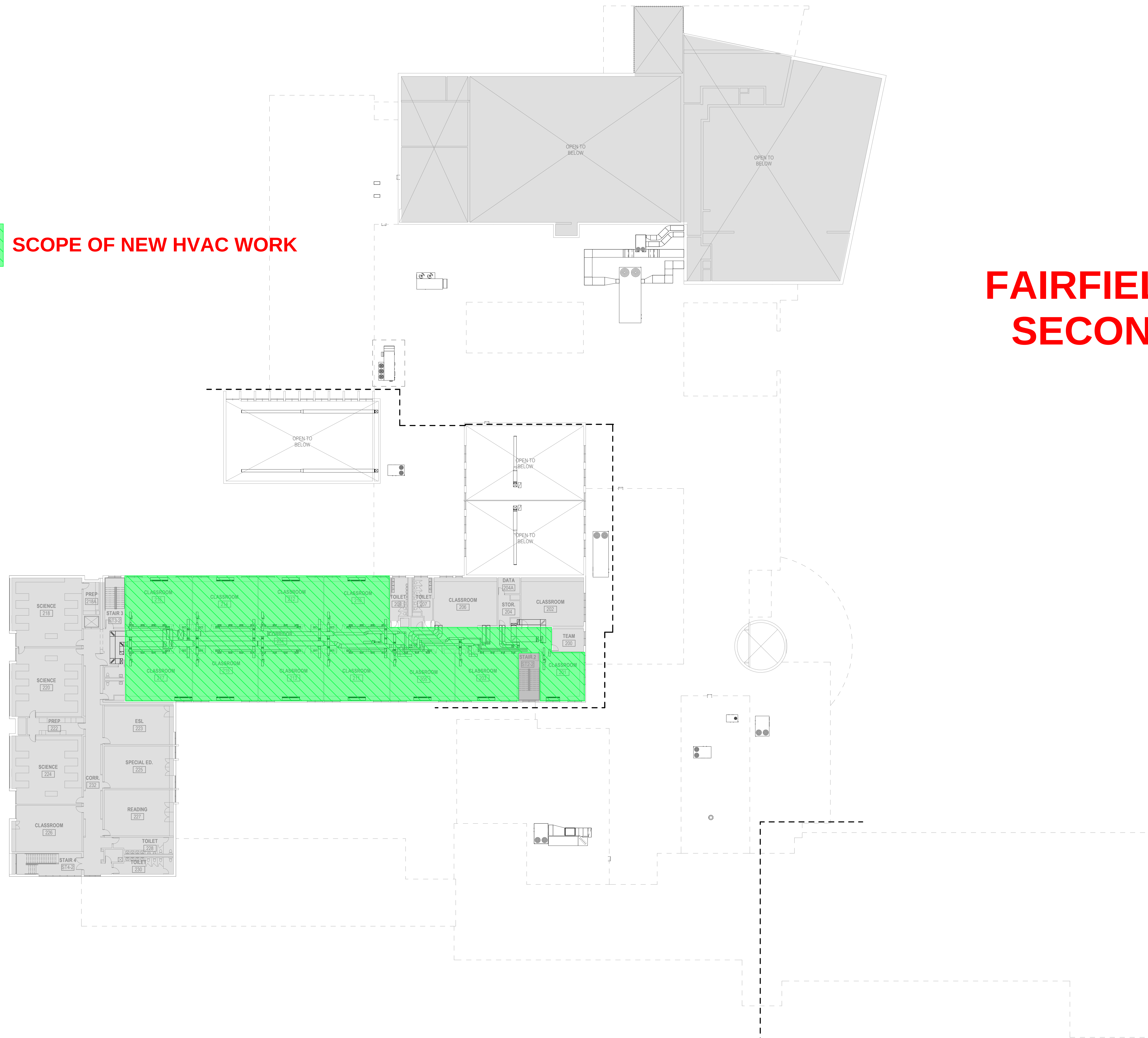
FAIRFIELD WOODS MIDDLE SCHOOL  
1115 FAIRFIELD WOODS ROAD  
FAIRFIELD, CT 06825

| REVISED                                             | NO | DATE | DESCRIPTION |
|-----------------------------------------------------|----|------|-------------|
| Designed:                                           |    |      | PR          |
| Drawn:                                              |    |      | PR          |
| Reviewed:                                           |    |      | 2/18/05     |
| Project No.:                                        |    |      | 230005      |
| Date:                                               |    |      | 4/28/2002   |
| Issued for:                                         |    |      |             |
| PROGRESS                                            |    |      |             |
| Title:                                              |    |      |             |
| OVERALL SECOND FLOOR<br>MECHANICAL DUCTWORK<br>PLAN |    |      |             |
| Drawn by:                                           |    |      |             |

M101.2



## SCOPE OF NEW HVAC WORK



1 OVERALL SECOND FLOOR MECHANICAL DUCTWORK PLAN  
1" = 20'-0"

0 10' 20' 40'

Scale: 1" = 20'-0"

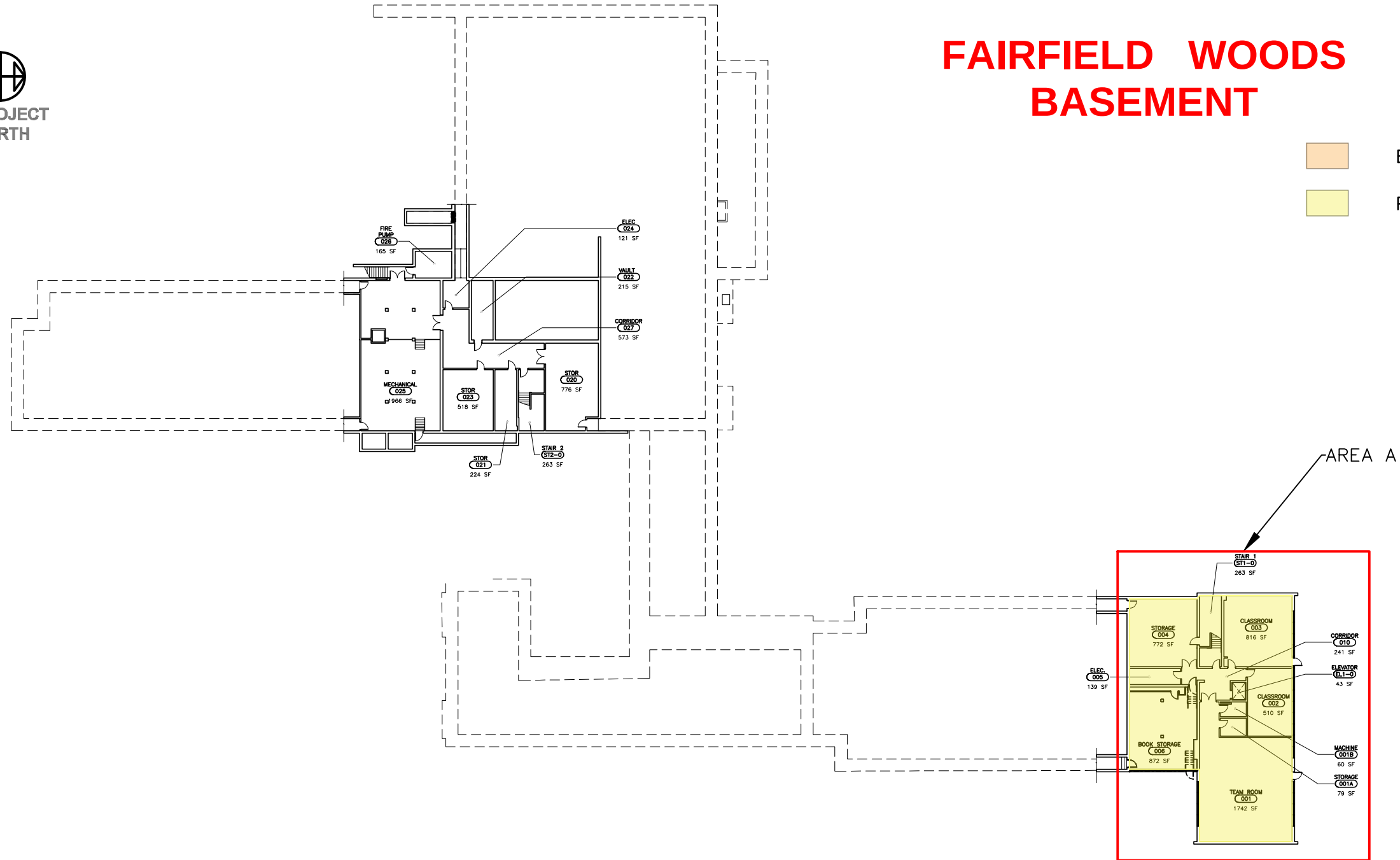


**FAIRFIELD WOODS**  
**SHOWING ADDITIONAL AREAS OF SCOPE**



# FAIRFIELD WOODS BASEMENT

EXISTING A/C  
PROPOSED A/C



650 Central Avenue, Unit 3  
Sarasota, FL 34236  
Ph: 941 554 2035  
Fax: 203 234 7376  
www.teamdtc.com

DTC PROJECT NUMBER: 20-250  
DTC DRAWING FILE: ...Fairfield Woods LY  
SCALE: NTS DRAWN BY: AS  
DATE: 08-20-2021 CHECKED BY: GC

EXISTING BASEMENT PLAN  
FAIRFIELD WOODS

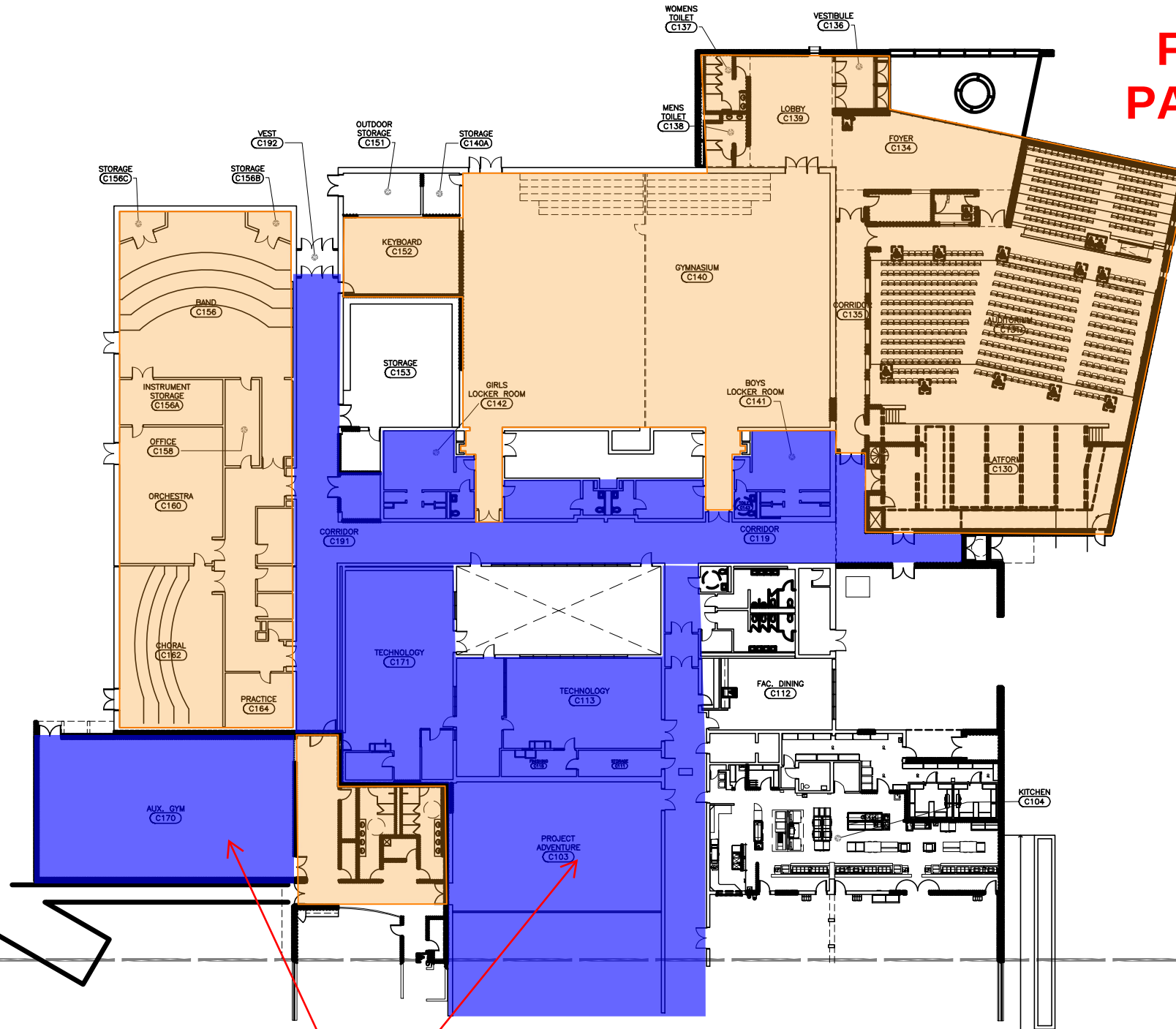
FAIRFIELD  
CONNECTICUT

P:\2020\TOWN OF FAIRFIELD\20\_250 Fairfield Schools Facilities Assessment\Documents\Reports\Bldgs with Partial AC\Woods MS\Appendix A Floorplan\Fairfield Woods LY

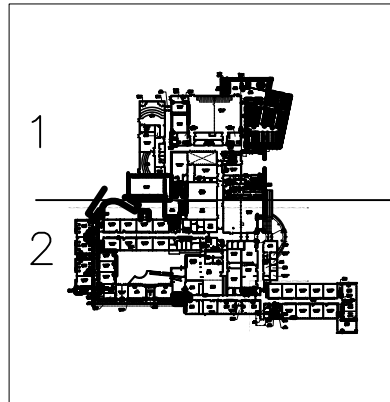


# FAIRFIELD WOODS PARTIAL FIRST FLOOR

EXISTING A/C  
PROPOSED A/C



DTC plans do not show anything for these areas. New AC and ventilation required. Approx 16,300 SF.

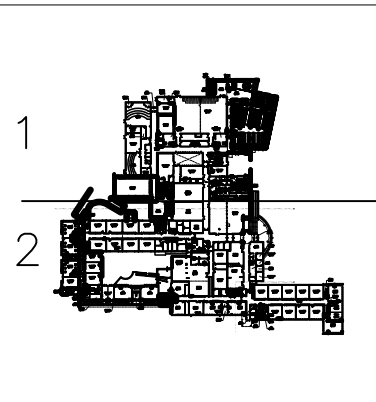
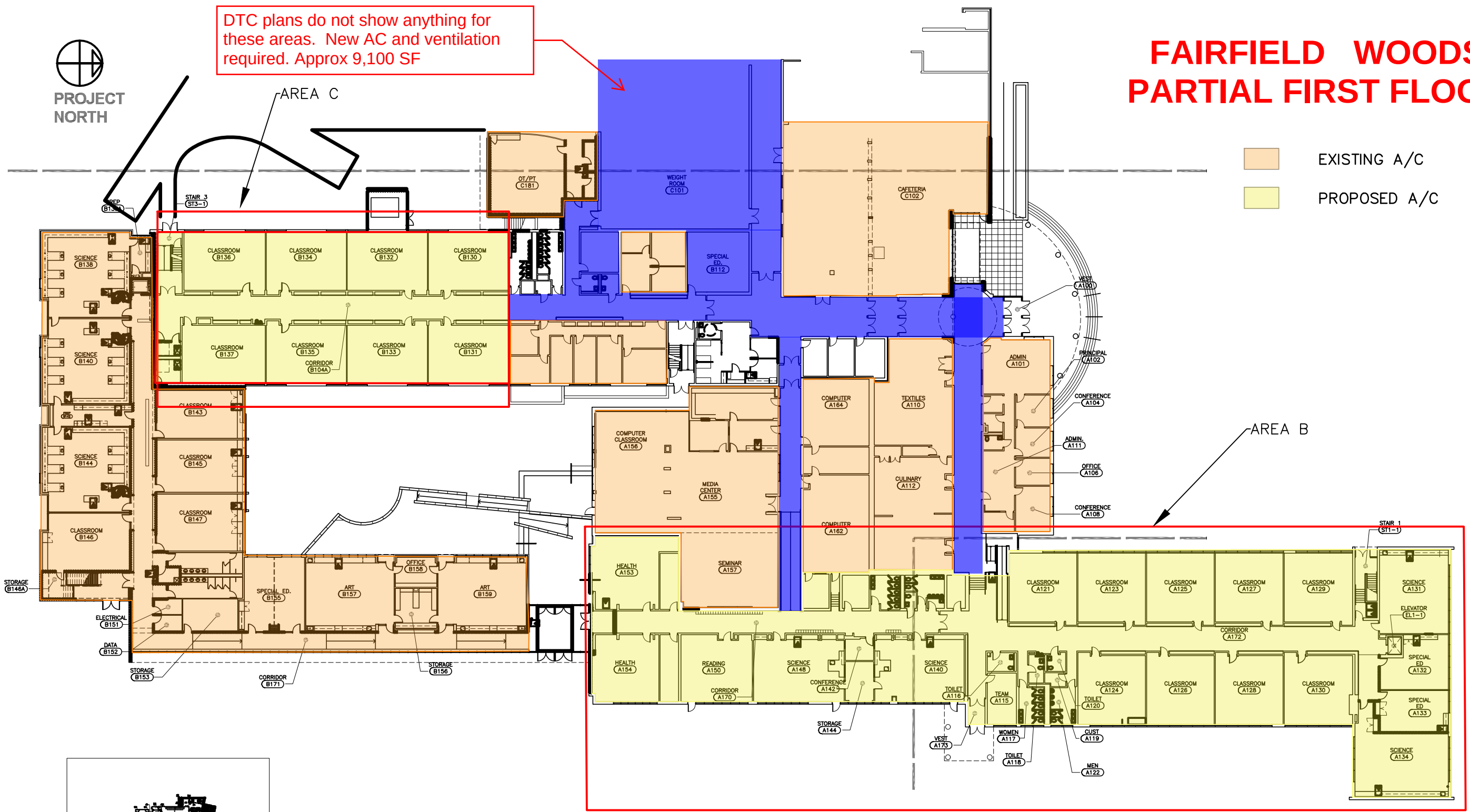


|                                                                                                                                                                                                        |                                                                       |                                                                                                       |                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|--------------------------------|
| <br>650 Central Avenue, Unit 3<br>Sarasota, FL 34236<br>Ph: 941 554 2035<br>Fax: 203 234 7376<br>www.teamdttc.com | DTC PROJECT NUMBER: 20-250<br>DTC DRAWING FILE: ...Fairfield Woods LY | <b>EXISTING FIRST FLOOR PLAN<br/>FAIRFIELD WOODS</b><br><br>SECTION 1<br><br>FAIRFIELD<br>CONNECTICUT |                                |
|                                                                                                                                                                                                        | SCALE: NTS<br>DATE: 08-20-2021                                        |                                                                                                       | DRAWN BY: AS<br>CHECKED BY: GC |
|                                                                                                                                                                                                        |                                                                       |                                                                                                       |                                |
|                                                                                                                                                                                                        |                                                                       |                                                                                                       |                                |

FAIRFIELD WOODS  
PARTIAL FIRST FLOOR

EXISTING A/C  
PROPOSED A/C

DTC plans do not show anything for these areas. New AC and ventilation required. Approx 9,100 SF



650 Central Avenue, Unit 3  
Sarasota, FL 34236  
Ph: 941 554 2035  
Fax: 203 234 7376  
www.teamdct.com

DTC PROJECT NUMBER: 20-250  
DTC DRAWING FILE: ...Fairfield Woods LY  
SCALE: NTS DRAWN BY: AS  
DATE: 08-20-2021 CHECKED BY: GC

EXISTING FIRST FLOOR PLAN  
FAIRFIELD WOODS

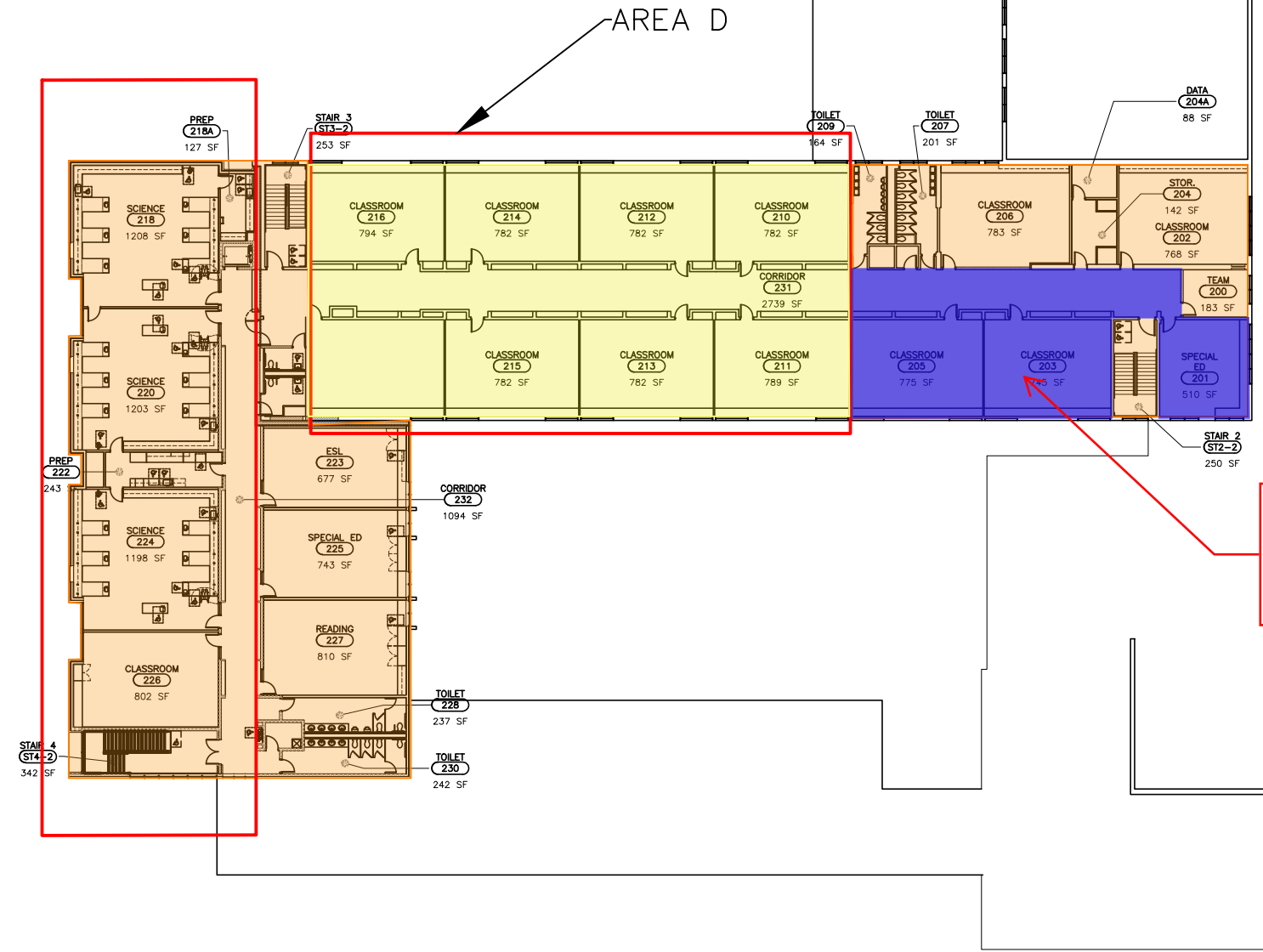
SECTION 2

FAIRFIELD  
CONNECTICUT



# FAIRFIELD WOODS SECOND FLOOR

- EXISTING A/C
- PROPOSED A/C



650 Central Avenue, Unit 3  
Sarasota, FL 34236  
Ph: 941 554 2035  
Fax: 203 234 7376  
www.teamdttc.com

DTC PROJECT NUMBER: 20-250  
DTC DRAWING FILE: ...Fairfield Woods LY  
SCALE: NTS DRAWN BY: AS  
DATE: 08-20-2021 CHECKED BY: GC

## EXISTING SECOND FLOOR PLAN FAIRFIELD WOODS

FAIRFIELD  
CONNECTICUT

# **GILBANE CONSTRUCTION ESTIMATE**



**Fairfield Schools  
HVAC Upgrades**  
CD Estimate  
Revision 1  
Published 10/26/23



October 26, 2023

Town of Fairfield / Colliers  
HVAC Upgrades Projects  
Fairfield, CT

**Dear Colliers & The Town of Fairfield:**

Gilbane Building Company is pleased to provide the enclosed estimate for the Fairfield Public Schools HVAC Upgrades located in Fairfield, CT. This estimate represents the work associated with the CD Documents dated 09/29/23 by BL Companies. Our team is eager and excited for this opportunity, and we look forward to working with the Colliers Team and the Town of Fairfield.

Sincerely,

Michael Parent

**Gilbane Building Company**  
Chief Estimator

# Table of Contents

**Table of Contents**

**Project Cost**

- Summary
- Detail

**Basis of Estimate**

- Qualifications Breakdown

# 1

## Project Cost

**Town of Fairfield**  
**Fairfield Schools HVAC Upgrades**  
**Fairfield, CT**  
**CD Estimate**  
**10/26/2023**  
**R1**



| School Cost Breakdown                                              |  | Quantity   | Unit Cost    | Total Cost          |
|--------------------------------------------------------------------|--|------------|--------------|---------------------|
| OSBORN HILL                                                        |  | 158,321 SF | \$35.96 / SF | \$5,693,273         |
| NORTH STRATFIELD                                                   |  | 158,321 SF | \$46.41 / SF | \$7,348,247         |
| FAIRFIELD WOODS                                                    |  | 158,321 SF | \$73.30 / SF | \$11,605,245        |
| Subtotal Direct Cost                                               |  |            | \$155.68 /SF | \$24,646,764        |
| Indirect Costs                                                     |  | Amount     |              | Total Cost          |
| Design Contingency (7.5%)                                          |  | 7.50%      |              | \$1,848,507         |
| <b>Subtotal 1</b>                                                  |  |            |              | <b>\$26,495,272</b> |
| Escalation (4%)                                                    |  | 4.00%      |              | \$1,059,811         |
| <b>Subtotal 2</b>                                                  |  |            |              | <b>\$27,555,083</b> |
| GL Insurance (.997%)                                               |  | 1.00%      |              | \$327,874           |
| CM P&P Bond (.65%)                                                 |  | 0.65%      |              | \$213,759           |
| Builders Risk - Not Included                                       |  |            |              | \$0                 |
| <b>Subtotal 3 - Insurances</b>                                     |  |            |              | <b>\$28,096,715</b> |
| State Eduction Fee (.026%)                                         |  | 0.03%      |              | \$7,164             |
| CM Contingency (3%)                                                |  | 3.00%      |              | \$986,581           |
| Building Permits - By Owner                                        |  |            |              | \$0                 |
| CM General Conditions                                              |  |            |              | \$2,299,860         |
| Field Office Support                                               |  |            |              | \$699,395           |
| PreConstruction Services                                           |  |            |              | \$105,700           |
| CM Fee (2.1%)                                                      |  | 2.10%      |              | \$690,606           |
| <b>Total Construction Cost</b>                                     |  |            |              | <b>\$32,886,022</b> |
| North Stratfield Roof Replacement                                  |  |            |              | \$3,713,095         |
| <b>Total Construction Cost w/Roof Replacement</b>                  |  |            |              | <b>\$36,599,117</b> |
| Vestibules - Provided Budget                                       |  |            |              | \$2,019,500         |
| <b>Total Construction Cost w/Vestibules &amp; Roof Replacement</b> |  |            |              | <b>\$38,618,617</b> |
| Total Construction Cost                                            |  |            | \$243.93 /SF | \$38,618,617        |

Town of Fairfield  
Fairfield Schools HVAC Upgrades  
Fairfield, CT



CD Estimate  
10/26/2023  
R1

| Masterformat Level 1                                  | Quantity   | Unit Cost    | Total Cost          |
|-------------------------------------------------------|------------|--------------|---------------------|
| 01 SITE SERVICES                                      | 158,321 SF | \$7.77 / SF  | \$1,229,511         |
| 02 EXISTING CONDITIONS                                | 158,321 SF | \$6.32 / SF  | \$1,000,761         |
| 03 CONCRETE                                           | 158,321 SF | \$1.24 / SF  | \$195,741           |
| 04 MASONRY                                            | 158,321 SF | \$1.64 / SF  | \$260,046           |
| 05 METALS                                             | 158,321 SF | \$3.73 / SF  | \$590,452           |
| 06 WOOD, PLASTICS, & COMPOSITES                       | 158,321 SF | \$0.64 / SF  | \$101,161           |
| 07 THERMAL & MOISTURE PROTECTION                      | 158,321 SF | \$3.50 / SF  | \$554,880           |
| 08 OPENINGS                                           | 158,321 SF | \$0.26 / SF  | \$40,500            |
| 09 FINISHES                                           | 158,321 SF | \$13.59 / SF | \$2,151,160         |
| 10 SPECIALTIES                                        | 158,321 SF | \$0.40 / SF  | \$63,050            |
| 11 EQUIPMENT                                          | 158,321 SF | \$0.57 / SF  | \$90,403            |
| 21 FIRE SUPPRESSION                                   | 158,321 SF | \$3.71 / SF  | \$587,774           |
| 22 PLUMBING                                           | 158,321 SF | \$2.19 / SF  | \$346,540           |
| 23 HEATING, VENTILATING, & AIR<br>CONDITIONING (HVAC) | 158,321 SF | \$66.99 / SF | \$10,606,031        |
| 26 ELECTRICAL                                         | 158,321 SF | \$37.09 / SF | \$5,871,836         |
| 27 COMMUNICATIONS                                     | 158,321 SF | \$1.10 / SF  | \$174,153           |
| 28 ELECTRONIC SAFETY & SECURITY                       | 158,321 SF | \$1.86 / SF  | \$294,521           |
| 31 EARTHWORK                                          | 158,321 SF | \$1.04 / SF  | \$165,025           |
| 32 EXTERIOR IMPROVEMENTS                              | 158,321 SF | \$1.05 / SF  | \$165,770           |
| 33 UTILITIES                                          | 158,321 SF | \$0.99 / SF  | \$157,450           |
| Subtotal Direct Cost                                  |            | \$155.68 /SF | \$24,646,764        |
| Indirect Costs                                        | Amount     |              | Total Cost          |
| Design Contingency (7.5%)                             | 7.50%      |              | \$1,848,507         |
| <b>Subtotal 1</b>                                     |            |              | <b>\$26,495,272</b> |
| Escalation (4%)                                       | 4.00%      |              | \$1,059,811         |
| <b>Subtotal 2</b>                                     |            |              | <b>\$27,555,083</b> |
| GL Insurance (.997%)                                  | 1.00%      |              | \$327,874           |
| CM P&P Bond (.65%)                                    | 0.65%      |              | \$213,759           |
| Builders Risk - Not Included                          |            |              | \$0                 |
| <b>Subtotal 3 - Insurances</b>                        |            |              | <b>\$28,096,715</b> |
| State Education Fee (.026%)                           | 0.03%      |              | \$7,164             |
| CM Contingency (3%)                                   | 3.00%      |              | \$986,581           |
| Building Permits - By Owner                           |            |              | \$0                 |

**Town of Fairfield**  
**Fairfield Schools HVAC Upgrades**  
**Fairfield, CT**



**CD Estimate**  
**10/26/2023**

**R1**

|                          |       |             |
|--------------------------|-------|-------------|
| CM General Conditions    |       | \$2,299,860 |
| Field Office Support     |       | \$699,395   |
| PreConstruction Services |       | \$105,700   |
| CM Fee (2.1%)            | 2.10% | \$690,606   |

|                                |                     |
|--------------------------------|---------------------|
| <b>Total Construction Cost</b> | <b>\$32,886,022</b> |
|--------------------------------|---------------------|

|                                   |             |
|-----------------------------------|-------------|
| North Stratfield Roof Replacement | \$3,713,095 |
|-----------------------------------|-------------|

|                                                   |                     |
|---------------------------------------------------|---------------------|
| <b>Total Construction Cost w/Roof Replacement</b> | <b>\$36,599,117</b> |
|---------------------------------------------------|---------------------|

|                              |             |
|------------------------------|-------------|
| Vestibules - Provided Budget | \$2,019,500 |
|------------------------------|-------------|

|                                                                    |                     |
|--------------------------------------------------------------------|---------------------|
| <b>Total Construction Cost w/Vestibules &amp; Roof Replacement</b> | <b>\$38,618,617</b> |
|--------------------------------------------------------------------|---------------------|

|                         |              |              |
|-------------------------|--------------|--------------|
| Total Construction Cost | \$243.93 /SF | \$38,618,617 |
|-------------------------|--------------|--------------|



## 01 SITE SERVICES

| DESCRIPTION                   | QUANTITY          | UNIT COST          | TOTAL COST         |
|-------------------------------|-------------------|--------------------|--------------------|
| <b>01 00 00 Site Services</b> | <b>158,321 SF</b> | <b>\$7.77 / SF</b> | <b>\$1,229,511</b> |
| <b>01 01 00 Site Services</b> |                   | <b>\$7.77 / SF</b> | <b>\$1,229,511</b> |
| Site Services                 | 1.00 ls           | \$377,615.00 /ls   | \$377,615          |
| Site Services                 | 1.00 ls           | \$595,686.00 /ls   | \$595,686          |
| Site Services                 | 1.00 ls           | \$256,210.00 /ls   | \$256,210          |
| <b>Total 01 SITE SERVICES</b> |                   | <b>\$7.77 / SF</b> | <b>\$1,229,511</b> |

**Town of Fairfield**  
**Fairfield Schools HVAC Upgrades**  
**Fairfield, CT**



**CD Estimate**  
**10/26/2023**  
**R1**

## 02 EXISTING CONDITIONS

| DESCRIPTION                                                       | QUANTITY          | UNIT COST          | TOTAL COST         |
|-------------------------------------------------------------------|-------------------|--------------------|--------------------|
| <b>02 40 00 Demolition &amp; Structure Moving</b>                 | <b>158,321 SF</b> | <b>\$4.42 / SF</b> | <b>\$699,951</b>   |
| <b>02 41 00 Demolition</b>                                        |                   | <b>\$4.42 / SF</b> | <b>\$699,951</b>   |
| Interior Demo - Remove Ceiling Grid                               | 21,905 sf         | \$1.00 /sf         | \$21,905           |
| Interior Demo - Remove Ceiling Tile & Grid                        | 52,731 sf         | \$3.00 /sf         | \$158,193          |
| Interior Demo - Remove Ceiling Tile & Grid (Areas Not Called Out) | 24,022 sf         | \$3.00 /sf         | \$72,066           |
| Interior Demo - Remove Existing Metal Deck & Structure            | 2,414 sf          | \$10.00 /sf        | \$24,140           |
| Interior Demo - Remove Exterior Wall at New Electrical Room       | 2.00 ls           | \$10,000.00 /ls    | \$20,000           |
| Interior Demo - Remove Exterior Wall at New Electrical Room       | 1.00 ls           | \$15,000.00 /ls    | \$15,000           |
| Interior Demo - Remove GWB Ceilings                               | 895 sf            | \$7.50 /sf         | \$6,713            |
| Interior Demo - Remove GWB Partitions                             | 93 sf             | \$7.50 /sf         | \$698              |
| Interior Demo - Remove MEPs Dropped By Others                     | 158,321 sf        | \$2.00 /sf         | \$316,642          |
| Interior Demo - Sawcut SOD at MEP Chase Locations                 | 2.00 ea           | \$2,500.00 /ea     | \$5,000            |
| Premium Time Allowance - Fairfield Woods                          | 1.00 allw         | \$29,178.00 /allw  | \$29,178           |
| Premium Time Allowance - North Stratfield                         | 1.00 allw         | \$18,038.00 /allw  | \$18,038           |
| Premium Time Allowance - Osborn                                   | 1.00 allw         | \$12,379.00 /allw  | \$12,379           |
| <b>02 80 00 Facility Remediation</b>                              | <b>158,321 SF</b> | <b>\$1.90 / SF</b> | <b>\$300,810</b>   |
| <b>02 82 00 Asbestos Remediation</b>                              |                   | <b>\$1.90 / SF</b> | <b>\$300,810</b>   |
| Abatement Allowance                                               | 1.00 ls           | \$50,000.00 /ls    | \$50,000           |
| Abatement Allowance                                               | 1.00 ls           | \$100,000.00 /ls   | \$100,000          |
| R&D Asbestos Ceiling, incl suspension system, plaster, lath -allw | 25,135 sf         | \$6.00 /sf         | \$150,810          |
| <b>Total 02 EXISTING CONDITIONS</b>                               |                   | <b>\$6.32 / SF</b> | <b>\$1,000,761</b> |

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03 CONCRETE

| DESCRIPTION                                           | QUANTITY          | UNIT COST          | TOTAL COST       |
|-------------------------------------------------------|-------------------|--------------------|------------------|
| <b>03 30 00 Cast-in-Place Concrete</b>                | <b>158,321 SF</b> | <b>\$1.24 / SF</b> | <b>\$195,741</b> |
| <b>03 31 00 Structural Concrete</b>                   |                   | <b>\$1.24 / SF</b> | <b>\$195,741</b> |
| SOG Complete \$/sf - 5", Reinforcing, Trowel Finish   | 239 sf            | \$15.00 /sf        | \$3,585          |
| Connect to Existing Foundations                       | 2.00 ea           | \$2,500.00 /ea     | \$5,000          |
| Continuous Footings & Frost Wall Complete \$/lf       | 31 lf             | \$500.00 /lf       | \$15,500         |
| Premium Time Allowance - Fairfield Woods              | 1.00 allw         | \$5,707.00 /allw   | \$5,707          |
| Premium Time Allowance - North Stratfield             | 1.00 allw         | \$3,528.00 /allw   | \$3,528          |
| Premium Time Allowance - Osborn                       | 1.00 allw         | \$2,421.00 /allw   | \$2,421          |
| Sawcut SOG and Foundation Wall at New Electrical Room | 2.00 ls           | \$50,000.00 /ls    | \$100,000        |
| SOG - Equipment Pads Complete                         | 3.00 ls           | \$20,000.00 /ls    | \$60,000         |
| <b>Total 03 CONCRETE</b>                              |                   | <b>\$1.24 / SF</b> | <b>\$195,741</b> |

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04 MASONRY

| DESCRIPTION                               | QUANTITY          | UNIT COST          | TOTAL COST       |
|-------------------------------------------|-------------------|--------------------|------------------|
| <b>04 20 00 Unit Masonry</b>              | <b>158,321 SF</b> | <b>\$1.64 / SF</b> | <b>\$260,046</b> |
| <b>04 21 00 Clay Unit Masonry</b>         |                   | <b>\$0.31 / SF</b> | <b>\$49,620</b>  |
| Exterior Brick Veneer                     | 827 sf            | \$60.00 /sf        | \$49,620         |
| <b>04 22 00 Concrete Unit Masonry</b>     |                   | <b>\$1.33 / SF</b> | <b>\$210,426</b> |
| Exterior Condensate Penetrations          | 16 ea             | \$750.00 /ea       | \$12,000         |
| Interior CMU Penetrations                 | 240 ea            | \$500.00 /ea       | \$120,000        |
| Premium Time Allowance - Fairfield Woods  | 1.00 allw         | \$7,582.00 /allw   | \$7,582          |
| Premium Time Allowance - North Stratfield | 1.00 allw         | \$4,687.00 /allw   | \$4,687          |
| Premium Time Allowance - Osborn Hill      | 1.00 allw         | \$3,217.00 /allw   | \$3,217          |
| Wall Type - Interior CMU - 8"             | 735 sf            | \$35.00 /sf        | \$25,725         |
| Exterior Wall Backup Wall CMU             | 210 sf            | \$45.00 /sf        | \$9,450          |
| Exterior Wall CMU (16'-3")                | 617 sf            | \$45.00 /sf        | \$27,765         |
| <b>Total 04 MASONRY</b>                   |                   | <b>\$1.64 / SF</b> | <b>\$260,046</b> |

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**05 METALS**

| DESCRIPTION                                                        | QUANTITY          | UNIT COST          | TOTAL COST       |
|--------------------------------------------------------------------|-------------------|--------------------|------------------|
| <b>05 10 00 Structural Metal Framing</b>                           | <b>158,321 SF</b> | <b>\$1.18 / SF</b> | <b>\$186,762</b> |
| <b>05 12 00 Structural Steel Framing</b>                           |                   | <b>\$1.18 / SF</b> | <b>\$186,762</b> |
| Premium Time Allowance - Fairfield Woods                           | 1.00 allw         | \$17,215.00 /allw  | \$17,215         |
| Premium Time Allowance - North Stratfield                          | 1.00 allw         | \$10,643.00 /allw  | \$10,643         |
| Premium Time Allowance - Osborn Hill                               | 1.00 allw         | \$7,304.00 /allw   | \$7,304          |
| Steel Beams - Roof Framing (Beams)                                 | 6.04 ton          | \$15,000.00 /ton   | \$90,600         |
| Steel Beams - Roof Framing (Misc. Connections/Base Plates/Anchors) | 6.04 ton          | \$2,000.00 /ton    | \$12,080         |
| CFMF Studs at Electrical Room Roof Framing                         | 8.00 ea           | \$1,300.00 /ea     | \$10,400         |
| Steel Supports @ Equipment                                         | 321 lf            | \$120.00 /lf       | \$38,520         |
| <b>05 30 00 Metal Decking</b>                                      | <b>158,321 SF</b> | <b>\$0.20 / SF</b> | <b>\$32,364</b>  |
| <b>05 31 00 Steel Decking</b>                                      |                   | <b>\$0.20 / SF</b> | <b>\$32,364</b>  |
| Metal Decking - Electrical Room Roof                               | 283 sf            | \$12.00 /sf        | \$3,396          |
| Metal Decking - Roof Deck Patching                                 | 1,100 sf          | \$12.00 /sf        | \$13,200         |
| Metal Decking - Roof, Type                                         | 1,314 sf          | \$12.00 /sf        | \$15,768         |
| <b>05 50 00 Metal Fabrications</b>                                 | <b>158,321 SF</b> | <b>\$2.35 / SF</b> | <b>\$371,326</b> |
| <b>05 50 00 Metal Fabrications</b>                                 |                   | <b>\$2.19 / SF</b> | <b>\$347,392</b> |
| Metal Fabrications Interior, Not Shown on Docs (Owner's Allowance) | 158,321 sf        | \$2.00 /sf         | \$316,642        |
| Rooftop Feeder Framed Openings                                     | 3.00 ea           | \$2,000.00 /ea     | \$6,000          |
| Rooftop Pipe Supports                                              | 0.00 lf           |                    | \$0              |
| Support Steel - Lintels                                            | 9.00 ea           | \$2,750.00 /ea     | \$24,750         |
| <b>05 59 00 Metal Specialties</b>                                  |                   | <b>\$0.15 / SF</b> | <b>\$23,934</b>  |
| C.M.U. Stabilizer Clips-Galv. @ Interior Partitions                | 184 lf            | \$130.08 /lf       | \$23,934         |
| <b>Total 05 METALS</b>                                             |                   | <b>\$3.73 / SF</b> | <b>\$590,452</b> |

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06 WOOD, PLASTICS, & COMPOSITES

| DESCRIPTION                                              | QUANTITY          | UNIT COST          | TOTAL COST       |
|----------------------------------------------------------|-------------------|--------------------|------------------|
| <b>06 10 00 Rough Carpentry</b>                          | <b>158,321 SF</b> | <b>\$0.50 / SF</b> | <b>\$79,161</b>  |
| <b>06 10 10 Miscellaneous Rough Carpentry</b>            |                   | <b>\$0.50 / SF</b> | <b>\$79,161</b>  |
| Rough Carpentry Roofing Complete \$/sf                   | 158,321 sf        | \$0.50 /sf         | \$79,161         |
| <b>06 20 00 Finish Carpentry</b>                         | <b>158,321 SF</b> | <b>\$0.14 / SF</b> | <b>\$22,000</b>  |
| <b>06 22 00 Millwork</b>                                 |                   | <b>\$0.14 / SF</b> | <b>\$22,000</b>  |
| Misc. Casework Modifications for Condensate Drain Piping | 44 ea             | \$500.00 /ea       | \$22,000         |
| <b>Total 06 WOOD, PLASTICS, &amp; COMPOSITES</b>         |                   | <b>\$0.64 / SF</b> | <b>\$101,161</b> |

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**07 THERMAL & MOISTURE PROTECTION**

| DESCRIPTION                                               | QUANTITY          | UNIT COST          | TOTAL COST       |
|-----------------------------------------------------------|-------------------|--------------------|------------------|
| <b>07 40 00 Roofing &amp; Siding Panels</b>               | <b>158,321 SF</b> | <b>\$0.25 / SF</b> | <b>\$40,000</b>  |
| <b>07 46 00 Siding</b>                                    |                   | <b>\$0.25 / SF</b> | <b>\$40,000</b>  |
| Patch Siding at Louver Demo Locations                     | 4.00 ea           | \$2,500.00 /ea     | \$10,000         |
| Patch Siding at Louver Demo Locations                     | 4.00 ea           | \$7,500.00 /ea     | \$30,000         |
| <b>07 50 00 Membrane Roofing</b>                          | <b>158,321 SF</b> | <b>\$3.00 / SF</b> | <b>\$475,300</b> |
| <b>07 53 00 Elastomeric Membrane Roofing</b>              |                   | <b>\$3.00 / SF</b> | <b>\$475,300</b> |
| Patch Roof at New Metal Deck Locations                    | 1,916 sf          | \$55.00 /sf        | \$105,380        |
| Temp. Protection at New Steel Locations                   | 2,414 sf          | \$30.00 /sf        | \$72,420         |
| Flashing at New Penetrations                              | 17 ea             | \$1,250.00 /ea     | \$21,250         |
| Roof Patching & Flashing - Assume Not Required            | 0.00 ea           |                    | \$0              |
| Flashing and Roof Patching at Roof Top HVAC Duct Supports | 118 ea            | \$1,250.00 /ea     | \$147,500        |
| Patching at Existing MEP Penetrations                     | 34 ea             | \$1,250.00 /ea     | \$42,500         |
| Patching at MEP Curb Demo Locations                       | 23 ea             | \$2,500.00 /ea     | \$57,500         |
| Patching at MEP Demo Locations                            | 23 ea             | \$1,250.00 /ea     | \$28,750         |
| <b>07 80 00 Fire &amp; Smoke Protection</b>               | <b>158,321 SF</b> | <b>\$0.00 / SF</b> | <b>\$0</b>       |
| <b>07 81 00 Applied Fireproofing</b>                      |                   | <b>\$0.00 / SF</b> | <b>\$0</b>       |
| Fireproofing - Spray Applied - N/A                        | 0.00 sf           |                    | \$0              |
| Fireproofing - Spray Applied - N/A                        | 0.00 sf           |                    | \$0              |
| Fireproofing - Spray Applied - N/A                        | 0.00 sf           |                    | \$0              |
| <b>07 84 00 Firestopping</b>                              |                   | <b>\$0.00 / SF</b> | <b>\$0</b>       |
| Firestopping / Safing @ Building Perimeter                | 0.00 lf           |                    | \$0              |
| Firestopping / Safing @ Building Perimeter                | 0.00 lf           |                    | \$0              |
| <b>07 90 00 Joint Protection</b>                          | <b>158,321 SF</b> | <b>\$0.25 / SF</b> | <b>\$39,580</b>  |
| <b>07 92 00 Joint Sealants</b>                            |                   | <b>\$0.25 / SF</b> | <b>\$39,580</b>  |
| Interior Sealants Complete                                | 158,321 sf        | \$0.25 /sf         | \$39,580         |
| <b>Total 07 THERMAL &amp; MOISTURE PROTECTION</b>         |                   | <b>\$3.50 / SF</b> | <b>\$554,880</b> |

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08 OPENINGS

| DESCRIPTION                                     | QUANTITY          | UNIT COST          | TOTAL COST      |
|-------------------------------------------------|-------------------|--------------------|-----------------|
| <b>08 10 00 Doors &amp; Frames</b>              | <b>158,321 SF</b> | <b>\$0.26 / SF</b> | <b>\$40,500</b> |
| <b>08 11 00 Metal Doors &amp; Frames</b>        |                   | <b>\$0.26 / SF</b> | <b>\$40,500</b> |
| HM DR & Frame - Exterior - Double - Flush Rated | 1.00 ea           | \$9,500.00 /ea     | \$9,500         |
| HM DR & Frame - Exterior - Single - Flush Rated | 3.00 ea           | \$5,500.00 /ea     | \$16,500        |
| HM DR & Frame - Interior - Single - Flush       | 2.00 ea           | \$4,500.00 /ea     | \$9,000         |
| HM DR & Frame - Interior - Single - Flush Rated | 1.00 ea           | \$5,500.00 /ea     | \$5,500         |
| <b>Total 08 OPENINGS</b>                        |                   | <b>\$0.26 / SF</b> | <b>\$40,500</b> |



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**09 FINISHES**

| DESCRIPTION                                           | QUANTITY          | UNIT COST           | TOTAL COST         |
|-------------------------------------------------------|-------------------|---------------------|--------------------|
| <b>09 20 00 Plaster &amp; Gypsum Board</b>            | <b>158,321 SF</b> | <b>\$4.68 / SF</b>  | <b>\$740,205</b>   |
| <b>09 21 00 Plaster &amp; Gypsum Board Assemblies</b> |                   | <b>\$4.68 / SF</b>  | <b>\$740,205</b>   |
| Ceiling - Soffits Not Yet Shown                       | 158,321 sf        | \$3.00 /sf          | \$474,963          |
| Premium Time Allowance - Fairfield Woods              | 1.00 allw         | \$62,719.00 /allw   | \$62,719           |
| Premium Time Allowance - North Stratfield             | 1.00 allw         | \$38,773.00 /allw   | \$38,773           |
| Premium Time Allowance - Osborn Hill                  | 1.00 allw         | \$26,609.00 /allw   | \$26,609           |
| Ceiling - GWB - Locker Rooms (Not Noted On DWGs)      | 726 sf            | \$20.00 /sf         | \$14,520           |
| Ceiling - GWB - Type C-1a                             | 895 sf            | \$20.00 /sf         | \$17,900           |
| Ceiling - Soffit                                      | 143.00 lf         |                     | \$19,410           |
| Ceiling - Soffit                                      | 41 lf             | \$150.00 /lf        | \$6,150            |
| Miscellaneous GWB Patching                            | 158,321 sf        | \$0.50 /sf          | \$79,161           |
| <b>09 50 00 Ceilings</b>                              | <b>158,321 SF</b> | <b>\$6.31 / SF</b>  | <b>\$999,562</b>   |
| <b>09 51 00 Acoustical Ceilings</b>                   |                   | <b>\$6.31 / SF</b>  | <b>\$999,562</b>   |
| Ceiling Tile - Classroom Ceilings 24" x 24"           | 23,296 sf         | \$10.00 /sf         | \$232,960          |
| Ceiling Tile - Plain - 2 x 2 - Tile & Grid            | 55,377 sf         | \$10.00 /sf         | \$553,770          |
| Ceiling Tile - Type C-2 - 24" x 24"                   | 107 sf            | \$10.00 /sf         | \$1,070            |
| Ceiling Tile - Type C-3 - 24" x 48"                   | 19,152 sf         | \$8.00 /sf          | \$153,216          |
| Ceiling Tile - Plain - 2 x 2 - Tile Only              | 3,677 sf          | \$6.50 /sf          | \$23,901           |
| Remove and Replace Media Center Ceilings              | 2,665 sf          | \$13.00 /sf         | \$34,645           |
| <b>09 60 00 Flooring</b>                              | <b>158,321 SF</b> | <b>\$1.59 / SF</b>  | <b>\$251,597</b>   |
| <b>09 64 00 Wood Flooring</b>                         |                   | <b>\$1.59 / SF</b>  | <b>\$251,597</b>   |
| Floor Protection at All Hallways / Classrooms         | 158,321 sf        | \$1.50 /sf          | \$237,482          |
| Floor Protection at Cafetorium & Stage                | 2,823 sf          | \$5.00 /sf          | \$14,115           |
| <b>09 90 00 Painting &amp; Coating</b>                | <b>158,321 SF</b> | <b>\$1.01 / SF</b>  | <b>\$159,797</b>   |
| <b>09 91 00 Painting</b>                              |                   | <b>\$1.01 / SF</b>  | <b>\$159,797</b>   |
| Interior Paint - GWB Soffits                          | 184.00 lf         |                     | \$1,472            |
| Interior Paint - Touch-Ups Only                       | 158,321 sf        | \$1.00 /sf          | \$158,325          |
| <b>Total 09 FINISHES</b>                              |                   | <b>\$13.59 / SF</b> | <b>\$2,151,160</b> |

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10 SPECIALTIES

| DESCRIPTION                                             | QUANTITY          | UNIT COST          | TOTAL COST      |
|---------------------------------------------------------|-------------------|--------------------|-----------------|
| <b>10 10 00 Information Specialties</b>                 | <b>158,321 SF</b> | <b>\$0.01 / SF</b> | <b>\$1,050</b>  |
| <b>10 14 00 Signage</b>                                 |                   | <b>\$0.01 / SF</b> | <b>\$1,050</b>  |
| Electrical Room Signage                                 | 3.00 ls           | \$350.00 /ls       | \$1,050         |
| <b>10 20 00 Interior Specialties</b>                    | <b>158,321 SF</b> | <b>\$0.39 / SF</b> | <b>\$62,000</b> |
| <b>10 28 00 Toilet, Bath, &amp; Laundry Accessories</b> |                   | <b>\$0.39 / SF</b> | <b>\$62,000</b> |
| Remove and Replace Toilet Room Partitions & Accessories | 4.00 ea           | \$15,500.00 /ea    | \$62,000        |
| <b>Total 10 SPECIALTIES</b>                             |                   | <b>\$0.40 / SF</b> | <b>\$63,050</b> |

## 11 EQUIPMENT

| DESCRIPTION                                               | QUANTITY          | UNIT COST          | TOTAL COST      |
|-----------------------------------------------------------|-------------------|--------------------|-----------------|
| <b>11 60 00 Entertainment &amp; Recreation Equipment</b>  | <b>158,321 SF</b> | <b>\$0.57 / SF</b> | <b>\$90,403</b> |
| <b>11 61 00 Broadcast, Theater, &amp; Stage Equipment</b> |                   | <b>\$0.57 / SF</b> | <b>\$90,403</b> |
| Ceiling Equipment Relocation Allowance                    | 80,806 sf         | \$0.50 /sf         | \$40,403        |
| Ceiling Equipment Relocation Allowance (Owner Allowance)  | 1.00 ls           | \$50,000.00 /ls    | \$50,000        |
| <b>Total 11 EQUIPMENT</b>                                 |                   | <b>\$0.57 / SF</b> | <b>\$90,403</b> |

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## 21 FIRE SUPPRESSION

| DESCRIPTION                                                     | QUANTITY          | UNIT COST          | TOTAL COST       |
|-----------------------------------------------------------------|-------------------|--------------------|------------------|
| <b>D4010 Sprinklers</b>                                         | <b>158,321 SF</b> | <b>\$3.52 / SF</b> | <b>\$556,524</b> |
| <b>D4011 Wet Sprinkler System</b>                               |                   | <b>\$3.52 / SF</b> | <b>\$556,524</b> |
| Sprinkler - Turn Heads Upright, Turn Back Down                  | 158,321 sf        | \$3.50 /sf         | \$554,124        |
| Wet System at New Electrical Room 2 - Heads                     | 2.00 ea           | \$1,200.00 /ea     | \$2,400          |
| <b>D4090 Other Fire Protection Systems</b>                      | <b>158,321 SF</b> | <b>\$0.20 / SF</b> | <b>\$31,250</b>  |
| <b>D4096 Fire Protection Misc Items</b>                         |                   | <b>\$0.20 / SF</b> | <b>\$31,250</b>  |
| Relocations Allowance                                           | 1.00 allw         | \$4,904.00 /allw   | \$4,904          |
| Relocations Allowance                                           | 1.00 allw         | \$8,144.00 /allw   | \$8,144          |
| Relocations Allowance                                           | 1.00 allw         | \$11,952.00 /allw  | \$11,952         |
| Hours for Premium Time to Accelerate Sprinkler Work as Directed | 1.00 allw         | \$1,226.00 /allw   | \$1,226          |
| Hours for Premium Time to Accelerate Sprinkler Work as Directed | 1.00 allw         | \$2,036.00 /allw   | \$2,036          |
| Hours for Premium Time to Accelerate Sprinkler Work as Directed | 1.00 allw         | \$2,988.00 /allw   | \$2,988          |
| <b>Total 21 FIRE SUPPRESSION</b>                                |                   | <b>\$3.71 / SF</b> | <b>\$587,774</b> |

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## 22 PLUMBING

| DESCRIPTION                                                    | QUANTITY          | UNIT COST          | TOTAL COST       |
|----------------------------------------------------------------|-------------------|--------------------|------------------|
| <b>D2020 Sanitary Drainage</b>                                 | <b>158,321 SF</b> | <b>\$0.33 / SF</b> | <b>\$52,900</b>  |
| <b>D2026 Sanitary Drain Piping - AG</b>                        |                   | <b>\$0.33 / SF</b> | <b>\$52,900</b>  |
| Floor Drain & Sanitary Tie-In for New Electrical Room          | 1.00 ea           | \$5,000.00 /ea     | \$5,000          |
| Relocate Roof Vents                                            | 6.00 ea           | \$650.00 /ea       | \$3,900          |
| Sink Modifications                                             | 44 ea             | \$1,000.00 /ea     | \$44,000         |
| <b>D2070 Rain Water Drainage</b>                               | <b>158,321 SF</b> | <b>\$0.02 / SF</b> | <b>\$3,500</b>   |
| <b>D2072 Storm Drain Piping - AG</b>                           |                   | <b>\$0.02 / SF</b> | <b>\$3,500</b>   |
| Roof Drian and Storm Drain Allowance                           | 1.00 allw         | \$3,500.00 /allw   | \$3,500          |
| <b>D2080 Other Plumbing Systems</b>                            | <b>158,321 SF</b> | <b>\$1.21 / SF</b> | <b>\$191,070</b> |
| <b>D2080 Natural Gas Piping</b>                                |                   | <b>\$1.21 / SF</b> | <b>\$191,070</b> |
| 1-1/2"                                                         | 170 lf            | \$46.00 /lf        | \$7,820          |
| 2"                                                             | 1,120 lf          | \$55.00 /lf        | \$61,600         |
| 2-1/2"                                                         | 265 lf            | \$80.00 /lf        | \$21,200         |
| 3"                                                             | 485 lf            | \$100.00 /lf       | \$48,500         |
| 4"                                                             | 150 lf            | \$125.00 /lf       | \$18,750         |
| PRVs, Tie-Ins & Fittings at Service                            | 1.00 ls           | \$4,500.00 /ls     | \$4,500          |
| PRVs, Tie-Ins & Fittings at Service                            | 1.00 ls           | \$5,000.00 /ls     | \$5,000          |
| PRVs, Tie-Ins & Fittings at Service                            | 1.00 ls           | \$7,500.00 /ls     | \$7,500          |
| RTU/DOAS Connections                                           | 14.00 ea          | \$1,000.00 /ea     | \$14,000         |
| Vent Piping                                                    | 40 lf             | \$55.00 /lf        | \$2,200          |
| <b>D2090 Misc. Plumbing Systems</b>                            | <b>158,321 SF</b> | <b>\$0.63 / SF</b> | <b>\$99,070</b>  |
| <b>D2090 Plumbing Misc Items</b>                               |                   | <b>\$0.63 / SF</b> | <b>\$99,070</b>  |
| Relocations Allowance                                          | 1.00 allw         | \$4,904.00 /allw   | \$4,904          |
| Relocations Allowance                                          | 1.00 allw         | \$8,144.00 /allw   | \$8,144          |
| Relocations Allowance                                          | 1.00 allw         | \$11,952.00 /allw  | \$11,952         |
| Hours for Temporary Work                                       | 1.00 allw         | \$3,139.00 /allw   | \$3,139          |
| Hours for Temporary Work                                       | 1.00 allw         | \$5,212.00 /allw   | \$5,212          |
| Hours for Temporary Work                                       | 1.00 allw         | \$7,649.00 /allw   | \$7,649          |
| Hours for Premium Time to Accelerate Plumbing Work as Directed | 1.00 allw         | \$1,717.00 /allw   | \$1,717          |
| Hours for Premium Time to Accelerate Plumbing Work as Directed | 1.00 allw         | \$2,850.00 /allw   | \$2,850          |
| Hours for Premium Time to Accelerate Plumbing Work as Directed | 1.00 allw         | \$4,183.00 /allw   | \$4,183          |
| Coring for Relocated Roof Vents                                | 288 ea            | \$15.00 /ea        | \$4,320          |
| Management, Mobilization, Coordination, Startup, Testing       | 1.00 ls           | \$10,000.00 /ls    | \$10,000         |
| Management, Mobilization, Coordination, Startup, Testing       | 1.00 ls           | \$15,000.00 /ls    | \$15,000         |
| Management, Mobilization, Coordination, Startup, Testing       | 1.00 ls           | \$20,000.00 /ls    | \$20,000         |
| <b>Total 22 PLUMBING</b>                                       |                   | <b>\$2.19 / SF</b> | <b>\$346,540</b> |

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**23 HEATING, VENTILATING, & AIR CONDITIONING (HVAC)**

| DESCRIPTION                                                      | QUANTITY          | UNIT COST           | TOTAL COST         |
|------------------------------------------------------------------|-------------------|---------------------|--------------------|
| <b>D3020 Heat Generating Systems</b>                             | <b>158,321 SF</b> | <b>\$2.13 / SF</b>  | <b>\$336,450</b>   |
| <b>D3022 Heating Water Piping</b>                                |                   | <b>\$2.13 / SF</b>  | <b>\$336,450</b>   |
| Control Valves - Install Only                                    | 135 ea            | \$450.00 /ea        | \$60,750           |
| New Branch UV Isolation Valves                                   | 6.00 ea           | \$350.00 /ea        | \$2,100            |
| Piping Replacement Allowance at New Control Valves (30' Per VLV) | 4,140 lf          | \$65.00 /lf         | \$269,100          |
| UV Hookup Assemblies                                             | 3.00 ea           | \$1,500.00 /ea      | \$4,500            |
| <b>D3040 HVAC Major Equipment</b>                                | <b>158,321 SF</b> | <b>\$23.71 / SF</b> | <b>\$3,753,051</b> |
| <b>D3040 HVAC Major Equipment</b>                                |                   | <b>\$23.71 / SF</b> | <b>\$3,753,051</b> |
| Condensate Pump                                                  | 1.00 ea           | \$1,000.00 /ea      | \$1,000            |
| Unit Ventilators                                                 | 3.00 ea           | \$3,750.00 /ea      | \$11,250           |
| Air Handling Unit Package (Trane)                                | 1.00 ls           | \$332,330.00 /ls    | \$332,330          |
| Air Handling Unit Package (Trane)                                | 1.00 ls           | \$662,140.00 /ls    | \$662,140          |
| Air Handling Unit Package (Trane)                                | 1.00 ls           | \$1,021,050.00 /ls  | \$1,021,050        |
| Energy Recovery Ventilator - Quoted                              | 1.00 ls           | \$22,051.00 /ls     | \$22,051           |
| 2 Module Condensing Unit Allowance                               | 1.00 allw         | \$20,000.00 /allw   | \$20,000           |
| Kitchen AC Equipment Allowance                                   | 1.00 ls           | \$20,000.00 /ls     | \$20,000           |
| VRF System - LG - Quoted                                         | 1.00 ls           | \$328,490.00 /ls    | \$328,490          |
| VRF System - LG - Quoted                                         | 1.00 ls           | \$482,150.00 /ls    | \$482,150          |
| VRF System - LG - Quoted                                         | 1.00 ls           | \$806,260.00 /ls    | \$806,260          |
| Split AC System                                                  | 2.00 ls           | \$8,930.00 /ls      | \$17,860           |
| Split AC System                                                  | 1.00 ls           | \$28,470.00 /ls     | \$28,470           |
| <b>D3050 Facility HVAC Distribution Systems</b>                  | <b>158,321 SF</b> | <b>\$15.16 / SF</b> | <b>\$2,399,436</b> |
| <b>D3053 HVAC Air Distribution</b>                               |                   | <b>\$15.16 / SF</b> | <b>\$2,399,436</b> |
| Board Insulation w/ Al. Jacket & Ventureclad                     | 11,512 sf         | \$27.00 /sf         | \$310,824          |
| Blanket Insulation                                               | 32,682 sf         | \$5.50 /sf          | \$179,751          |
| Lining                                                           | 10,576 sf         | \$5.00 /sf          | \$52,880           |
| Reinsulate Media Center Ductwork                                 | 1.00 allw         | \$10,000.00 /allw   | \$10,000           |
| Ductwork - Flat Oval                                             | 4,999 lb          | \$26.00 /lb         | \$129,974          |
| Ductwork - Galvanized                                            | 58,756 lb         | \$16.00 /lb         | \$940,096          |
| Ductwork - Round                                                 | 1,850 lb          | \$20.00 /lb         | \$37,000           |
| Roof Duct Supports                                               | 199 ea            | \$500.00 /ea        | \$99,500           |
| Air-Handler Sound Attenuators                                    | 38.00 ea          | \$1,200.00 /ea      | \$45,600           |
| Duct-Smoke Detectors - Install Only                              | 28.00 ea          | \$200.00 /ea        | \$5,600            |
| Exhaust Fans EF-53/54                                            | 1.00 ls           | \$11,000.00 /ls     | \$11,000           |
| VAV Boxes w/ Sound Attenuators                                   | 127 ea            | \$1,350.00 /ea      | \$171,450          |
| Volume Damper & Accessory Balance                                | 158,321 sf        | \$0.50 /sf          | \$79,161           |
| Connection to Existing Louvers                                   | 75 lb             | \$25.00 /lb         | \$1,875            |
| Diffusers 12x12                                                  | 32 ea             | \$275.00 /ea        | \$8,800            |
| Diffusers 24x24                                                  | 245 ea            | \$400.00 /ea        | \$98,000           |
| Drip Pan                                                         | 10 lb             | \$25.00 /lb         | \$250              |

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| DESCRIPTION                                          | QUANTITY          | UNIT COST           | TOTAL COST         |
|------------------------------------------------------|-------------------|---------------------|--------------------|
| Fire Dampers                                         | 7.00 ea           | \$1,500.00 /ea      | \$10,500           |
| Flex Connectors                                      | 13 ea             | \$500.00 /ea        | \$6,500            |
| GIH Tie-Ins                                          | 75 lb             | \$25.00 /lb         | \$1,875            |
| Motorized Dampers                                    | 3.00 ea           | \$2,000.00 /ea      | \$6,000            |
| Sidewall Grilles                                     | 74 ea             | \$200.00 /ea        | \$14,800           |
| Wire Mesh Screens                                    | 2.00 ea           | \$200.00 /ea        | \$400              |
| Ductwork Cleaning - New Duct Only                    | 69,400 cfm        | \$1.50 /cfm         | \$104,100          |
| Roof Opening Weatherproof Enclosures                 | 49 ea             | \$1,500.00 /ea      | \$73,500           |
| <b>D3060 Controls &amp; Instrumentation</b>          | <b>158,321 SF</b> | <b>\$11.02 / SF</b> | <b>\$1,745,125</b> |
| <b>D3061 Automatic Temperature Controls</b>          |                   | <b>\$11.02 / SF</b> | <b>\$1,745,125</b> |
| Controls System Upgrades - Quoted - ABS/Alerton      | 1.00 ls           | \$433,780.00 /ls    | \$433,780          |
| Controls System Upgrades - Quoted - ABS/Alerton      | 1.00 ls           | \$557,175.00 /ls    | \$557,175          |
| Controls System Upgrades - Quoted - ABS/Alerton      | 1.00 ls           | \$754,170.00 /ls    | \$754,170          |
| <b>D3070 Special Purpose HVAC Systems</b>            | <b>158,321 SF</b> | <b>\$8.88 / SF</b>  | <b>\$1,405,486</b> |
| <b>D3075 Refrigerant Piping</b>                      |                   | <b>\$6.33 / SF</b>  | <b>\$1,001,504</b> |
| From Branch Controller to ACCUs - Copper Type ACR    | 5,028 lf          | \$58.00 /lf         | \$291,624          |
| Branch Box Connections                               | 41 ea             | \$2,500.00 /ea      | \$102,500          |
| Fan-Coil Connections                                 | 247 ea            | \$500.00 /ea        | \$123,500          |
| Heat Pump & Condenser Connections                    | 31.00 ea          | \$1,000.00 /ea      | \$31,000           |
| From AHU-1 to HP-1 - Tubing Kit / Lineset            | 1.00 ls           | \$4,000.00 /ls      | \$4,000            |
| From FCU to ACCU - Split Unit - Tubing Kit / Lineset | 575 lf            | \$40.00 /lf         | \$23,000           |
| From FCU to Branch Controller - Tubing Kit / Lineset | 10,647 lf         | \$40.00 /lf         | \$425,880          |
| <b>D3076 Condensate Drain Piping</b>                 |                   | <b>\$2.55 / SF</b>  | <b>\$403,982</b>   |
| 1" - PVC                                             | 5,270 lf          | \$48.00 /lf         | \$252,960          |
| 1-1/4" - PVC                                         | 1,336 lf          | \$52.00 /lf         | \$69,472           |
| AHU Connections & Run-Outs                           | 15.00 ea          | \$1,000.00 /ea      | \$15,000           |
| Fan-Coil Connections                                 | 247 ea            | \$250.00 /ea        | \$61,750           |
| Splash Blocks w/ 45 Degree Elbow                     | 16 ea             | \$300.00 /ea        | \$4,800            |
| <b>D3090 Other HVAC Systems &amp; Equip</b>          | <b>158,321 SF</b> | <b>\$6.10 / SF</b>  | <b>\$966,483</b>   |
| <b>D3091 HVAC Misc Items</b>                         |                   | <b>\$6.10 / SF</b>  | <b>\$966,483</b>   |
| Balancing - New Ductwork Only                        | 1.00 ls           | \$7,500.00 /ls      | \$7,500            |
| Balancing - New Ductwork Only                        | 1.00 ls           | \$12,094.00 /ls     | \$12,094           |
| Balancing - New Ductwork Only                        | 1.00 ls           | \$33,300.00 /ls     | \$33,300           |
| Management, Mobilization, Rigging, Startup, Testing  | 1.00 ls           | \$100,000.00 /ls    | \$100,000          |
| Management, Mobilization, Rigging, Startup, Testing  | 1.00 ls           | \$150,000.00 /ls    | \$150,000          |
| Management, Mobilization, Rigging, Startup, Testing  | 1.00 ls           | \$225,000.00 /ls    | \$225,000          |
| Coordination                                         | 2.00 ls           | \$10,400.00 /ls     | \$20,800           |
| Coordination                                         | 1.00 ls           | \$15,600.00 /ls     | \$15,600           |
| Relocations Allowance                                | 1.00 allw         | \$9,809.00 /allw    | \$9,809            |
| Relocations Allowance                                | 1.00 allw         | \$16,288.00 /allw   | \$16,288           |
| Relocations Allowance                                | 1.00 allw         | \$23,903.00 /allw   | \$23,903           |

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**23 HEATING, VENTILATING, & AIR CONDITIONING (HVAC)**

| DESCRIPTION                                                         | QUANTITY  | UNIT COST           | TOTAL COST          |
|---------------------------------------------------------------------|-----------|---------------------|---------------------|
| Hours for Temporary Work                                            | 1.00 allw | \$3,767.00 /allw    | \$3,767             |
| Hours for Temporary Work                                            | 1.00 allw | \$6,255.00 /allw    | \$6,255             |
| Hours for Temporary Work                                            | 1.00 allw | \$9,179.00 /allw    | \$9,179             |
| Demolish - Coring For Ref. & Condensate                             | 4,968 ea  | \$15.00 /ea         | \$74,520            |
| Demolish AHUs in Ceiling                                            | 10 ea     | \$220.00 /ea        | \$2,200             |
| Demolish Ductwork (Cut, Cap, Drop)                                  | 2,458 lf  | \$22.00 /lf         | \$54,076            |
| Demolish Ductwork (Cut, Cap, Drop)                                  | 1,030 lf  | \$32.50 /lf         | \$33,475            |
| Demolish Exhaust Fans                                               | 8.00 ea   | \$220.00 /ea        | \$1,760             |
| Demolish Exhaust Fans & Gravity Ventilators                         | 35 ea     | \$220.00 /ea        | \$7,700             |
| Demolish Hot Water Piping (Cut, Cap, Drop)                          | 120 lf    | \$24.00 /lf         | \$2,880             |
| Demolish Hot Water Piping (Cut, Cap, Drop)                          | 241 lf    | \$60.00 /lf         | \$14,460            |
| Demolish Louvers & H&V Unit                                         | 9.00 ea   | \$660.00 /ea        | \$5,940             |
| Demolish Pneumatic Valves & Pipe                                    | 66 ea     | \$650.00 /ea        | \$42,900            |
| Demolish Pneumatic Valves & Pipe                                    | 69 ea     | \$673.00 /ea        | \$46,437            |
| Demolish RTU                                                        | 1.00 ea   | \$880.00 /ea        | \$880               |
| Demolish Split Units                                                | 17 ea     | \$370.00 /ea        | \$6,290             |
| Demolish Unit Ventilators                                           | 4.00 ea   | \$440.00 /ea        | \$1,760             |
| Demolish VRF Equipment                                              | 64 ea     | \$295.00 /ea        | \$18,880            |
| Demolish VRF Equipment                                              | 10 ea     | \$370.00 /ea        | \$3,700             |
| Hours for Premium Time to Accelerate HVAC Work                      | 1.00 allw | \$2,403.00 /allw    | \$2,403             |
| Hours for Premium Time to Accelerate HVAC Work                      | 1.00 allw | \$3,991.00 /allw    | \$3,991             |
| Hours for Premium Time to Accelerate HVAC Work                      | 1.00 allw | \$5,856.00 /allw    | \$5,856             |
| Rebalance Exhaust Fan & Cap Duct                                    | 1.00 ea   | \$1,500.00 /ea      | \$1,500             |
| Relocate Exhaust Fan                                                | 1.00 ea   | \$1,380.00 /ea      | \$1,380             |
| <b>Total 23 HEATING, VENTILATING, &amp; AIR CONDITIONING (HVAC)</b> |           | <b>\$66.99 / SF</b> | <b>\$10,606,031</b> |



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| DESCRIPTION                                                  | QUANTITY          | UNIT COST           | TOTAL COST         |
|--------------------------------------------------------------|-------------------|---------------------|--------------------|
| <b>D5020 Electrical Service &amp; Distribution</b>           | <b>158,321 SF</b> | <b>\$20.92 / SF</b> | <b>\$3,311,568</b> |
| <b>D5023 Large Power &amp; Distribution</b>                  |                   | <b>\$4.42 / SF</b>  | <b>\$699,748</b>   |
| Disconnect Switch- Install Only                              | 1.00 ea           | \$1,500.00 /ea      | \$1,500            |
| Meter Can                                                    | 3.00 ea           | \$1,500.00 /ea      | \$4,500            |
| Transformers - Install Only                                  | 4.00 ea           | \$1,760.00 /ea      | \$7,040            |
| Panelboards - Install Only                                   | 9.00 ea           | \$2,248.89 /ea      | \$20,240           |
| Panelboards - Install Only                                   | 4.00 ea           | \$2,420.00 /ea      | \$9,680            |
| Panelboards - Install Only                                   | 2.00 ea           | \$2,640.00 /ea      | \$5,280            |
| 1200A MDP2 - Install Only                                    | 1.00 ea           | \$3,520.00 /ea      | \$3,520            |
| 1600A MDP1 - Install Only                                    | 1.00 ea           | \$4,400.00 /ea      | \$4,400            |
| 2000A MDP2 - Install Only                                    | 1.00 ea           | \$5,720.00 /ea      | \$5,720            |
| Gear Package - Quoted - Eaton                                | 1.00 ls           | \$180,027.00 /ls    | \$180,027          |
| Gear Package - Quoted - Eaton                                | 1.00 ls           | \$195,012.00 /ls    | \$195,012          |
| Gear Package - Quoted - Eaton                                | 1.00 ls           | \$242,829.00 /ls    | \$242,829          |
| Transformer & Switch Pads                                    | 4.00 ea           | \$5,000.00 /ea      | \$20,000           |
| <b>D5024 Large Power Feeder Conduit</b>                      |                   | <b>\$11.00 / SF</b> | <b>\$1,741,375</b> |
| 400A From XFMR to Existing FP Main Switch & CT Cabinet - UGD | 200 lf            | \$215.00 /lf        | \$43,000           |
| 1 1600A From XFMR to MDP1 - UGD                              | 50 lf             | \$825.00 /lf        | \$41,250           |
| 2 800A From MDP1 to HA3 - Exterior                           | 535 lf            | \$600.00 /lf        | \$321,000          |
| 400A From MDP2 to MA1 - Exterior                             | 100 lf            | \$305.00 /lf        | \$30,500           |
| 400A From MDP2 to MA2 - Exterior                             | 370 lf            | \$305.00 /lf        | \$112,850          |
| 400A From XFMR to Existing FP Main Switch & CT Cabinet       | 50 lf             | \$230.00 /lf        | \$11,500           |
| 7 600A From MDP2 to MA1 - Exterior - Exterior                | 130 lf            | \$390.00 /lf        | \$50,700           |
| 8 600A From MDP2 to MA2 - Exterior - - Exterior              | 210 lf            | \$390.00 /lf        | \$81,900           |
| Expansion Fittings                                           | 3.00 ea           | \$750.00 /ea        | \$2,250            |
| Meter Conduit & Wire                                         | 105 lf            | \$22.00 /lf         | \$2,310            |
| Pull-Box for MDP Tie-In (Note 6)                             | 1.00 ea           | \$5,000.00 /ea      | \$5,000            |
| 1 2000A From XFMR to MDP2 - UGD                              | 35 lf             | \$1,000.00 /lf      | \$35,000           |
| 1200A From XFMR to MDP2                                      | 35 lf             | \$695.00 /lf        | \$24,325           |
| 1200A From XFMR to MDP2 - UGD                                | 45 lf             | \$640.00 /lf        | \$28,800           |
| 2 1200A From XFMR to Exist. MDP - UGD                        | 40 lf             | \$640.00 /lf        | \$25,600           |
| 3 800A From MDP1 to HA4 - Exterior                           | 630 lf            | \$600.00 /lf        | \$378,000          |
| 4 800A From MA2 to MA2A(100A) - Exterior                     | 190 lf            | \$600.00 /lf        | \$114,000          |
| 10 100A From TX-MA1 to MA1                                   | 35 lf             | \$45.00 /lf         | \$1,575            |
| 1000A From XFMR to Existing Main Switch & CT Cabinet - UGD   | 215 lf            | \$450.00 /lf        | \$96,750           |
| 11 100A From TX-MA3 to MA3                                   | 35 lf             | \$45.00 /lf         | \$1,575            |
| 12 70A From HA1 to TX-MA2                                    | 35 lf             | \$38.00 /lf         | \$1,330            |
| 13 70A From HA4 to TX-MA4                                    | 35 lf             | \$38.00 /lf         | \$1,330            |
| 14 50A From HA1 to TX-MA1                                    | 35 lf             | \$25.00 /lf         | \$875              |
| 15 50A From HA3 to TX-MA3                                    | 35 lf             | \$25.00 /lf         | \$875              |
| 3 2000A From XFMR to MDP2 - Indoor                           | 35 lf             | \$1,150.00 /lf      | \$40,250           |
| 4 1200A From XFMR to Exist. MDP - Indoor                     | 35 lf             | \$695.00 /lf        | \$24,325           |
| 5 225A From MA1 to MA3 - Exterior - Exterior                 | 180 lf            | \$145.00 /lf        | \$26,100           |

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| DESCRIPTION                                           | QUANTITY    | UNIT COST          | TOTAL COST       |
|-------------------------------------------------------|-------------|--------------------|------------------|
| 5 250A From Disconnect to MA2 - Exterior              | 310 lf      | \$165.00 /lf       | \$51,150         |
| 6 225A From MA2 to MA4 - Exterior - - Exterior        | 245 lf      | \$145.00 /lf       | \$35,525         |
| 6 250A From TX-MA2 to Disconnect for MA2              | 35 lf       | \$125.00 /lf       | \$4,375          |
| 7 250A From TX-MA4 to MA4                             | 35 lf       | \$125.00 /lf       | \$4,375          |
| 8 400A from HA3 to HA3A - Exterior                    | 180 lf      | \$305.00 /lf       | \$54,900         |
| 9 400A From MDP1 to HA1                               | 35 lf       | \$240.00 /lf       | \$8,400          |
| 5" PVC Conduit                                        | 1,660 lf    | \$48.00 /lf        | \$79,680         |
| <b>D5027 Mechanical Equipment Connections</b>         |             | <b>\$4.39 / SF</b> | <b>\$694,318</b> |
| Power For BMS J-Boxes                                 | 1,180 lf    | \$18.39 /lf        | \$21,700         |
| Power For BMS J-Boxes                                 | 950 lf      | \$18.58 /lf        | \$17,651         |
| Power For BMS J-Boxes                                 | 251 lf      | \$23.77 /lf        | \$5,965          |
| Power for Fan Coils                                   | 8,795 lf    | \$15.00 /lf        | \$131,925        |
| Power for Split Units                                 | 130 lf      | \$21.15 /lf        | \$2,750          |
| Power for Split Units                                 | 170 lf      | \$25.06 /lf        | \$4,260          |
| Power for Split Units                                 | 660 lf      | \$25.29 /lf        | \$16,691         |
| Power to DOAS-1                                       | 70 lf       | \$22.00 /lf        | \$1,540          |
| Power to DOAS-1                                       | 60 lf       | \$70.00 /lf        | \$4,200          |
| Power to DOAS-1                                       | 260 lf      | \$130.00 /lf       | \$33,800         |
| Power to AHU-1                                        | 60 lf       | \$17.00 /lf        | \$1,020          |
| Power to DOAS-2                                       | 200 lf      | \$62.00 /lf        | \$12,400         |
| Power to DOAS-2                                       | 345 lf      | \$150.00 /lf       | \$51,750         |
| Power to DOAS-2                                       | 555 lf      | \$185.00 /lf       | \$102,675        |
| Power to DOAS-3                                       | 55 lf       | \$46.00 /lf        | \$2,530          |
| Power to DOAS-4                                       | 485 lf      | \$85.00 /lf        | \$41,225         |
| Power to DOAS-5                                       | 275 lf      | \$24.00 /lf        | \$6,600          |
| Power to ERV-1                                        | 185 lf      | \$25.00 /lf        | \$4,625          |
| Power to RTU-1                                        | 260 lf      | \$130.00 /lf       | \$33,800         |
| Power to RTU-18                                       | 135 lf      | \$35.00 /lf        | \$4,725          |
| Power to RTU-2                                        | 115 lf      | \$65.00 /lf        | \$7,475          |
| Power to RTU-9A/B                                     | 195 lf      | \$26.00 /lf        | \$5,070          |
| Power to VRF Condensers                               | 1,645 lf    | \$27.27 /lf        | \$44,861         |
| Power to VRF Condensers                               | 615 lf      | \$44.03 /lf        | \$27,080         |
| Power to VRF Condensers                               | 546 lf      | \$48.02 /lf        | \$26,219         |
| Offset Allowance For MA4 Feeds to Rooftop             | 1.00 allw   | \$7,500.00 /allw   | \$7,500          |
| Power to Exhaust Fans                                 | 355 lf      | \$24.00 /lf        | \$8,520          |
| Power to Unit Ventilators                             | 330 lf      | \$15.00 /lf        | \$4,950          |
| Power to VAV Boxes                                    | 3,954 lf    | \$15.00 /lf        | \$59,310         |
| Expansion Fittings                                    | 3.00 ea     | \$500.00 /ea       | \$1,500          |
| <b>D5029 Small Power Devices &amp; Wiring</b>         |             | <b>\$1.11 / SF</b> | <b>\$176,128</b> |
| Duplex Outlet w/ Circuit                              | 3.00 ea     | \$371.00 /ea       | \$1,113          |
| GFCI Outlet - Mounted on DOAS                         | 17 ea       | \$350.00 /ea       | \$5,950          |
| Relocate Outlets & Switches                           | 4.00 ea     | \$371.00 /ea       | \$1,484          |
| Utility Pedestals with GFCI Outlet & Lightposite unit | 22 ea       | \$1,500.00 /ea     | \$33,000         |
| Branch Circuit Re-Work Allowance                      | 158,321 gsf | \$0.50 /gsf        | \$79,161         |

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## 26 ELECTRICAL

| DESCRIPTION                                                   | QUANTITY          | UNIT COST           | TOTAL COST         |
|---------------------------------------------------------------|-------------------|---------------------|--------------------|
| Power to Rooftop Receptacles                                  | 2,485 lf          | \$22.00 /lf         | \$54,670           |
| Power to Rooftop Receptacles - Interior                       | 50 lf             | \$15.00 /lf         | \$750              |
| <b>D5040 Lighting</b>                                         | <b>158,321 SF</b> | <b>\$13.04 / SF</b> | <b>\$2,064,250</b> |
| <b>D5042 Light Fixtures</b>                                   |                   | <b>\$13.04 / SF</b> | <b>\$2,064,250</b> |
| Electrical Room Light Switch                                  | 1.00 ea           | \$425.00 /ea        | \$425              |
| Emergency Exit Light                                          | 2.00 ea           | \$525.00 /ea        | \$1,050            |
| Electrical Room Lighting                                      | 2.00 ea           | \$675.00 /ea        | \$1,350            |
| Emergency Power Feed Allowance to ELPA-3                      | 1.00 allw         | \$1,800.00 /allw    | \$1,800            |
| Light Switch & Light in Electrical Room                       | 2.00 ea           | \$675.00 /ea        | \$1,350            |
| Balance of Building Controls Upgrades Allowance               | 99,058 gsf        | \$1.00 /gsf         | \$99,058           |
| Balance of Building Controls Upgrades Allowance               | 21,990 gsf        | \$1.50 /gsf         | \$32,985           |
| Balance of Building Controls Upgrades Allowance               | 13,190 gsf        | \$2.00 /gsf         | \$26,380           |
| Lighting System - Fixtures & Controls                         | 158,321 gsf       | \$12.00 /gsf        | \$1,899,852        |
| <b>D5090 Other Electrical Systems</b>                         | <b>158,321 SF</b> | <b>\$3.13 / SF</b>  | <b>\$496,018</b>   |
| <b>D5094 Grounding &amp; Lightning Protection Sys.</b>        |                   | <b>\$0.10 / SF</b>  | <b>\$16,500</b>    |
| MDP1 Grounding                                                | 1.00 allw         | \$5,000.00 /allw    | \$5,000            |
| MDP2 Grounding                                                | 2.00 allw         | \$5,000.00 /allw    | \$10,000           |
| Transformer Grounding                                         | 2.00 ea           | \$750.00 /ea        | \$1,500            |
| <b>D5095 Miscellaneous Electrical Systems</b>                 |                   | <b>\$3.03 / SF</b>  | <b>\$479,518</b>   |
| De-Energize, Cut, Cap, Make-Safe, Drop                        | 1.00 ls           | \$25,420.00 /ls     | \$25,420           |
| De-Energize, Cut, Cap, Make-Safe, Drop                        | 1.00 ls           | \$27,080.00 /ls     | \$27,080           |
| De-Energize, Cut, Cap, Make-Safe, Drop                        | 1.00 ls           | \$42,768.00 /ls     | \$42,768           |
| Relocations Allowance                                         | 1.00 allw         | \$9,809.00 /allw    | \$9,809            |
| Relocations Allowance                                         | 1.00 allw         | \$16,288.00 /allw   | \$16,288           |
| Relocations Allowance                                         | 1.00 allw         | \$23,903.00 /allw   | \$23,903           |
| Hours for Additional Work as Directed Due to TCO Requirements | 1.00 allw         | \$5,885.00 /allw    | \$5,885            |
| Hours for Additional Work as Directed Due to TCO Requirements | 1.00 allw         | \$9,773.00 /allw    | \$9,773            |
| Hours for Additional Work as Directed Due to TCO Requirements | 1.00 allw         | \$14,342.00 /allw   | \$14,342           |
| Hours for Premium Time to Accelerate Electric Work            | 1.00 allw         | \$2,403.00 /allw    | \$2,403            |
| Hours for Premium Time to Accelerate Electric Work            | 1.00 allw         | \$3,991.00 /allw    | \$3,991            |
| Hours for Premium Time to Accelerate Electric Work            | 1.00 allw         | \$5,856.00 /allw    | \$5,856            |
| Hours for Temporary Work                                      | 1.00 allw         | \$2,354.00 /allw    | \$2,354            |
| Hours for Temporary Work                                      | 1.00 allw         | \$3,909.00 /allw    | \$3,909            |
| Hours for Temporary Work                                      | 1.00 allw         | \$5,737.00 /allw    | \$5,737            |
| Coordination, Management, Testing, Etc                        | 1.00 ls           | \$40,000.00 /ls     | \$40,000           |
| Coordination, Management, Testing, Etc                        | 1.00 ls           | \$65,000.00 /ls     | \$65,000           |
| Coordination, Management, Testing, Etc                        | 1.00 ls           | \$120,000.00 /ls    | \$120,000          |
| Temporary Light & Power                                       | 1.00 ls           | \$10,000.00 /ls     | \$10,000           |
| Temporary Light & Power                                       | 1.00 ls           | \$20,000.00 /ls     | \$20,000           |
| Temporary Light & Power                                       | 1.00 ls           | \$25,000.00 /ls     | \$25,000           |
| <b>Total 26 ELECTRICAL</b>                                    |                   | <b>\$37.09 / SF</b> | <b>\$5,871,836</b> |

## 27 COMMUNICATIONS

| DESCRIPTION                                | QUANTITY          | UNIT COST          | TOTAL COST       |
|--------------------------------------------|-------------------|--------------------|------------------|
| <b>D6010 Communications &amp; Security</b> | <b>158,321 SF</b> | <b>\$1.10 / SF</b> | <b>\$174,153</b> |
| <b>D6013 Tel/Data System</b>               |                   | <b>\$1.10 / SF</b> | <b>\$174,153</b> |
| Low Voltage Systems Relocation Allowance   | 158,321 sf        | \$1.10 /sf         | \$174,153        |
| <b>Total 27 COMMUNICATIONS</b>             |                   | <b>\$1.10 / SF</b> | <b>\$174,153</b> |

Town of Fairfield  
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28 ELECTRONIC SAFETY & SECURITY

| DESCRIPTION                                      | QUANTITY          | UNIT COST          | TOTAL COST       |
|--------------------------------------------------|-------------------|--------------------|------------------|
| <b>D6010 Communications &amp; Security</b>       | <b>158,321 SF</b> | <b>\$1.86 / SF</b> | <b>\$294,521</b> |
| <b>D6011 Fire Alarm System</b>                   |                   | <b>\$1.86 / SF</b> | <b>\$294,521</b> |
| CO Detectors                                     | 145 ea            | \$750.00 /ea       | \$108,750        |
| Smoke Detectors                                  | 3.00 ea           | \$750.00 /ea       | \$2,250          |
| Duct Smoke Detectors                             | 28 ea             | \$850.00 /ea       | \$23,800         |
| Speaker Strobe                                   | 1.00 ea           | \$750.00 /ea       | \$750            |
| Pull Station                                     | 1.00 ea           | \$650.00 /ea       | \$650            |
| Fire Alarm - Ceiling Device Re-Work, Etc         | 158,321 gsf       | \$1.00 /gsf        | \$158,321        |
| <b>Total 28 ELECTRONIC SAFETY &amp; SECURITY</b> |                   | <b>\$1.86 / SF</b> | <b>\$294,521</b> |

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## 31 EARTHWORK

| DESCRIPTION                                          | QUANTITY          | UNIT COST          | TOTAL COST       |
|------------------------------------------------------|-------------------|--------------------|------------------|
| <b>31 10 00 Site Clearing</b>                        | <b>158,321 SF</b> | <b>\$0.93 / SF</b> | <b>\$148,000</b> |
| <b>31 11 00 Clearing &amp; Grubbing</b>              |                   | <b>\$0.93 / SF</b> | <b>\$148,000</b> |
| Clear Site, Demo Bituminous Walkways & Parking Areas | 5,300 sf          | \$10.00 /sf        | \$53,000         |
| Mobilization and Demobilization                      | 3.00 ls           | \$25,000.00 /ls    | \$75,000         |
| Tree Removal Allowance                               | 4.00 ea           | \$5,000.00 /ea     | \$20,000         |
| <b>31 20 00 Earth Moving</b>                         | <b>158,321 SF</b> | <b>\$0.11 / SF</b> | <b>\$17,025</b>  |
| <b>31 23 00 Excavation &amp; Fill</b>                |                   | <b>\$0.06 / SF</b> | <b>\$9,075</b>   |
| Excavate, Prep & Grade SOG                           | 239 sf            | \$25.00 /sf        | \$5,975          |
| Excavate Continuous Footings & Frost Wall            | 31 lf             | \$100.00 /lf       | \$3,100          |
| <b>31 25 00 Erosion &amp; Sedimentation Controls</b> |                   | <b>\$0.05 / SF</b> | <b>\$7,950</b>   |
| Erosion & Sedimentation Controls Complete            | 5,300 sf          | \$1.50 /sf         | \$7,950          |
| <b>Total 31 EARTHWORK</b>                            |                   | <b>\$1.04 / SF</b> | <b>\$165,025</b> |

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## 32 EXTERIOR IMPROVEMENTS

| DESCRIPTION                                   | QUANTITY          | UNIT COST          | TOTAL COST       |
|-----------------------------------------------|-------------------|--------------------|------------------|
| <b>32 10 00 Bases, Ballasts, &amp; Paving</b> | <b>158,321 SF</b> | <b>\$0.66 / SF</b> | <b>\$104,000</b> |
| <b>32 12 00 Flexible Paving</b>               |                   | <b>\$0.66 / SF</b> | <b>\$104,000</b> |
| Asphalt Paving - Roadway                      | 5,200 sf          | \$20.00 /sf        | \$104,000        |
| <b>32 30 00 Site Improvements</b>             | <b>158,321 SF</b> | <b>\$0.36 / SF</b> | <b>\$57,750</b>  |
| <b>32 33 00 Site Furnishings</b>              |                   | <b>\$0.36 / SF</b> | <b>\$57,750</b>  |
| Metal Pipe Bollards - Exterior                | 33.00 ea          | \$1,750.00 /ea     | \$57,750         |
| <b>32 90 00 Planting</b>                      | <b>158,321 SF</b> | <b>\$0.03 / SF</b> | <b>\$4,020</b>   |
| <b>32 92 00 Turf &amp; Grasses</b>            |                   | <b>\$0.03 / SF</b> | <b>\$4,020</b>   |
| Patch Grass Areas                             | 402 sf            | \$10.00 /sf        | \$4,020          |
| <b>Total 32 EXTERIOR IMPROVEMENTS</b>         |                   | <b>\$1.05 / SF</b> | <b>\$165,770</b> |

## 33 UTILITIES

| DESCRIPTION                                                        | QUANTITY          | UNIT COST          | TOTAL COST       |
|--------------------------------------------------------------------|-------------------|--------------------|------------------|
| <b>33 70 00 Electrical Utilities</b>                               | <b>158,321 SF</b> | <b>\$0.99 / SF</b> | <b>\$157,450</b> |
| <b>33 71 00 Electrical Utility Transmission &amp; Distribution</b> |                   | <b>\$0.99 / SF</b> | <b>\$157,450</b> |
| Trench Excav/Bkfl for Primary Electrical                           | 660 lf            | \$75.00 /lf        | \$49,500         |
| Trench Excav/Bkfl for Primary Electrical                           | 154 lf            | \$100.00 /lf       | \$15,400         |
| Trench Excav/Bkfl up for Secondary Electrical                      | 146 lf            | \$75.00 /lf        | \$10,950         |
| Encase Electrical Service                                          | 960 lf            | \$85.00 /lf        | \$81,600         |
| <b>Total 33 UTILITIES</b>                                          |                   | <b>\$0.99 / SF</b> | <b>\$157,450</b> |



**North Stratfield, Osborn Hill & Fairfield Woods HVAC Upgrades  
SD to CD Estimate Variance Summary**

| Trade Summary                          |                                      | North Stratfield Elementary School HVAC Upgrades |                    |                       | Fairfield Woods Middle School HVAC Upgrades |                     |                       | Osborn Hill Elementary School HVAC Upgrades |                    |                       | Total Costs         |                     |                       | Variance Notes                                                                            |
|----------------------------------------|--------------------------------------|--------------------------------------------------|--------------------|-----------------------|---------------------------------------------|---------------------|-----------------------|---------------------------------------------|--------------------|-----------------------|---------------------|---------------------|-----------------------|-------------------------------------------------------------------------------------------|
| Design Phase:                          |                                      | SD                                               | CD                 | Variance              | SD                                          | CD                  | Variance              | SD                                          | CD                 | Variance              | SD                  | CD                  | Overall Variance      |                                                                                           |
| Work Area GSF:                         |                                      | 54,544                                           | 47,920             | -6,624                | 80,044                                      | 77,515              | -2,529                | 32,846                                      | 32,886             | 40                    | 167,434             | 158,321             | -9,113                |                                                                                           |
| MF                                     | Description                          | Subtotal                                         | Subtotal           | Subtotal              | Subtotal                                    | Subtotal            | Subtotal              | Subtotal                                    | Subtotal           | Subtotal              | Subtotal            | Subtotal            | Subtotal              |                                                                                           |
| 01                                     | Site Services                        | \$379,875                                        | \$377,615          | (\$2,259.97)          | \$545,383                                   | \$595,686           | \$50,302.94           | \$227,432                                   | \$256,210          | \$28,778.03           | \$1,152,690         | \$1,229,511         | \$76,821.00           | Revised per schedule & scope changes                                                      |
| 02                                     | Existing Conditions                  | \$291,266                                        | \$284,274          | (\$6,992.00)          | \$519,343                                   | \$447,461           | (\$71,882.00)         | \$280,615                                   | \$269,026          | (\$11,589.00)         | \$1,091,224         | \$1,000,761         | (\$90,463.00)         | Overall area demolition assumption reductions                                             |
| 03                                     | Concrete                             | \$26,108                                         | \$73,528           | \$47,420.00           | \$54,964                                    | \$49,792            | (\$5,172.00)          | \$23,679                                    | \$72,421           | \$48,742.00           | \$104,751           | \$195,741           | \$90,990.00           | Increased due to feeder routes and repairs required at new electrical rooms               |
| 04                                     | Masonry                              | \$79,000                                         | \$59,477           | (\$19,523.00)         | \$142,500                                   | \$138,367           | (\$4,133.00)          | \$84,500                                    | \$62,202           | (\$22,298.00)         | \$306,000           | \$260,046           | (\$45,954.00)         | Added misc. metals allowances for supporting rooftop infrastructure (conduit, duct, pipe) |
| 05                                     | Metals                               | \$152,846                                        | \$156,419          | \$3,573.00            | \$224,304                                   | \$275,711           | \$51,407.00           | \$92,044                                    | \$158,322          | \$66,278.92           | \$469,194           | \$590,452           | \$121,258.92          | Added casework modifications for condensate pipe discharge                                |
| 06                                     | Wood, Plastics, & Composites         | \$27,272                                         | \$37,960           | \$10,688.00           | \$40,022                                    | \$41,758            | \$1,735.50            | \$16,423                                    | \$21,443           | \$5,020.00            | \$83,717            | \$101,161           | \$17,443.50           | Additional rooftop supports requiring flashing/patching                                   |
| 07                                     | Thermal & Moisture Protection        | \$135,000                                        | \$36,920           | (\$98,080.00)         | \$216,000                                   | \$296,629           | \$80,628.75           | \$100,000                                   | \$221,332          | \$121,331.50          | \$451,000           | \$554,880           | \$103,880.25          | Additional doors to access new electrical rooms                                           |
| 08                                     | Openings                             | \$5,500                                          | \$11,000           | \$5,500.00            | \$5,500                                     | \$18,500            | \$13,000.00           | \$5,500                                     | \$11,000           | \$5,500.00            | \$16,500            | \$40,500            | \$24,000.00           | Ceiling demolition & replace assumption reductions                                        |
| 09                                     | Finishes                             | \$871,346                                        | \$681,568          | (\$189,777.65)        | \$1,278,712                                 | \$947,477           | (\$331,234.99)        | \$524,717                                   | \$522,114          | (\$2,602.65)          | \$2,674,775         | \$2,151,160         | (\$523,615.29)        | Toilet partitions requiring replacement for ductwork installation                         |
| 10                                     | Specialties                          | \$0                                              | \$350              | \$350.00              | \$0                                         | \$62,350            | \$62,350.00           | \$0                                         | \$350              | \$350.00              | \$0                 | \$63,050            | \$63,050.00           |                                                                                           |
| 11                                     | Equipment                            | \$27,272                                         | \$23,960           | (\$3,312.00)          | \$40,022                                    | \$50,000            | \$9,978.00            | \$16,423                                    | \$16,443           | \$20.00               | \$83,717            | \$90,403            | \$6,686.00            |                                                                                           |
| 12                                     | Furnishings                          | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| 13                                     | Special Construction                 | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| 14                                     | Conveying Systems                    | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| 21                                     | Fire Suppression                     | \$201,084                                        | \$177,900          | (\$23,184.00)         | \$300,094                                   | \$288,643           | (\$11,451.50)         | \$121,091                                   | \$121,231          | \$140.00              | \$622,269           | \$587,774           | (\$34,495.50)         | Gas piping roof length increases compared to SD \$/SF alw.                                |
| 22                                     | Plumbing                             | \$70,750                                         | \$115,236          | \$44,486.00           | \$113,828                                   | \$162,044           | \$48,216.00           | \$42,606                                    | \$69,260           | \$26,654.00           | \$227,184           | \$346,540           | \$119,356.00          | Vendor quotes and quantity surveys vs. SD \$/SF alw.                                      |
| 23                                     | Heating, Ventilating & AC            | \$3,334,279                                      | \$3,447,998        | \$113,719.00          | \$4,608,946                                 | \$4,846,592         | \$237,645.50          | \$1,970,515                                 | \$2,311,441        | \$340,926.00          | \$9,913,740         | \$10,606,031        | \$692,290.50          | Vendor quotes and quantity surveys vs. SD \$/SF alw.                                      |
| 26/27/28                               | Electrical, Communications, Security | \$1,483,927                                      | \$1,727,292        | \$243,364.50          | \$2,877,192                                 | \$3,201,861         | \$324,669.41          | \$1,045,279                                 | \$1,411,358        | \$366,078.56          | \$5,406,398         | \$6,340,510         | \$934,112.47          | Additional site demo & repairs based on feeder routes                                     |
| 31/32/33                               | Site Construction                    | \$122,500                                        | \$136,750          | \$14,250.00           | \$156,000                                   | \$182,375           | \$26,375.00           | \$73,750                                    | \$169,120          | \$95,370.00           | \$352,250           | \$488,245           | \$135,995.00          |                                                                                           |
| <b>Total Trade Cost</b>                |                                      | <b>\$7,208,025</b>                               | <b>\$7,348,247</b> | <b>\$140,221.88</b>   | <b>\$11,122,810</b>                         | <b>\$11,605,245</b> | <b>\$482,434.61</b>   | <b>\$4,624,573</b>                          | <b>\$5,693,273</b> | <b>\$1,068,699.36</b> | <b>\$22,955,409</b> | <b>\$24,646,764</b> | <b>\$1,691,355.85</b> |                                                                                           |
| Design / Estimating Contingency        |                                      | \$1,081,204                                      | \$551,119          | (\$530,085.23)        | \$1,668,422                                 | \$870,393           | (\$798,028.16)        | \$693,686                                   | \$426,995          | (\$266,690.56)        | \$3,443,311         | \$1,848,507         | (\$1,594,803.95)      | Design contingency reduction                                                              |
| Escalation                             |                                      | \$391,526                                        | \$315,975          | (\$75,550.95)         | \$604,169                                   | \$499,026           | (\$105,143.38)        | \$251,198                                   | \$244,811          | (\$6,386.89)          | \$1,246,892         | \$1,059,811         | (\$187,081.22)        | Affected by trade costs and design contingency reduction                                  |
| CM Contingency                         |                                      | \$310,845                                        | \$294,142          | (\$16,703.15)         | \$477,287                                   | \$464,544           | (\$12,743.34)         | \$198,193                                   | \$227,895          | \$29,702.05           | \$986,325           | \$986,581           | \$255.56              | Affected by trade costs and design contingency reduction                                  |
| CM P&P Bond (.65%)                     |                                      | \$67,350                                         | \$63,731           | (\$3,619.02)          | \$103,412                                   | \$100,651           | (\$2,761.06)          | \$42,942                                    | \$49,377           | \$6,435.44            | \$213,704           | \$213,759           | \$55.37               | Affected by trade costs and design contingency reduction                                  |
| General Liability (.997%)              |                                      | \$103,304                                        | \$97,753           | (\$5,551.01)          | \$158,619                                   | \$154,384           | (\$4,235.04)          | \$65,866                                    | \$75,737           | \$9,870.98            | \$327,789           | \$327,874           | \$84.93               | Affected by trade costs and design contingency reduction                                  |
| General Conditions - Studied           |                                      | \$738,778                                        | \$685,686          | (\$53,091.87)         | \$1,084,166                                 | \$1,082,919         | (\$1,247.07)          | \$444,887                                   | \$531,256          | \$86,368.94           | \$2,267,830         | \$2,299,860         | \$32,030.00           | Revised per schedule & scope changes                                                      |
| Field Office Support - Studied         |                                      | \$205,742                                        | \$208,519          | \$2,777.11            | \$301,929                                   | \$329,319           | \$27,389.80           | \$123,896                                   | \$161,557          | \$37,660.08           | \$631,568           | \$699,395           | \$67,827.00           | Revised per schedule & scope changes                                                      |
| Preconstruction Services - Studied     |                                      | \$34,433                                         | \$31,514           | (\$2,919.34)          | \$50,531                                    | \$49,770            | (\$760.80)            | \$20,736                                    | \$24,416           | \$3,680.14            | \$105,700           | \$105,700           | \$0.00                |                                                                                           |
| CM Fee (2.1%)                          |                                      | \$217,591                                        | \$205,899          | (\$11,692.21)         | \$334,101                                   | \$325,181           | (\$8,920.33)          | \$138,735                                   | \$159,526          | \$20,791.43           | \$690,428           | \$690,606           | \$178.89              | Affected by trade costs and design contingency reduction                                  |
| Building Permit - By Owner             |                                      | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| State Education Fee (\$5.26/\$1000)    |                                      | \$2,694                                          | \$2,136            | (\$558.00)            | \$4,136                                     | \$3,373             | (\$763.08)            | \$1,718                                     | \$1,655            | (\$62.75)             | \$8,548             | \$7,164             | (\$1,383.83)          | Affected by trade costs and design contingency reduction                                  |
| Builders Risk Insurance - Not Included |                                      | \$0                                              | \$0                | \$0.00                | \$0                                         | \$0                 | \$0.00                | \$0                                         | \$0                | \$0.00                | \$0                 | \$0                 | \$0.00                |                                                                                           |
| <b>Total Construction Cost</b>         |                                      | <b>\$10,361,491</b>                              | <b>\$9,804,719</b> | <b>(\$556,771.80)</b> | <b>\$15,909,582</b>                         | <b>\$15,484,805</b> | <b>(\$424,777.83)</b> | <b>\$6,606,430</b>                          | <b>\$7,596,498</b> | <b>\$990,068.23</b>   | <b>\$32,877,503</b> | <b>\$32,886,022</b> | <b>\$8,518.60</b>     |                                                                                           |

2

Basis of Estimate

## Clarifications

### General

1. This cost estimate for the North Stratfield Elementary School, Osborn Hill Elementary School and Fairfield Woods Middle School HVAC Upgrades projects is based on CD drawings dated 09/29/23 and prepared by BL Companies.
2. The estimate assumes construction starting April 2024 with substantial completion by August 2025. Gilbane's general conditions, site services and escalation allocations reflect this.
3. The pricing is based upon open, competitive bidding by prequalified subcontractors and suppliers.
4. Professional service fees and reimbursables (Architect, Engineering, Consulting, Owner's Representative) are not included.
5. Permit fees are not included.
6. This estimate does not include police detail for work adjacent to the street.
7. This estimate includes Colliers and The Town of Fairfield provided budgets for new security vestibules at each school.

### Insurance and Taxes

Insurance and taxes are clarified as follows:

| Insurance and Taxes                                        | Included | Not Included |
|------------------------------------------------------------|----------|--------------|
| General Liability Insurance is included at a rate of .997% | •        |              |
| A CM P&P Bond is included at a rate of .65%                | •        |              |
| Builder's Risk Insurance                                   |          | •            |

### Contingency

1. A 7.5% design contingency is included for the project. As design progresses the design/estimating contingency will be adjusted to reflect the level of the plans and specifications. Contingency varies depending on level of design and building complexity.
2. A 3% construction contingency is included for the project. This is intended for Gilbane's exclusive use for any items constituting Cost of the Work which are not the basis of a Change Order.
3. Escalation is based on the project schedule and is included in the estimate. In the event of phasing changes, the project start is postponed, or the construction duration is extended, pricing should be adjusted accordingly to account for cost escalation and local market conditions.

### Project Indirect Costs

Project indirect costs are clarified as follows:

| Project Indirect Costs                                                                                                                                       | Included | Not Included |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------|
| Land acquisition                                                                                                                                             |          | •            |
| Permit fees                                                                                                                                                  |          | •            |
| Impact fees, approval fees, licensing fees                                                                                                                   |          | •            |
| Off-site improvements other than those indicated on the document set (Adjacent roadway improvements, traffic lights, turn lanes, public utility mains, etc.) |          | •            |
| Geotechnical Surveys and testing                                                                                                                             |          | •            |
| Independent material testing during construction                                                                                                             |          | •            |
| 3rd Party Commissioning (In House Commissioning included w/ construction)                                                                                    |          | •            |

|                                                                                                                                                                                                           |  |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---|
| Environmental testing and remediation costs (Asbestos, contaminated soils, USTs, etc.)                                                                                                                    |  | • |
| Operating supplies and expenses.                                                                                                                                                                          |  | • |
| Owner required furniture, fixtures and equipment – Including but not limited to loose equipment, furniture, workstations, computers, phones, voice/data/security equipment, indoor plantings and artwork. |  | • |
| Utility Infrastructure and Connection Fees (power, gas, telephone, data...)                                                                                                                               |  | • |
| Offsite utility infrastructure and connection fees (Power, gas, telephone, data, etc.)                                                                                                                    |  | • |

## Building Metrics

| Floor Area                     |        |    |
|--------------------------------|--------|----|
| Fairfield Woods Work Area GSF  | 77,515 | SF |
| Osborn Hill Work Area GSF      | 32,886 | SF |
| North Stratfield Work Area GSF | 47,920 | SF |

## Assumptions – CSI

### 01 General Requirements & Existing Conditions

- General Requirements are included to cover costs associated with general temporary construction required for a complete construction estimate. This includes but is not limited to temporary walkways and partitions, safety, protection of occupied areas, shared scaffolding / hoisting, traffic control, dumpsters, temporary toilets, construction way finding, interim and final cleaning, etc.
- This estimate assumes scope is limited to the areas requiring new HVAC unless otherwise noted. The work areas are above.
- This estimate assumes that the projects can occur simultaneously. Gilbane's general conditions, general requirements and preconstruction costs assume this. In Gilbane's summary sheet, the costs are weighted by building size for the building breakouts. If one project were to go on hold, these costs would need to be re-studied and re-allocated. The trade allowances are also under this assumption and broken out based on building size. The overall values are listed below:

| CSI | Discipline          | Description                                                                     | Value     |
|-----|---------------------|---------------------------------------------------------------------------------|-----------|
| 02A | Demo                | Include 160 hrs. of misc. additional demo as directed                           | \$ 16,000 |
| 02A | Demo                | Include 240 hrs. of additional temp protection and cleanup as directed.         | \$ 24,000 |
| 03A | Concrete            | Include 100 hrs. of additional temp protection and cleanup as directed.         | \$ 10,000 |
| 03A | Concrete            | Include 350 hrs. of Premium time to accelerate Steel Work as directed.          | \$ 8,750  |
| 05A | Misc. Metals        | Include 350 hrs. of Premium time to accelerate Steel Work as directed.          | \$ 8,750  |
| 09A | General Trades      | Include 350 hrs. of additional temp protection and temp rails as directed       | \$ 20,000 |
| 09A | General Trades      | Include 250 hrs. of Premium time to accelerate windows installation as directed | \$ 6,250  |
| 09B | Acoustical Ceilings | Provide (80) hours to install ceiling tiles at substantial completion           | \$ 8,000  |
| 09B | Acoustical Ceilings | Include 250 hrs. of Premium time to accelerate windows installation as directed | \$ 6,250  |
| 09C | Painting            | Provide (160) hours and material for painting touch up                          | \$ 12,800 |
| 09D | Flooring            | Include 250 hrs. of Premium time as directed                                    | \$ 6,250  |
| 09D | Flooring            | Include 350 hrs. of additional temp protection as directed                      | \$ 20,000 |
| 21A | Fire protection     | Include 250 hrs. of Premium time to accelerate as directed                      | \$ 6,250  |
| 22A | Plumbing            | Provide (200) hours for Temporary work                                          | \$ 16,000 |
| 22A | Plumbing            | Include 250 hrs. of Premium time to accelerate as directed                      | \$ 8,750  |
| 23A | HVAC                | Provide (200) hours for Temporary work                                          | \$ 19,200 |
| 23A | HVAC                | Include 350 hrs. of Premium time to accelerate as directed                      | \$ 12,250 |
| 26A | Electrical          | Provide (100) hours for Temporary work                                          | \$ 12,000 |
| 26B | Electrical          | Include 350 hrs. of Premium time to accelerate as directed                      | \$ 12,250 |
| 26B | Electrical          | Include 250 hrs. of additional work as directed due to TCO requirements.        | \$ 30,000 |

4. This estimate includes premium time allowances for the general trades we well totaling \$250,000.

## **02 Existing Conditions**

1. This estimate includes the cost to abate PCBs at all ceilings to be removed in Osborne Hill. We have not included abatement in spaces outside of the areas of work defined in the documents.
2. This estimate includes an allowance of \$50,000 for miscellaneous abatement at North Stratfield.
3. This estimate includes an allowance of \$100,000 for miscellaneous abatement at Fairfield Woods.

## **03 Concrete**

1. This estimate includes an allowance for new equipment pads and select repairs around openings for new piping and ductwork.
2. This estimate includes sawcutting and patching the existing slab on grade and foundation for secondary electrical feed installation.

## **04 Masonry**

1. This estimate includes an allowance for CMU and brick repairs only as a result of new ductwork and pipe penetrations.

## **05 Metals**

1. This estimate includes an allowance for supplemental steel for new ductwork openings only. It is assumed that the existing structure can support new equipment on the roof. No costs have been included for structural reinforcements.
2. This estimate does not include framed openings at all roof penetrations. This estimate includes framed openings at roof penetrations only as shown on the structural drawings.
3. This estimate does not include miscellaneous metal support for rooftop piping / ductwork. We have only included steel framing / supports at locations as drawn on the structural plans.

## **06 Wood, Plastics & Composites**

1. This estimate does not include new millwork or casework. An allowance has been carried for select rough carpentry scope associated with blocking for new panelboards and roof penetrations.
2. This estimate includes casework modifications at classroom casework locations to facilitate tying in new condensate drains.

## **07 Thermal & Moisture Protection**

1. This estimate does not include a new roof system as a result of new equipment going in. Allowances have been included for select "rip and replace" where new penetrations are required for new equipment, ductwork, curbs, piping & supports.
2. This estimate does not include upgrading existing conditions to meet code. Firestopping of existing infrastructure, for example is excluded.
3. This estimate does not include roof patching and repairs for North Stratfield and assumed that the roof will be replaced in its entirety.

## **08 Openings**

1. This estimate only includes new doors where a new electrical room is required.

## **09 Finishes**

1. This estimate includes an allowance to replace Act ceilings only in the new work areas. Allowances have been included for touch up paint, repairs and drywall repairs/modifications. No new drywall ceilings are included.
2. This estimate includes an allowance for new soffits to accommodate the HVAC system upgrades.
3. This estimate assumes wall mounted condensate piping tying into existing classroom sinks where applicable, per information gathered at the site visits.

4. This estimate includes removing and replacing all ACT ceilings at classroom locations in Fairfield Woods to accommodate new HVAC equipment. Removal and replacement was not shown documents.

**10 Specialties**

1. This estimate includes new toilet accessories and partitions in Fairfield Woods only as a result of ceiling demolition and ductwork installation.

**11 Equipment**

1. This estimate includes an allowance for relocating owner equipment to access and install the new mechanical systems.

**12 Furnishings**

1. This estimate does not include new furnishings.

**13 Special Construction**

1. This estimate does not include new special construction items.

**14 Conveying Equipment**

1. This estimate does not include elevator work.

**21 Fire Protection**

1. This estimate assumes turning heads upright then replacing them with concealed heads at the new areas of work only.
2. This estimate does not include a specialty sprinkler system for the new electrical rooms.

**22 Plumbing**

1. This estimate assumes tying in to the existing gas system.
2. This estimate assumes standard schedule 40 steel pipe for rooftop gas distribution.
3. This estimate assumes that condensate piping can be PVC.
4. This estimate includes an allowance for roof drainage and a floor drain in the new electrical room at Fairfield Woods.
5. This estimate assumes that condensate tie-ins to sinks can be done externally to the wall and piped to the back of the classroom sinks. No sanitary work is associated with the scope per the walk throughs.

**23 Heating, Ventilating, & Air Conditioning**

1. This estimate assumes duct lining only as shown.
2. This estimate does not include cleaning of existing ductwork.
3. This estimate does not include balancing of existing systems.
4. This estimate assumes Alerton controls for all 3 schools.
5. This estimate does not include weatherproof enclosures or pipe portals for refrigerant piping penetrations.

**26/27/28 Electrical**

1. This estimate assumes new lighting only in the areas that are receiving new HVAC systems.
2. This estimate assumes re-using existing lighting circuits for the new fixtures.
3. This estimate does not include utility company transformers, primary cabling and utility switchgear.
4. This estimate does not include electrifying new mechanical equipment until the new switchgear is live.

**31/32/33 Sitework**

1. This estimate includes an allowance for sitework associated with new electrical conduits if they end up being required.
2. This estimate assumes concrete encasement at primary and secondary electrical locations.
3. This estimate does not include the removal of hazardous or contaminated soils.
4. This estimate does not include rock or ledge removal to install the new underground electrical service.

5. This estimate does not include any landscaping and / or site improvements.

Document Enumeration

The following documents were used in the preparation of this Schematic Design Estimate.

Plans & Other Documents

BL Companies SD Documents dated 09-29-23



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